

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 XX 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

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### **CERTIFICATE OF SERVICE**

I hereby certify that on January 27, 2020, an electronic PDF of APPELLANTS' EXCERPTS OF RECORD, VOLUME XX 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 21



DEPARTMENT OF  
THE TREASURY  
STUDY ON  
THE SPORTING  
SUITABILITY  
OF MODIFIED  
SEMIAUTOMATIC  
ASSAULT RIFLES

APRIL 1998

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## EXECUTIVE SUMMARY

On November 14, 1997, the President and the Secretary of the Treasury ordered a review of the importation of certain modified versions of semiautomatic assault rifles into the United States.<sup>1</sup> The decision to conduct this review stemmed in part from concerns expressed by members of Congress and others that the rifles being imported were essentially the same as semiautomatic assault rifles previously determined to be nonimportable in a 1989 decision by the Bureau of Alcohol, Tobacco and Firearms (ATF). The decision also stemmed from the fact that nearly 10 years had passed since the last comprehensive review of the importation of rifles, and many new rifles had been developed during this time.

Under 18 U.S.C. section 925(d)(3), the Secretary shall approve applications for importation only when the firearms are generally recognized as particularly suitable for or readily adaptable to sporting purposes (the “sporting purposes test”). In 1989, ATF denied applications to import a series of semiautomatic versions of automatic-fire military assault rifles. When ATF examined these semiautomatic assault rifles, it found that the rifles, while no longer machineguns, still had a military configuration that was designed for killing and disabling the enemy and that distinguished the rifles from traditional sporting rifles. This distinctively military configuration served as the basis for ATF’s finding that the rifles were not considered sporting rifles under the statute.

The military configuration identified by ATF incorporated eight physical features: ability to accept a detachable magazine, folding/telescoping stocks, separate pistol grips, ability to accept a bayonet, flash suppressors, bipods, grenade launchers, and night sights. In 1989, ATF took the position that any of these military configuration features, other than the ability to accept a detachable magazine, would make a semiautomatic rifle not importable.

Subsequent to the 1989 decision, certain semiautomatic assault rifles that failed the 1989 sporting purposes test were modified to remove all of the military configuration features other than the ability to accept a detachable magazine. Significantly, most of these modified rifles not only still had the ability to accept a detachable magazine but, more specifically, still had the ability to accept a detachable large capacity magazine that

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<sup>1</sup> The President and the Secretary directed that all pending and future applications for importation of these rifles not be acted upon until completion of the review. They also ordered that outstanding permits for importation of the rifles be suspended for the duration of the review period. The existence of applications to import 1 million new rifles and outstanding permits for nearly 600,000 other rifles threatened to defeat the purpose of the expedited review unless the Department of the Treasury deferred action on additional applications and temporarily suspended the outstanding permits. (See exhibit 1 for a copy of the November 14, 1997, memorandum directing this review.)

The rifles that are the subject of this review are referred to in this report as “study rifles.”

was originally designed and produced for the military assault rifles from which they were derived. These magazines are referred to in this report as “large capacity military magazines.” Study rifles with the ability to accept such magazines are referred to in this report as “large capacity military magazine rifles,” or “LCMM rifles.” It appears that only one study rifle, the VEPR caliber .308 (an AK47 variant), is not an LCMM rifle. Based on the standard developed in 1989, these modified rifles were found to meet the sporting purposes test. Accordingly, the study rifles were approved for import into the United States.

These modified rifles are the subject of the present review. Like the rifles banned in 1989, the study rifles are semiautomatic rifles based on AK47, FN-FAL, HK91 and 93, Uzi, and SIG SG550 military assault rifles. While there are at least 59 specific model designations of the study rifles, they all fall within the basic designs listed above. There are at least 39 models based on the AK47 design, 8 on the FN-FAL design, 7 on the HK91 and 93 designs, 3 on the Uzi design, and 2 on the SIG SG550 design (see exhibit 2 for a list of the models). Illustrations of some of the study rifles are included in exhibit 3 of this report.

This review takes another look at the entire matter to determine whether the modified rifles approved for importation since 1989 are generally recognized as particularly suitable for or readily adaptable to sporting purposes.<sup>2</sup> We have explored the statutory history of the sporting purposes test and prior administrative and judicial interpretations; reexamined the basic tenets of the 1989 decision; analyzed the physical features of the study rifles, as well as information from a wide variety of sources relating to the rifles’ use and suitability for sporting purposes; and assessed changes in law that might have bearing on the treatment of the rifles.

This review has led us to conclude that the basic finding of the 1989 decision remains valid and that military-style semiautomatic rifles are not importable under the sporting purposes standard. Accordingly, we believe that the Department of the Treasury correctly has been denying the importation of rifles that had any of the distinctly military configuration features identified in 1989, other than the ability to accept a detachable magazine. Our review, however, did result in a finding that the ability to accept a detachable large capacity magazine originally designed and produced for a military assault weapon should be added to the list of disqualifying military configuration features identified in 1989.

Several important changes have occurred since 1989 that have led us to reevaluate the importance of this feature in the sporting purposes test. Most significantly, by passing the 1994 bans on semiautomatic assault weapons and large capacity ammunition feeding

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<sup>2</sup> The study was carried out by a working group composed of ATF and Treasury representatives. The working group’s activities and findings were overseen by a steering committee composed of ATF and Treasury officials.

devices, Congress sent a strong signal that firearms with the ability to expel large amounts of ammunition quickly are not sporting; rather, firearms with this ability have military purposes and are a crime problem. Specifically, Congress found that these magazines served “combat-functional ends” and were attractive to criminals because they “make it possible to fire a large number of rounds without reloading, then to reload quickly when those rounds are spent.”<sup>3</sup> Moreover, we did not find any evidence that the ability to accept a detachable large capacity military magazine serves any sporting purpose. Accordingly, we found that the ability to accept such a magazine is a critical factor in the sporting purposes test, which must be given the same weight as the other military configuration features identified in 1989.

In addition, the information we collected on the use and suitability of LCMM rifles for hunting and organized competitive target shooting demonstrated that the rifles are not especially suitable for sporting purposes. Although our review of this information indicated that, with certain exceptions, the LCMM rifles sometimes are used for hunting, their actual use in hunting is limited. There are even some general restrictions and prohibitions on the use of semiautomatic rifles for hunting game. Similarly, although the LCMM rifles usually may be used, with certain exceptions, and sometimes are used for organized competitive target shooting, their suitability for this activity is limited. In fact, there are some restrictions and prohibitions on their use.

Furthermore, the information we gathered demonstrated that the LCMM rifles are attractive to certain criminals. We identified specific examples of the LCMM rifles’ being used in violent crime and gun trafficking. In addition, we found some disturbing trends involving the LCMM rifles, including a rapid and continuing increase in crime gun trace requests after 1991 and a rapid “time to crime.” Their ability to accept large capacity military magazines likely plays a role in their appeal to these criminals.

After weighing all the information collected, we found that the LCMM rifles are not generally recognized as particularly suitable for or readily adaptable to sporting purposes and are therefore not importable. However, this decision will in no way preclude the importation of true sporting firearms.

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<sup>3</sup> H. Rep. No. 103-489, at 18-19.

## BACKGROUND

### Importation of Firearms Under the Gun Control Act

The Gun Control Act of 1968 (GCA)<sup>4</sup> generally prohibits the importation of firearms into the United States.<sup>5</sup> However, the GCA creates four narrow categories of firearms that the Secretary of the Treasury shall authorize for importation. The category that is relevant to this study is found at 18 U.S.C. section 925(d)(3).

The Secretary shall authorize a firearm . . . to be imported or brought into the United States . . . if the firearm . . .

(3) is of a type that does not fall within the definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1954 and **is generally recognized as particularly suitable for or readily adaptable to sporting purposes**, excluding surplus military firearms, except in any case where the Secretary has not authorized the importation of the firearm pursuant to this paragraph, it shall be unlawful to import any frame, receiver, or barrel of such firearm which would be prohibited if assembled. (Emphasis added)

This provision originally was enacted, in a slightly different form, by Title IV of the Omnibus Crime Control and Safe Streets Act of 1968<sup>6</sup> and also was contained in Title I of the GCA, which amended Title IV later that year.

The GCA was enacted in large part "to assist law enforcement authorities in the States and their subdivisions in combating the increasing prevalence of crime in the United States." However, the Senate Report to the act also made clear that Congress did not intend the GCA to place any undue or unnecessary restrictions or burdens on responsible, law-abiding citizens with respect to acquiring, possessing, transporting, or using firearms for lawful activities.<sup>7</sup>

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<sup>4</sup> Pub. L. No. 90-618.

<sup>5</sup> 18 U.S.C. section 922(l).

<sup>6</sup> Pub. L. No. 90-351.

<sup>7</sup> S. Rep. No. 1501, 90<sup>th</sup> Cong. 2d Sess. 22 (1968).

Consistent with this general approach, legislative history indicates that Congress intended the importation standard provided in section 925(d)(3) to exclude military-type weapons from importation to prevent such weapons from being used in crime, while allowing the importation of high-quality sporting rifles. According to the Senate Report, section 925(d)(3) was intended to "curb the flow of surplus military weapons and other firearms being brought into the United States which are not particularly suitable for target shooting or hunting."<sup>8</sup> The report goes on to explain that "[t]he importation of certain foreign-made and military surplus nonsporting firearms has an important bearing on the problem which this title is designed to alleviate [crime]. Thus, the import provisions of this title seem entirely justified."<sup>9</sup> Indeed, during debate on the bill, Senator Dodd, the sponsor of the legislation, stated that "Title IV prohibits importation of arms which the Secretary determines are not suitable for . . . sport . . . . The entire intent of the importation section is to get those kinds of weapons that are used by criminals and have no sporting purpose."<sup>10</sup>

The Senate Report, however, also makes it clear that the importation standards "are designed and intended to provide for the importation of quality made, sporting firearms, including . . . rifles such as those manufactured and imported by Browning and other such manufacturers and importers of firearms."<sup>11</sup> (The rifles being imported by Browning at that time were semiautomatic and manually operated traditional sporting rifles of high quality.) Similarly, the report states that the importation prohibition "would not interfere with the bringing in of currently produced firearms, such as rifles . . . of recognized quality which are used for hunting and for recreational purposes."<sup>12</sup> The reference to recreational purposes is not inconsistent with the expressed purpose of restricting importation to firearms particularly suitable for target shooting or hunting, because firearms particularly suitable for these purposes also can be used for other purposes such as recreational shooting.

During debate on the bill, there was discussion about the meaning of the term "sporting purposes." Senator Dodd stated:

[h]ere again I would have to say that if a military weapon is used in a

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<sup>8</sup> S. Rep. No. 1501, 90<sup>th</sup> Cong. 2d Sess. 22 (1968).

<sup>9</sup> S. Rep. No. 1501, 90<sup>th</sup> Cong. 2d Sess. 24 (1968).

<sup>10</sup> 114 Cong. Rec. S 5556, 5582, 5585 (1968).

<sup>11</sup> S. Rep. No. 1501, 90<sup>th</sup> Cong. 2d. Sess. 38 (1968).

<sup>12</sup> S. Rep. No. 1501, 90<sup>th</sup> Cong. 2d. Sess. 22 (1968).



special sporting event, it does not become a sporting weapon. It is a military weapon used in a special sporting event . . . . As I said previously the language says no firearms will be admitted into this country unless they are genuine sporting weapons.<sup>13</sup>

Legislative history also shows that the determination of a weapon's suitability for sporting purposes is the direct responsibility of the Secretary of the Treasury. The Secretary was given this discretion largely because Congress recognized that section 925(d)(3) was a difficult provision to implement. Immediately after discussing the large role cheap imported .22 caliber revolvers were playing in crime, the Senate Report stated:

[t]he difficulty of defining weapons characteristics to meet this target without discriminating against sporting quality firearms, was a major reason why the Secretary of the Treasury has been given fairly broad discretion in defining and administering the import prohibition.<sup>14</sup>

Indeed, Congress granted this discretion to the Secretary even though some expressed concern with its breadth:

[t]he proposed import restrictions of Title IV would give the Secretary of the Treasury unusually broad discretion to decide whether a particular type of firearm is generally recognized as particularly suitable for, or readily adaptable to, sporting purposes. If this authority means anything, it permits Federal officials to differ with the judgment of sportsmen expressed through consumer preference in the marketplace . . . .<sup>15</sup>

Section 925(d)(3) provides that the Secretary shall authorize the importation of a firearm if it is of a "type" that is generally recognized as particularly suitable for or readily adaptable to sporting purposes. The legislative history also makes it clear that the Secretary shall scrutinize types of firearms in exercising his authority under section 925(d). Specifically, the Senate Report to the GCA states that section 925(d) "gives the

Secretary authority to permit the importation of ammunition and certain types of firearms."<sup>16</sup>

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<sup>13</sup> 114 Cong. Rec. 27461-462 (1968).

<sup>14</sup> S. Rep. No. 1501, 90<sup>th</sup> Cong. 2d Sess. 38 (1968).

<sup>15</sup> S. Rep. No. 1097, 90<sup>th</sup> Cong. 2d. Sess. 2155 (1968) (views of Senators Dirksen, Hruska, Thurmond, and Burdick). In Gun South, Inc. v. Brady, F.2d 858, 863 (11<sup>th</sup> Cir. 1989), the court, based on legislative history, found that the GCA gives the Secretary "unusually broad discretion in applying section 925(d)(3)."

<sup>16</sup> S. Rep. No. 1501, 90<sup>th</sup> Cong. 2d. Sess. 38 (1968).

The Senate Report to the GCA also recommended that the Secretary establish a council that would provide him with guidance and assistance in determining which firearms meet the criteria for importation into the United States.<sup>17</sup> Accordingly, following the enactment of the GCA, the Secretary established the Firearms Evaluation Panel (FEP) (also known as the Firearms Advisory Panel) to provide guidelines for implementation of the "sporting purposes" test. This panel was composed of representatives from the military, the law enforcement community, and the firearms industry. At the initial meeting of the FEP, it was understood that the panel's role would be advisory only.<sup>18</sup> The panel focused its attention on handguns and recommended the adoption of factoring criteria to evaluate the various types of handguns. These factoring criteria are based upon such considerations as overall length of the firearm, caliber, safety features, and frame construction. ATF thereafter developed an evaluation sheet (ATF Form 4590) that was put into use for evaluating handguns pursuant to section 925(d)(3). (See exhibit 4.)

The FEP did not propose criteria for evaluating rifles and shotguns under section 925(d)(3). Other than surplus military firearms, which Congress addressed separately, the rifles and shotguns being imported prior to 1968 were generally conventional rifles and shotguns specifically intended for sporting purposes. Therefore, in 1968, there was no cause to develop criteria for evaluating the sporting purposes of rifles and shotguns.

#### 1984 Application of the Sporting Purposes Test

The first time that ATF undertook a meaningful analysis of rifles or shotguns under the sporting purposes test was in 1984. At that time, ATF was faced with a new breed of imported shotgun, and it became clear that the historical assumption that all shotguns were sporting was no longer viable. Specifically, ATF was asked to determine whether the Striker-12 shotgun was suitable for sporting purposes. This shotgun is a military/law enforcement weapon initially designed and manufactured in South Africa for riot control. When the importer was asked to submit evidence of the weapon's sporting purposes, it provided information that the weapon was suitable for police/combat-style competitions. ATF determined that this type of competition did not constitute a sporting purpose

under the statute, and that the shotgun was not suitable for the traditional shotgun sports of hunting, and trap and skeet shooting.

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<sup>17</sup> S. Rep. No. 1501, 90th Cong. 2d Sess. 38 (1968).

<sup>18</sup> Gilbert Equipment Co. v. Higgins, 709 F. Supp. 1071, 1083, n. 7 (S.D. Ala. 1989), aff'd without op., 894 F.2d 412 (11<sup>th</sup> Cir. 1990).

### 1986 Firearms Owners Protection Act

On May 19, 1986, Congress passed the Firearms Owners Protection Act,<sup>19</sup> which amended section 925(d)(3) to provide that the Secretary "shall" (instead of "may") authorize the importation of a firearm that is of a type that is generally recognized as particularly suitable for or readily adaptable to sporting purposes. The Senate Report to the law stated "it is anticipated that in the vast majority of cases, [the substitution of 'shall' for 'may' in the authorization section] will not result in any change in current practices."<sup>20</sup> As the courts have found, "[r]egardless of the changes made [by the 1986 law], the firearm must meet the sporting purposes test and it remains the Secretary's obligation to determine whether specific firearms satisfy this test."<sup>21</sup>

### 1986 Application of the Sporting Purposes Test

In 1986, ATF again had to determine whether a shotgun met the sporting purposes test, when the Gilbert Equipment Company requested that the USAS-12 shotgun be classified as a sporting firearm under section 925(d)(3). Again, ATF refused to recognize police/combat-style competitions as a sporting purpose. After examining and testing the weapon, ATF determined its weight, size, bulk, designed magazine capacity, configuration, and other factors prevented it from being classified as particularly suitable for or readily adaptable to the traditional shotgun sports of hunting, and trap and skeet shooting. Accordingly, its importation was denied.

When this decision was challenged in Federal court, ATF argued, in part, that large magazine capacity and rapid reloading ability are military features. The court accepted this argument, finding "the overall appearance and design of the weapon (especially the detachable box magazine . . . ) is that of a combat weapon and not a sporting weapon."<sup>22</sup> In reaching this decision, the court was not persuaded by the importer's argument that box magazines can be lengthened or shortened depending on desired shell capacity.<sup>23</sup> The court also agreed with ATF's conclusion that police/combat-style competitions were not considered sporting purposes.

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<sup>19</sup> Pub. L. No. 99-308.

<sup>20</sup> S. Rep. No. 98-583, 98<sup>th</sup> Cong. 1<sup>st</sup> Sess. 27 (1984).

<sup>21</sup> Gilbert Equipment Co., 709 F. Supp. at 1083.

<sup>22</sup> Id. at 1089.

<sup>23</sup> Id. at 1087, n. 20 and 1089.

### 1989 Report on the Importability of Semiautomatic Assault Rifles

In 1989, after five children were killed in a California schoolyard by a gunman with a semiautomatic copy of an AK47, ATF decided to reexamine whether certain semiautomatic assault-type rifles met the sporting purposes test. This decision was reached after consultation with the Director of the Office of National Drug Control Policy.

In March and April 1989, ATF announced that it was suspending the importation of certain "assault-type rifles." For the purposes of this suspension, assault-type rifles were those rifles that generally met the following criteria: (1) military appearance; (2) large magazine capacity; and (3) semiautomatic version of a machinegun. An ATF working group was established to reevaluate the importability of these assault-type rifles. On July 6, 1989, the group issued its Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles (hereinafter 1989 report).

In the 1989 report, the working group first discussed whether the assault-type rifles under review fell within a "type" of firearm for the purposes of section 925(d)(3). The working group concluded that most of the assault-type rifles under review represented "a distinctive type of rifle [which it called the "semiautomatic assault rifle"] distinguished by certain general characteristics which are common to the modern military assault rifle."<sup>24</sup> The working group explained that the modern military assault rifle is a weapon designed for killing or disabling the enemy and has characteristics designed to accomplish this purpose. Moreover, it found that these characteristics distinguish modern military assault rifles from traditional sporting rifles.

The characteristics of the modern military assault rifle that the working group identified were as follows: (1) military configuration (which included: ability to accept a detachable magazine, folding/telescoping stocks, separate pistol grips, ability to accept a bayonet, flash suppressors, bipods, grenade launchers, and night sights) (see exhibit 5 for a thorough discussion of each of these features); (2) ability to fire automatically (i.e., as a machinegun); and (3) chambered to accept a centerfire cartridge case having a length of 2.25 inches or less.<sup>25</sup> In regards to the ability to accept a detachable magazine, the working group explained that:

[v]irtually all modern military firearms are designed to accept large, detachable magazines. This provides the soldier with a fairly large ammunition supply and the ability to rapidly reload. Thus, large capacity magazines are indicative of military firearms. While detachable

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<sup>24</sup> 1989 report at 6.

<sup>25</sup> 1989 report at 6.

magazines are not limited to military firearms, most traditional semiautomatic sporting firearms, designed to accommodate a detachable magazine, have a relatively small magazine capacity.<sup>26</sup>

The working group emphasized that these characteristics had to be looked at as a whole to determine whether the overall configuration of each of the assault-type rifles under review placed the rifle fairly within the semiautomatic assault rifle type. The semiautomatic assault rifles shared all the above military assault rifle characteristics other than being machineguns.<sup>27</sup>

The working group also addressed the scope of the term "sporting purposes." It concluded that the term should be given a narrow interpretation that focuses on the traditional sports of hunting and organized competitive target shooting. The working group made this determination by looking to the statute, its legislative history, applicable case law, the work of the FEP, and prior interpretations by ATF. In addition, the working group found that the reference to sporting purposes was intended to stand in contrast to military and law enforcement applications. Consequently, it determined that police/combat-type competitions should not be treated as sporting activities.<sup>28</sup>

The working group then evaluated whether the semiautomatic assault rifle type of firearm is generally recognized as particularly suitable for or readily adaptable to traditional sporting applications. This examination took into account technical and marketing data, expert opinions, the recommended uses of the firearms, and information on the actual uses for which the weapons are employed in this country. The working group, however, did not consider criminal use as a factor in its analysis of the importability of this type of firearm.

After analyzing this information, the working group concluded that semiautomatic assault rifles are not a type of firearm generally recognized as particularly suitable for or readily adaptable to sporting purposes. Accordingly, the working group concluded that semiautomatic assault rifles should not be authorized for importation under section 925(d)(3). However, the working group found that some of the assault-type rifles under review (the Valmet Hunter and .22 rimfire caliber rifles), did not fall within the semiautomatic assault rifle type. In the case of the Valmet Hunter, the working group found that although it was based on the operating mechanism of the AK47 assault rifle, it had been substantially

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<sup>26</sup> 1989 report at 6 (footnote omitted).

<sup>27</sup> The semiautomatic assault rifles were semiautomatic versions of machineguns.

<sup>28</sup> 1989 report at 9-11.

changed so that it was similar to a traditional sporting rifle.<sup>29</sup> Specifically, it did not have any of the military configuration features identified by the working group, except for the ability to accept a detachable magazine.

Following the 1989 study, ATF took the position that a semiautomatic rifle with any of the eight military configuration features identified in the 1989 report, other than the ability to accept a detachable magazine, failed the sporting purposes test and, therefore, was not importable.

Gun South, Inc. v. Brady

Concurrent with its work on the 1989 report, ATF was involved in litigation with Gun South, Inc. (GSI). In October 1988 and February 1989, ATF had granted GSI permits to import AUG-SA rifles. As mentioned previously, in March and April of 1989, ATF imposed a temporary suspension on the importation of rifles being reviewed in the 1989 study, which included the AUG-SA rifle. GSI filed suit in Federal court, seeking to prohibit the Government from interfering with the delivery of firearms imported under permits issued prior to the temporary suspension.

The court of appeals found that the Government had the authority to suspend temporarily the importation of GSI's AUG-SA rifles because the GCA "impliedly authorizes" such action.<sup>30</sup> In addition, the court rejected GSI's contention that the suspension was arbitrary and capricious because the AUG-SA rifle had not physically changed, explaining the argument "places too much emphasis on the rifle's structure for determining whether a firearm falls within the sporting purpose exception. While the Bureau must consider the rifle's physical structure, the [GCA] requires the Bureau to equally consider the rifle's use."<sup>31</sup> In addition, the court found that ATF adequately had considered sufficient evidence before imposing the temporary suspension, citing evidence ATF had considered

demonstrating that semiautomatic assault-type rifles were being used with increasing frequency in crime.<sup>32</sup>

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<sup>29</sup> This finding reflects the fact that the operating mechanism of the AK47 assault rifle is similar to the operating mechanism used in many traditional sporting rifles.

<sup>30</sup> Gun South, Inc. v. Brady, 877 F.2d 858 (11th Cir. 1989). The court of appeals issued its ruling just days before the 1989 report was issued. However, the report was complete before the ruling was issued.

<sup>31</sup> Id.

<sup>32</sup> Id.

Although GSI sued ATF on the temporary suspension of its import permits, once the 1989 report was issued, no one pursued a lawsuit challenging ATF's determination that the semiautomatic assault rifles banned from importation did not meet the sporting purposes test.<sup>33</sup>

### Violent Crime Control and Law Enforcement Act of 1994

On September 13, 1994, Congress passed the Violent Crime Control and Law Enforcement Act of 1994,<sup>34</sup> which made it unlawful, with certain exceptions, to manufacture, transfer, or possess semiautomatic assault weapons as defined by the statute.<sup>35</sup> The statute defined semiautomatic assault weapons to include 19 named models of firearms (or copies or duplicates of the firearms in any caliber);<sup>36</sup> semiauto-matic rifles that have the ability to accept detachable magazines and have at least two of five features specified in the law; semiautomatic pistols that have the ability to accept detachable magazines and have at least two of five features specified in the law; and semiautomatic shotguns that have at least two of four features specified in the law.<sup>37</sup> However, Congress

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<sup>33</sup> After the 1989 report was issued, Mitchell Arms, Inc. asserted takings claims against the Government based upon the suspension and revocation of four permits allowing for the importation of semiautomatic assault rifles and ATF's temporary moratorium on import permits for other rifles. The court found for the Government, holding the injury complained of was not redressable as a taking because Mitchell Arms did not hold a property interest within the meaning of the Just Compensation Clause of the Fifth Amendment. Mitchell Arms v. United States, 26 Cl. Ct. 1 (1992), aff'd, 7 F.3d 212 (Fed. Cir. 1993), cert. denied, 511 U.S. 1106 (1994).

<sup>34</sup> Pub. L. No. 103-22. Title XI, Subtitle A of this act may be cited as the "Public Safety and Recreational Firearms Use Protection Act."

<sup>35</sup> 18 U.S.C. section 922(v).

<sup>36</sup> Chapter 18 U.S.C. section 921(a)(30)(A) states that the term "semiautomatic assault weapon" means "any of the firearms, or copies or duplicates of the firearms in any caliber, known as -, " followed by a list of named firearms. Even though section 921(a)(3) defines "firearm" as used in chapter 18 to mean, in part, "the frame or receiver of any such weapon," the use of "firearm" in section 921(a)(30)(A) has not been interpreted to mean a frame or receiver of any of the named weapons, except when the frame or receiver actually is incorporated in one of the named weapons.

Any other interpretation would be contrary to Congress' intent in enacting the assault weapon ban. In the House Report to the assault weapon ban, Congress emphasized that the ban was to be interpreted narrowly. For example, the report explained that the present bill was more tightly focused than earlier drafts which gave ATF authority to ban any weapon which "embodies the same configuration" as the named list of guns in section 921(a)(30)(A); instead, the present bill "contains a set of specific characteristics that must be present in order to ban any additional semiautomatic assault weapons [beyond the listed weapons]." H. Rep. 103-489 at 21.

<sup>37</sup> 18 U.S.C. section 921(a)(30).



exempted from the assault weapon ban any semiautomatic rifle that cannot accept a detachable magazine that holds more than five rounds of ammunition and any semiautomatic shotgun that cannot hold more than five rounds of ammunition in a fixed or detachable magazine.<sup>38</sup>

Although the 1994 law was not directly addressing the sporting purposes test in section 925(d)(3), section 925(d)(3) had a strong influence on the law's content. The technical work of ATF's 1989 report was, to a large extent, incorporated into the 1994 law. The House Report to the 1994 law explained that although the legal question of whether semiautomatic assault weapons met section 925(d)(3)'s sporting purposes test "is not directly posed by [the 1994 law], the working group's research and analysis on assault weapons is relevant on the questions of the purposes underlying the design of assault weapons, the characteristics that distinguish them from sporting guns, and the reasons underlying each of the distinguishing features."<sup>39</sup> As in the 1989 study, Congress focused on the external features of firearms, rather than on their semiautomatic operating mechanism.

The 1994 law also made it unlawful to possess and transfer large capacity ammunition feeding devices manufactured after September 13, 1994.<sup>40</sup> A large capacity ammunition feeding device was generally defined as a magazine, belt, drum, feed strip, or similar device that has the capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition.<sup>41</sup>

Congress passed these provisions of the 1994 law in response to the use of semiautomatic assault weapons and large capacity ammunition feeding devices in crime. Congress had been presented with much evidence demonstrating that these weapons were "the weapons of choice among drug dealers, criminal gangs, hate groups, and mentally deranged persons bent on mass murder."<sup>42</sup> The House Report to the 1994 law recounts numerous crimes that had occurred involving semiautomatic assault weapons and large capacity magazines that were originally designed and produced for military assault rifles.<sup>43</sup>

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<sup>38</sup> 18 U.S.C. sections 922(v)(3)(C)&(D).

<sup>39</sup> H. Rep. No. 103-489, at 17, n. 19.

<sup>40</sup> 18 U.S.C. section 922(w).

<sup>41</sup> 18 U.S.C. section 921(a)(31).

<sup>42</sup> H. Rep. No. 103-489, at 13.

<sup>43</sup> H. Rep. No. 103-489, at 14-15.



In enacting the semiautomatic assault weapon and large capacity ammunition feeding device bans, Congress emphasized that it was not preventing the possession of sporting firearms. The House Report, for example, stated that the bill differed from earlier bills in that "it is designed to be more tightly focused and more carefully crafted to clearly exempt legitimate sporting guns."<sup>44</sup> In addition, Congress specifically exempted 661 long guns from the assault weapon ban which are "most commonly used in hunting and recreational sports."<sup>45</sup>

Both the 1994 law and its legislative history demonstrate that Congress recognized that ammunition capacity is a factor in determining whether a firearm is a sporting firearm. For example, large capacity ammunition feeding devices were banned, while rifles and shotguns with small ammunition capacities were exempted from the assault weapon ban. Moreover, the House Report specifically states that the ability to accept a large capacity magazine was a military configuration feature which was not "merely cosmetic," but "serve[d] specific, combat-functional ends."<sup>46</sup> The House Report also explains that, while "[m]ost of the weapons covered by the [ban] come equipped with magazines that hold 30 rounds [and can be replaced with magazines that hold 50 or even 100 rounds], . . . [i]n contrast, hunting rifles and shotguns typically have much smaller magazine capabilities--from 3-5."<sup>47</sup>

Finally, it must be emphasized that the semiautomatic assault weapon ban of section 922(v) is distinct from the sporting purposes test governing imports of section 925(d)(3). Clearly, any weapon banned under section 922(v) cannot be imported into the United States because its possession in the United States would be illegal. However, it is possible that a weapon not defined as a semiautomatic assault weapon under section 922(v) still would not be importable under section 925(d)(3). In order to be importable, the firearm must be of a type generally recognized as particularly suitable for or readily adaptable to sporting purposes regardless of its categorization under section 922(v). The

Secretary's discretion under section 925(d)(3) remains intact for all weapons not banned by the 1994 statute.

### The Present Review

Prior to the November 14, 1997, decision to conduct this review, certain members of

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<sup>44</sup> H. Rep. No. 103-489, at 21.

<sup>45</sup> H. Rep. No. 103-489, at 20. None of these 661 guns are study rifles.

<sup>46</sup> H. Rep. No. 103-489, at 18.

<sup>47</sup> H. Rep. No. 103-489, at 19 (footnote omitted).

Congress strongly urged that it was necessary to review the manner in which the Treasury Department is applying the sporting purposes test to the study rifles, in order to ensure that the present practice is consistent with section 925(d)(3) and current patterns of gun use. The fact that it had been nearly 10 years since the last comprehensive review of the importation of rifles (with many new rifles being developed during this time) also contributed to the decision to conduct this review.

### DEFINING THE TYPE OF WEAPON UNDER REVIEW

Section 925 (d) (3) provides that the Secretary shall authorize the importation of a firearm if it is of a “type” that meets the sporting purposes test. Given this statutory mandate, we had to determine whether the study rifles suspended from importation fell within one type of firearm. Our review of the study rifles demonstrated that all were derived from semiautomatic assault rifles that failed to meet the sporting purposes test in 1989 but were later found to be importable when certain military features were removed.

Within this group, we determined that virtually all of the study rifles shared another important feature: The ability to accept a detachable large capacity magazine (e.g., more than 10 rounds) that was originally designed and produced for one of the following military assault rifles: AK47, FN-FAL, HK91 or 93, SIG SG550, or Uzi. (This is the only military configuration feature cited in the 1989 study that remains with any of the study rifles).

We determined that all of the study rifles that shared both of these characteristics fell within a type of firearm which, for the purposes of this report, we call “large capacity military magazine rifles” or “LCMM rifles.” It appears that only one study rifle, the VEPR caliber .308--which is based on the AK47 design--does not fall within this type because it does not have the ability to accept a large capacity military magazine.

### SCOPE OF "SPORTING PURPOSES"

As in the 1989 study, we had to determine the scope of "sporting purposes" as used in section 925(d)(3). Looking to the statute, its legislative history, the work of the Firearms Evaluation Panel (see exhibit 6), and prior ATF interpretations, we determined sporting purposes should be given a narrow reading, incorporating only the traditional sports of hunting and organized competitive target shooting (rather than a broader interpretation that could include virtually any lawful activity or competition.)

In terms of the statute itself, the structure of the importation provisions suggests a somewhat narrow interpretation. Firearms are prohibited from importation (section 922(l)), with four specific exceptions (section 925(d)). A broad interpretation permitting a firearm to be imported because someone may wish to use it in some lawful shooting activity would render the general prohibition of section 922(l) meaningless.

Similarly, as discussed in the "Background" section, the legislative history of the GCA indicates that the term sporting purposes narrowly refers to the traditional sports of hunting and organized competitive target shooting. There is nothing in the history to indicate that it was intended to recognize every conceivable type of activity or competition that might employ a firearm.

In addition, the FEP specifically addressed the informal shooting activity of "plinking" (shooting at randomly selected targets such as bottles and cans) and determined that it was not a legitimate sporting purpose under the statute. The panel found that, "while many persons participate in this type of activity and much ammunition was expended in such endeavors, it was primarily a pastime and could not be considered a sport for the purposes of importation. . . ." (See exhibit 6.)

Finally, the 1989 report determined that the term sporting purposes should be given a narrow reading incorporating the traditional rifle sports of hunting and organized competitive target shooting. In addition, the report determined that the statute's reference to sporting purposes was intended to stand in contrast with military and law enforcement applications. This is consistent with ATF's interpretation in the context of the Striker-12 shotgun and the USAS-12 shotgun. It is also supported by the court's decision in Gilbert Equipment Co. v. Higgins.

We received some comments urging us to find "practical shooting" is a sport for the purposes of section 925(d)(3).<sup>48</sup> Further, we received information showing that practical shooting is gaining in popularity in the United States and is governed by an organization that has sponsored national events since 1989. It also has an international organization.

While some may consider practical shooting a sport, by its very nature it is closer to police/combat-style competition and is not comparable to the more traditional types of sports, such as hunting and organized competitive target shooting. Therefore, we are not convinced that practical shooting does, in fact, constitute a sporting purpose under section 925(d)(3).<sup>49</sup> However, even if we were to assume for the sake of argument that practical shooting is a sport for the purposes of the statute, we still would have to decide whether a firearm that could be used in practical shooting meets the sporting purposes test. In other words, it still would need to be determined whether the firearm is of a type that is generally recognized as particularly suitable for or readily adaptable to practical shooting and other sporting purposes.<sup>50</sup> Moreover, the legislative history makes clear that the use of a military weapon in a practical shooting competition would not make that weapon

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<sup>48</sup> Practical shooting involves moving, identifying, and engaging multiple targets and delivering a number of shots rapidly. In doing this, practical shooting participants test their defensive skills as they encounter props, including walls and barricades, with full or partial targets, "no-shoots," steel reaction targets, movers, and others to challenge them.

<sup>49</sup> As noted earlier, ATF has taken the position that police/combat-style competitions do not constitute a "sporting purpose." This position was upheld in Gilbert Equipment Co., 709 F. Supp. at 1077.

<sup>50</sup> Our findings on the use and suitability of the LCMM rifles in practical shooting competitions are contained in the "Suitability for Sporting Purposes" section of this report.

sporting: “if a military weapon is used in a special sporting event, it does not become a sporting weapon. It is a military weapon used in a special sporting event.”<sup>51</sup> While none of the LCMM rifles are military weapons, they still retain the military feature of the ability to accept a large capacity military magazine.

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<sup>51</sup> 114 Cong. Rec. 27461-462 (1968) (Sen. Dodd).

## METHOD OF STUDY

As explained in the “Executive Summary” section of this report, the purpose of this study is to review whether modified semiautomatic assault rifles are properly importable under 18 U.S.C. section 925(d)(3). More specifically, we reexamined the conclusions of the 1989 report as applied today to determine whether we are correct to allow importation of the study rifles that have been modified by having certain military features removed. To determine whether such rifles are generally recognized as particularly suitable for or readily adaptable to sporting purposes, the Secretary must consider both the physical features of the rifles and the actual uses of the rifles.<sup>52</sup> Because it appears that all of the study rifles that have been imported to date have the ability to accept a large capacity military magazine,<sup>53</sup> all of the information collected on the study rifles’ physical features and actual uses applies only to the LCMM rifles.

### **Physical features:**

The discussion of the LCMM rifles’ physical features are contained in the “Suitability for Sporting Purposes” section of this report.

### **Use:**

We collected relevant information on the use of the LCMM rifles. Although the 1989 study did not consider the criminal use of firearms in its importability analysis, legislative history demonstrates and the courts have found that criminal use is a factor that can be considered in determining whether a firearm meets the requirements of section 925(d)(3).<sup>54</sup> Accordingly, we decided to consider the criminal use of the LCMM rifles in the present analysis.

The term “generally recognized” in section 925(d)(3) indicates that the Secretary should base his evaluation of whether a firearm is of a type that is particularly suitable for or readily adaptable to sporting purposes, in part, on a “community standard” of the firearm’s use.<sup>55</sup> The community standard “may change over time even though the firearm remains the same. Thus, a changing pattern of use may significantly affect whether a firearm is generally recognized as particularly suitable for or readily adaptable to a sporting purpose.”<sup>56</sup> Therefore, to assist the Secretary in determining whether the LCMM rifles presently are of a type generally recognized as particularly suitable for or readily adaptable to sporting purposes, we gathered information from the relevant “community.” The relevant community was defined as persons and groups who are

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<sup>52</sup> Gun South, Inc., 877 F.2d at 866.

<sup>53</sup> The VEPR caliber .308 discussed on page 16 has not yet been imported.

<sup>54</sup> 114 Cong. Rec. S 5556, 5582, 5585 (1968)(“[t]he entire intent of the importation section [of the sporting purposes test] is to get those kinds of weapons that are used by criminals and have no sporting purposes”) (Sen. Dodd); Gun South, Inc., 877 F.2d at 866.

<sup>55</sup> Gun South, Inc., 877 F.2d at 866.

<sup>56</sup> Id.

knowledgeable about the uses of these firearms or have relevant information about whether these firearms are particularly suitable for sporting purposes. We identified more than 2,000 persons or groups we believed would be able to provide relevant, factual information on these issues. The individuals and groups were selected to obtain a broad range of perspectives on the issues. We conducted surveys to obtain specific information from hunting guides, editors of hunting and shooting magazines, organized competitive shooting groups, State game commissions, and law enforcement agencies and organizations. Additionally, we asked industry members, trade associations, and various interest and information groups to provide relevant information.<sup>57</sup> A detailed presentation of the surveys and responses is included as an appendix to this report.

We also reviewed numerous advertisements and publications, both those submitted by the editors of hunting and shooting magazines and those collected internally, in our search for material discussing the uses of the LCMM rifles. Further, we collected importation data, tracing data, and case studies.<sup>58</sup>

Our findings on use are contained in the “Suitability for Sporting Purposes” section of this report.

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<sup>57</sup> **Hunting guides:** Guides were asked about specific types of firearms used by their clients. The guides were an easily definable group, versus the entire universe of hunters. We obtained the names of the hunting guides surveyed from the States.

**Editors of hunting and shooting magazines:** Editors were surveyed to determine whether they recommended the LCMM rifles for hunting or organized competitive target shooting and whether they had written any articles on the subject. The list of editors we surveyed was obtained from a directory of firearms-related organizations.

**Organized competitive shooting groups:** Organized groups were asked whether they sponsored competitive events with high-power semiautomatic rifles and whether the LCMM rifles were allowed in those competitions. We felt it was significant to query those who are involved with organized events rather than unofficial activities with no specific rules or guidelines. As with the editors above, the list of groups was obtained from a directory of firearms-related organizations.

**State game commissions:** State officials were surveyed to determine whether the use of the LCMM rifles was prohibited or restricted for hunting in each State.

**Law enforcement agencies and organizations:** Specific national organizations and a sampling of 26 police departments across the country were contacted about their knowledge of the LCMM rifles’ use in crime. The national organizations were surveyed with the intent that they would gather input from the wide range of law enforcement agencies that they represent or that they would have access to national studies on the subject.

**Industry members and trade associations:** These groups were included because of their knowledge on the issue.

**Interest and information groups:** These organizations were included because of their wide range of perspectives on the issue.

<sup>58</sup> To assist us with our review of the crime-related information we collected, we obtained the services of Garen J. Wintemute, MD, M.P.H. Director of the Violence Prevention Research Program, University of California, Davis, and Anthony A. Braga, Ph.D., J.F.K. School of Government, Harvard University.

### SUITABILITY FOR SPORTING PURPOSES

The next step in our review was to evaluate whether the LCMM rifles, as a type, are generally recognized as particularly suitable for or readily adaptable to hunting and organized competitive target shooting.<sup>59</sup> The standard applied in making this determination is high. It requires more than a showing that the LCMM rifles may be used or even are sometimes used for hunting and organized competitive target shooting; if this were the standard, the statute would be meaningless. Rather, the standard requires a showing that the LCMM rifles are especially suitable for use in hunting and organized competitive target shooting.

As discussed in the “Method of Study” section, we considered both the physical features of the LCMM rifles and the actual uses of the LCMM rifles in making this determination.

#### Physical Features

**The ability to accept a detachable large capacity magazine that was originally designed and produced for one of the following military assault rifles: AK47, FN-FAL, HK91 or 93, SIG SG550, or Uzi.**

Although the LCMM rifles have been stripped of many of their military features, they all still have the ability to accept a detachable large capacity magazine that was originally designed and produced for one of the following military assault rifles: AK47, FN-FAL, HK91 and 93, SIG SG550, or Uzi; in other words, they still have a feature that was designed for killing or disabling an enemy. As the 1989 report explains:

Virtually all modern military firearms are designed to accept large, detachable magazines. This provides the soldier with a fairly large ammunition supply and the ability to rapidly reload. Thus, large capacity magazines are indicative of military firearms. While detachable magazines are not limited to military firearms, most traditional

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<sup>59</sup> One commenter suggests that the Secretary has been improperly applying the “readily adaptable to sporting purposes” provision of the statute. Historically, the Secretary has considered the “particularly suitable for or readily adaptable to” provisions as one standard. The broader interpretation urged by the commenter would make the standard virtually unenforceable. If the Secretary allowed the importation of a firearm which is readily adaptable to sporting purposes, without requiring it actually to be adapted prior to importation, the Secretary would have no control over whether the adaptation actually would occur following the importation.



semiautomatic sporting firearms, designed to accommodate a detachable magazine, have a relatively small magazine capacity.<sup>60</sup>

Thus, the 1989 report found the ability to accept a detachable large capacity magazine originally designed and produced for a military assault rifle was a military, not a sporting, feature. Nevertheless, in 1989 it was decided that the ability to accept such a large capacity magazine, in the absence of other military configuration features, would not be viewed as disqualifying for the purposes of the sporting purposes test. However, several important developments, which are discussed below, have led us to reevaluate the weight that should be given to the ability to accept a detachable large capacity military magazine in the sporting purposes test.

Most significantly, we must reevaluate the significance of this military feature because of a major amendment that was made to the GCA since the 1989 report was issued. In 1994, as discussed in the “Background” section of this report, Congress passed a ban on large capacity ammunition feeding devices and semiautomatic assault weapons.<sup>61</sup> In enacting these bans, Congress made it clear that it was not preventing the possession of sporting firearms.<sup>62</sup> Although the 1994 law was not directly addressing the sporting purposes test, section 925(d)(3) had a strong influence on the law's content. As discussed previously, the technical work of ATF's 1989 report was, to a large extent, incorporated into the 1994 law.

Both the 1994 law and its legislative history demonstrate that Congress found that ammunition capacity is a factor in whether a firearm is a sporting firearm. For example, large capacity ammunition feeding devices were banned, while rifles and shotguns with small ammunition capacities were exempted from the assault weapon ban. In other words, Congress found magazine capacity to be such an important factor that a semiautomatic rifle that cannot accept a detachable magazine that holds more than five rounds of ammunition will not be banned, even if it contains all five of the assault

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<sup>60</sup> 1989 report at 6 (footnote omitted). This was not the first time that ATF considered magazine capacity to be a relevant factor in deciding whether a firearm met the sporting purposes test. See Gilbert Equipment Co., 709 F. Supp. at 1089 (“the overall appearance and design of the weapon (especially the detachable box magazine . . . ) is that of a combat weapon and not a sporting weapon.”)

<sup>61</sup> The ban on large capacity ammunition feeding devices does not include any such device manufactured on or before September 13, 1994. Accordingly, there are vast numbers of large capacity magazines originally designed and produced for military assault weapons that are legal to transfer and possess (“grandfathered” large capacity military magazines). Presently these grandfathered large capacity military magazines fit the LCMM rifles.

<sup>62</sup> See, for example, H. Rep. No. 103-489, at 21.

weapon features listed in the law. Moreover, unlike the assault weapon ban in which a detachable magazine and at least two physical features are required to ban a rifle, a large capacity magazine in and of itself is banned.

In addition, the House Report specifically states that the ability to accept a large capacity magazine is a military configuration characteristic that is not "merely cosmetic," but "serve[s] specific, combat-functional ends."<sup>63</sup> The House Report also explains that large capacity magazines

make it possible to fire a large number of rounds without re-loading, then to reload quickly when those rounds are spent. Most of the weapons covered by the proposed legislation come equipped with magazines that hold 30 rounds. Even these magazines, however, can be replaced with magazines that hold 50 or even 100 rounds. Furthermore, expended magazines can be quickly replaced, so that a single person with a single assault weapon can easily fire literally hundreds of rounds within minutes. . . In contrast, hunting rifles and shotguns typically have much smaller magazine capabilities--from 3-5.<sup>64</sup>

Congress specifically exempted 661 long guns from the assault weapon ban that are "most commonly used in hunting and recreational sports."<sup>65</sup> The vast majority of these long guns do not use large capacity magazines. Although a small number of the exempted long guns have the ability to accept large capacity magazines, only four of these exempted long guns were designed to accept large capacity military magazines.<sup>66</sup>

The 1994 law also demonstrates Congress' concern about the role large capacity magazines and firearms with the ability to accept these large capacity magazines play in

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<sup>63</sup> H. Rep. No. 103-489, at 18.

<sup>64</sup> H. Rep. No. 103-489, at 19 (footnote omitted). The fact that 12 States place a limit on the magazine capacity allowed for hunting, usually 5 or 6 rounds, is consistent with this analysis. (See exhibit 7).

<sup>65</sup> H. Rep. 103-489, at 20.

<sup>66</sup> These four firearms are the Iver Johnson M-1 carbine, the Iver Johnson 50<sup>th</sup> Anniversary M-1 carbine, the Ruger Mini-14 autoloading rifle (without folding stock), and the Ruger Mini Thirty rifle. All of these weapons are manufactured in the United States and are not the subject of this study. In this regard, it should also be noted that Congress can distinguish between domestic firearms and foreign firearms and impose different requirements on the importation of firearms. For example, Congress may ban the importation of certain firearms although similar firearms may be produced domestically. See, for example, B-West Imports v. United States, 75 F.3d 633 (Fed. Cir. 1996).

crime. The House Report for the bill makes reference to numerous crimes involving these magazines and weapons, including the following:<sup>67</sup>

The 1989 Stockton, California, schoolyard shooting in which a gunman with a semiautomatic copy of an AK47 and 75-round magazines fired 106 rounds in less than 2 minutes. Five children were killed and twenty-nine adults and children were injured.

The 1993 shooting in a San Francisco, California, office building in which a gunman using 2 TEC DC9 assault pistols with 50-round magazines killed 8 people and wounded 6 others.

A 1993 shooting on the Long Island Railroad that killed 6 people and wounded 19 others. The gunman had a Ruger semiautomatic pistol, which he reloaded several times with 15-round magazines, firing between 30 to 50 rounds before he was overpowered.

The House Report also includes testimony from a representative of a national police officers' organization, which reflects the congressional concern with criminals' access to firearms that can quickly expel large amounts of ammunition:

In the past, we used to face criminals armed with a cheap Saturday Night Special that could fire off six rounds before [re]loading. Now it is not at all unusual for a cop to look down the barrel of a TEC-9 with a 32 round clip. The ready availability of and easy access to assault weapons by criminals has increased so dramatically that police forces across the country are being required to upgrade their service weapons merely as a matter of self-defense and preservation. The six-shot .38 caliber service revolver, standard law enforcement issue for years, is just no match against a criminal armed with a semiautomatic assault weapon.<sup>68</sup>

Accordingly, by passing the 1994 law, Congress signaled that firearms with the ability to accept detachable large capacity magazines are not particularly suitable for sporting purposes. Although in 1989 we found the ability to accept a detachable large capacity military magazine was a military configuration feature, we must give it more weight, given this clear signal from Congress.

The passage of the 1994 ban on large capacity magazines has had another effect. Under the 1994 ban, it generally is unlawful to transfer or possess a large capacity magazine

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<sup>67</sup> H. Rep. No. 103-489, at 15 (two of these examples involve handguns).

<sup>68</sup> H. Rep. 103-489, at 13-14 (footnote omitted).

manufactured after September 13, 1994. Therefore, if we require the LCMM rifles to be modified so that they do not accept a large capacity military magazine in order to be importable, a person will not be able to acquire a newly manufactured large capacity magazine to fit the modified rifle. Thus, the modified rifle neither will be able to accept a grandfathered large capacity military magazine, nor can a new large capacity magazine be manufactured to fit it. Accordingly, today, making the ability to accept a large capacity military magazine disqualifying for importation will prevent the importation of firearms which have the ability to expel large amounts of ammunition quickly without reloading.

This was not the case in 1989 or prior to the 1994 ban.

It is important to note that even though Congress reduced the supply of large capacity military magazines by passing the 1994 ban, there are still vast numbers of grandfathered large capacity military magazines available that can be legally possessed and transferred. These magazines currently fit in the LCMM rifles. Therefore, the 1994 law did not eliminate the need to take further measures to prevent firearms imported into the United States from having the ability to accept large capacity military magazines, a nonsporting factor.

Another impetus for reevaluating the existing standard is the development of modified weapons. The 1989 report caused 43 different models of semiautomatic assault rifles to be banned from being imported into the United States. The effect of that determination was that nearly all semiautomatic rifles with the ability to accept detachable large capacity military magazines were denied importation. Accordingly, at the time, there was no need for the ability to accept such a magazine to be a determining factor in the sporting purposes test. This is no longer the case. As discussed earlier, manufacturers have modified the semiautomatic assault rifles disallowed from importation in 1989 by removing all of their military configuration features, except for the ability to accept a detachable magazine. As a result, semiautomatic rifles with the ability to accept detachable large capacity military magazines (and therefore quickly expel large amounts of ammunition) legally have been entering the United States in significant numbers. Accordingly, the development of these modified weapons necessitates reevaluating our existing standards.

Thus, in order to address Congress' concern with firearms that have the ability to expel large amounts of ammunition quickly, particularly in light of the resumption of these weapons coming into the United States, the ability to accept a detachable large capacity military magazine must be given greater weight in the sporting purposes analysis of the LCMM rifles than it presently receives.<sup>69</sup>

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<sup>69</sup> A firearm that can be easily modified to accept a detachable large capacity military magazine with only minor adjustments to the firearm or the magazine is considered to be a firearm with the ability to accept these magazines. The ROMAK4 is an example of such a firearm: With minor modifications to either the

**Derived from semiautomatic assault rifles that failed to meet the sporting purposes test in 1989 but were later found importable when certain military features were removed.**

All rifles that failed to meet the sporting purposes test in 1989 were found to represent a distinctive type of rifle distinguished by certain general characteristics that are common to the modern military assault rifle. Although the LCMM rifles are based on rifle designs excluded from importation under the 1989 standard, they all were approved for import when certain military features were removed. However, the LCMM rifles all still maintain some characteristics common to the modern military assault rifle. Because the outward appearance of most of the LCMM rifles continues to resemble the military assault rifles from which they are derived, we have examined the issue of outward appearance carefully. Some might prefer the rugged, utilitarian look of these rifles to more traditional sporting guns. Others might recoil from using these rifles for sport because of their nontraditional appearance. In the end, we concluded that appearance alone does not affect the LCMM rifles' suitability for sporting purposes. Available information leads us to believe that the determining factor for their use in crime is the ability to accept a detachable large capacity military magazine.

Use

In the 1989 study, ATF found that all rifles fairly typed as semiautomatic assault rifles should be treated the same. Accordingly, the report stated "[t]he fact that there may be some evidence that a particular rifle of this type is used or recommended for sporting purposes should not control its importability. Rather, all findings as to suitability of these rifles as a whole should govern each rifle within this type."<sup>70</sup> We adopt the same approach for the present study.

**Use for hunting:**

The information we collected on the actual use of the LCMM rifles for hunting medium or larger game suggests that, with certain exceptions, the LCMM rifles sometimes are used for hunting; however, their actual use in hunting is limited.<sup>71</sup> In fact, there are some

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firearm or a large capacity magazine that was originally designed and produced for a semiautomatic assault rifle based on the AK47 design, the ROMAK4 has the ability to accept the magazine.

<sup>70</sup> 1989 report at 11.

<sup>71</sup> We targeted the surveys toward the hunting of medium and larger game (e.g., turkey and deer) because the LCMM rifles chamber centerfire cartridges and therefore likely would be most suitable for hunting this type of game. We also learned that the LCMM rifles were used to shoot certain varmints (e.g., coyotes and groundhogs), which are generally considered to be pests, not game. Many commented that the LCMM

general restrictions and prohibitions on the use of any semiautomatic rifle for hunting game. Almost half of the States place restrictions on the use of semiautomatic rifles in hunting, mostly involving magazine capacity (5-6 rounds) and what can be hunted with the rifles (see exhibit 7).

Of the 198 hunting guides who responded to our survey, only 26 stated that they had clients who used the LCMM rifles on hunting trips during the past 2 hunting seasons and only 10 indicated that they recommend the LCMM rifles for hunting. In contrast, the vast majority of the guides (152) indicated that none of their clients used the LCMM rifles on hunting trips during the past 2 hunting seasons. In addition, the hunting guides indicated that the most common semiautomatic rifles used by their clients were those made by Browning and Remington.<sup>72</sup> We found significant the comments of the hunting guides indicating that the LCMM rifles were not widely used for hunting.

Of the 13 editors of hunting and shooting magazines who responded to our survey, only 2 stated that their publications recommend specific types of centerfire semiautomatic rifles for use in hunting medium or larger game. These two respondents stated that they recommend all rifles that are safe and of appropriate caliber for hunting, including the LCMM rifles. However, they did not recommend the LCMM rifles based on the Uzi design for hunting big game; these rifles use a 9mm cartridge, which is not an appropriate caliber for this type of game, according to the editors. It is important to note that the LCMM rifles use different cartridges. The LCMM rifles based on the FN-FAL, SIG SG550, and HK91 and 93 designs are chambered for either the .308 Winchester cartridge or the .223 Remington cartridge, depending on the specific model; the LCMM rifles based on the Uzi design are chambered for the 9mm Parabellum cartridge; and the majority of the LCMM rifles based on the AK47 design are chambered for the 7.62 x 39mm cartridge (some are chambered for the .223 Remington cartridge).

Of the five interest and information groups that responded to our survey, three supported the use of the LCMM rifles for hunting. However, one of these groups stated that the

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rifles were particularly useful on farms and ranches because of their ruggedness, utilitarian design, and reliability.

<sup>72</sup> According to a 1996 study conducted for the Fish and Wildlife Service, only 2 percent of big game hunters surveyed used licensed hunting guides. Therefore, it should be noted that the information provided by the guides we surveyed may not be representative of all hunters. However, we believe that the hunting guides' information is reliable and instructive because of their high degree of experience with and knowledge of hunting.



ammunition used by the LCMM rifle models based on the Uzi design were inadequate for shooting at long distances (i.e., more than 100 yards).

Out of the 70 published articles reviewed from various shooting magazines, only 5 contained relevant information. One of these five articles stated that, in the appropriate calibers, the LCMM rifles could make “excellent” hunting rifles. Two of the articles stated that the 7.62 x 39mm cartridge (used in LCMM rifles based on the AK47 design) could be an effective hunting cartridge. One of the articles that recommended the rifles also recommended modifications needed to improve their performance in hunting. None of the articles suggested that LCMM rifles based on the Uzi design were good hunting rifles. Thus, although the LCMM rifles could be used in hunting, the articles provided limited recommendations for their use as hunting weapons.

In their usage guides, ammunition manufacturers recommend the .308 and the 7.62 x 39mm cartridges (used in LCMM rifles based on the FN-FAL and HK 91 designs, and the AK47 design respectively) for medium game hunting. However, the usage guides do not identify the 9mm cartridge (used in the Uzi design rifles) as being suitable for hunting.

A majority of the importers who provided information said that the LCMM rifles they import are used for hunting deer and similar animals. However, they provided little evidence that the rifles were especially suitable for hunting these animals. Two of the importers who responded also provided input from citizens in the form of letters supporting this position. The letters show a wide variety of uses for the LCMM rifles, including deer hunting, plinking, target shooting, home defense, and competitive shooting.

Our review of all of this information indicates that while these rifles are used for hunting medium and larger game, as well as for shooting varmints, the evidence was not persuasive that there was widespread use for hunting. We did not find any evidence that the ability to accept a large capacity military magazine serves any hunting purpose. Traditional hunting rifles have much smaller magazine capabilities. Furthermore, the mere fact that the LCMM rifles are used for hunting does not mean that they are particularly suitable for hunting or meet the test for importation.

#### **Use for organized competitive target shooting:**

Of the 31 competitive shooting groups we surveyed that stated they have events using high-power semiautomatic rifles, 18 groups stated that they permit the use of the LCMM rifles for all competitions. However, 13 respondents stated that they restrict or prohibit the LCMM rifles for some competitions, and one group stated that it prohibits the LCMM

rifles for all competitions. These restrictions and prohibitions generally were enacted for the following reasons:

1. High-power rifle competitions generally require accuracy at ranges beyond the capabilities of the 9mm cartridge, which is used by the LCMM rifles based on the Uzi design.
2. The models based on the AK47 design are limited to competitions of 200 yards or less because the 7.62 x 39mm cartridge, which is used by these models, generally has an effective range only between 300 and 500 yards.
3. Certain matches require U.S. military service rifles, and none of the LCMM rifles fall into this category.

The LCMM rifles are permitted in all United States Practical Shooting Association (USPSA) rifle competitions. The USPSA Practical Shooting Handbook, Glossary of Terms, states that “[y]ou can use any safe firearm meeting the minimum caliber (9mm/.38) and power factor (125PF) requirements.” The USPSA has stated that “rifles with designs based on the AR15, AK47, FN-FAL, HK91, HK93, and others are allowed and must be used to be competitive.” Moreover, we received some information indicating that the LCMM rifles actually are used in practical shooting competitions.<sup>73</sup> However, we did not receive any information demonstrating that an LCMM rifle’s ability to accept large capacity military magazines was necessary for its use in practical shooting competitions.

A couple of the interest groups recommended the LCMM rifles for organized competitive target shooting.

None of the 70 published articles read mentioned the use of the LCMM rifles in organized competitive target shooting.

All of the major ammunition manufacturers produce .308 Winchester ammunition (which is used in the LCMM rifle models based on the HK 91 and FN-FAL designs) and .223 Remington ammunition (which is used in the HK 93, the SIG SG550, and some of the study rifle models based on the AK47 design) specifically for competitive shooting for rifles. The major manufacturers and advertisers of 9mm ammunition (which is used in the LCMM rifles based on the Uzi design) identify it as being suitable for pistol target shooting and self-defense.

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<sup>73</sup> Merely because a rifle is used in a sporting competition, the rifle does not become a sporting rifle. 114 Cong. Rec. 27461-462 (1968).



A majority of the importers who provided information stated that the LCMM rifles they import are permitted in and suitable for organized competitive target shooting. Two of the importers who responded also provided input from citizens in the form of letters and petitions supporting this position. However, the importers provided little evidence that the rifles were especially suitable for organized competitive target shooting.

The information collected on the actual use of the LCMM rifles for organized competitive target shooting suggests that, with certain exceptions, the LCMM rifles usually may be used and sometimes are used for organized competitive target shooting; however, their suitability for this activity is limited. In fact, there are some restrictions and prohibitions on their use. The use of the rifles in competitive target shooting appears more widespread than for hunting and their use for practical shooting was the most significant. Although we are not convinced that practical shooting does in fact constitute a sporting purpose under section 925(d), we note that there was no information demonstrating that rifles with the ability to accept detachable large capacity military magazines were necessary for use in practical shooting. Once again, the presence of this military feature on LCMM rifles suggests that they are not generally recognized as particularly suitable for or readily adaptable to sporting purposes.

#### **Use in crime:**

To fully understand how the LCMM rifles are used, we also examined information available to us on their use in crime. Some disturbing trends can be identified, and it is clear the LCMM rifles are attractive to criminals.

The use of LCMM rifles in violent crime and firearms trafficking is reflected in the cases cited below. It should be noted that the vast majority of LCMM rifles imported during the period 1991-1997 were AK47 variants, which explains their prevalence in the cited cases.

#### **North Philadelphia, Pennsylvania**

From April 1995 to November 1996, a convicted felon used a straw purchaser to acquire at least 55 rifles, including a number of MAK90s. The rifles were then trafficked by the prohibited subject to individuals in areas known for their high crime rates. In one case, the rifles were sold from the parking lot of a local elementary school.

#### **Oakland, California**

On July 8, 1995, a 32-year-old Oakland police officer assisted a fellow officer with a vehicle stop in a residential area. As the first officer searched the rear compartment of the stopped vehicle, a subject from a nearby residence used a Norinco model NMH 90 to shoot the 32-year old officer in the back. The officer later died from the wound.

El Paso, Texas

On April 15, 1996, after receiving information from the National Tracing Center, ATF initiated an undercover investigation of a suspected firearms trafficker who had purchased 326 MAK90 semiautomatic rifles during a 6-month period. The individual was found to be responsible for illegally diverting more than 1,000 firearms over the past several years. One of the MAK90 rifles that the subject had purchased was recovered from the scene of a 1996 shootout in Guadalajara, Mexico, between suspected drug traffickers and Mexican authorities. Another MAK90 was recovered in 1997 from the residence of a former Mexican drug kingpin following his arrest for drug-related activities.

Charlotte, North Carolina

On May 24, 1996, four armed subjects—one with a MAK90 rifle—carried out a home invasion robbery during which they killed the resident with a 9mm pistol. All four suspects were arrested.

Dallas, Texas

In September 1997, an investigation was initiated on individuals distributing crack cocaine from a federally subsidized housing community. During repeated undercover purchases of the narcotics, law enforcement officials noticed that the suspects had firearms in their possession. A search warrant resulted in the seizure of crack cocaine, a shotgun, and a North China Industries model 320 rifle.

Chesterfield, Virginia

In November 1997, a MAK90 rifle was used to kill two individuals and wound three others at a party in Chesterfield, Virginia.

Orange, California

In December 1997, a man armed with an AKS 762 rifle and two other guns drove to where he was previously employed and opened fire on former coworkers, killing four and injuring three, including a police officer.

Baltimore, Maryland

In December 1997, a search warrant was served on a homicide suspect who was armed at the time with three pistols and a MAK90 rifle.

We also studied import and trace information to learn whether the LCMM rifles are used in crime.

Between 1991 and 1997, there were 425,114 LCMM rifles imported into the United States. This represents 7.6 percent of the approximately 5 million rifles imported during this period. The breakdown of the specific variants of LCMM rifles imported follows:

AK-47 variants:	377,934
FN-FAL variants:	37,534
HK variants:	6,495
Uzi variants:	3,141
SIG SG550 variants:	10

During this same time period, ATF traced 632,802 firearms.<sup>74</sup> This included 81,842 rifles of which approximately 3,176 were LCMM rifles.<sup>75</sup> While this number is relatively low compared to the number of total traces, it must be viewed in light of the small number of LCMM rifles imported during this time period and the total number of rifles, both imported domestic, that were available in the United States. A more significant trend is reflected in figure 1.

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<sup>74</sup> ATF traces crime guns recovered and submitted by law enforcement officials. A crime gun is defined, for purposes of firearms tracing, as any firearm that is illegally possessed, used in a crime, or suspected by law enforcement of being used in a crime. Trace information is used to establish links between criminals and firearms, to investigate illegal firearm trafficking, and to identify patterns of crime gun traces by jurisdiction. A substantial number of firearms used in crime are not recovered by law enforcement agencies and therefore not traced. In addition, not all recovered crime guns are traced. Therefore, trace requests substantially underestimate the number of firearms involved in crimes, and trace numbers contain unknown statistical biases. These problems are being reduced as more law enforcement agencies institute policies of comprehensive crime gun tracing.

<sup>75</sup> The vast majority of LCMM rifles traced during this time period were AK47 variants. Specifically, AK47 variants comprised 95.6 percent of the LCMM rifles traced. This must be viewed within the context that 88 percent of the LCMM rifles imported during this period were AK47 variants.

Firearms Traces 1991-1997

Year	Total Firearms Traced	Total Rifles Traced	Total Assault <sup>76</sup> Rifles Traced	Total LCMM Rifles Traced
1991	42,442	6,196	656	7
1992	45,134	6,659	663	39
1993	54,945	7,690	852	182
1994	83,137	9,201	735	596
1995	76,847	9,988	717	528
1996	136,062	17,475	1,075	800
1997	194,235	24,633	1,518	1,024
Cumulative Total	632,802	81,842	6,216	3,176

Figure 1

The figures in this table show that between 1991 and 1994, trace requests involving LCMM rifles increased rapidly, from 7 to 596. During the same period, trace requests for assault rifles increased at a slower rate, from 656 to 735. The years 1991 to 1994 are significant because they cover a period between when the ban on the importation of semiautomatic assault rifles was imposed and before the September 13, 1994, ban on semiautomatic assault weapons was enacted. Thus, during the years leading up to the 1994 ban, traces of LCMM rifles were increasing much more rapidly than the traces of the rifles that had been the focus of the 1989 ban, as well as the rifles that were the focus of the 1994 congressional action.

We also compared patterns of importation with trace requests to assess the association of LCMM rifles with criminal involvement. The comparison shows that importation of LCMM rifles in the early 1990s was followed immediately by a rapid rise in the number of trace requests involving LCMM rifles. This is shown in figures 2 and 3.

<sup>76</sup> For purposes of this table, assault rifles include (1) semiautomatic assault rifles banned from importation in 1989 but still available domestically because they had been imported into the United States prior to the ban, (2) domestically produced rifles that would not have qualified for importation after 1989, and (3) semiautomatic assault rifles that were banned in 1994.

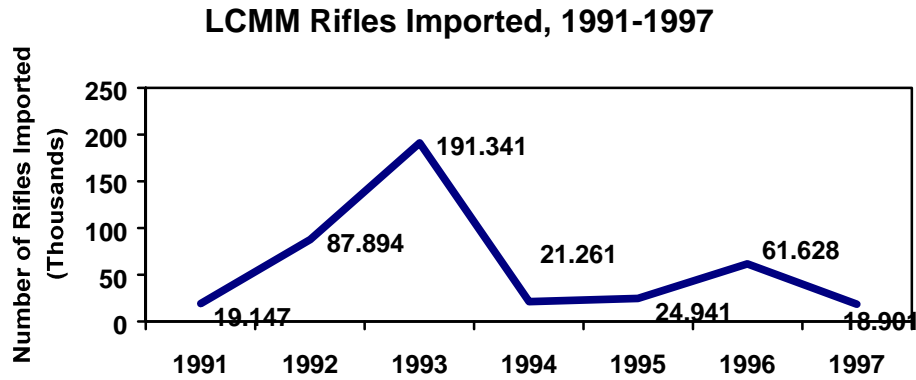


Figure 2

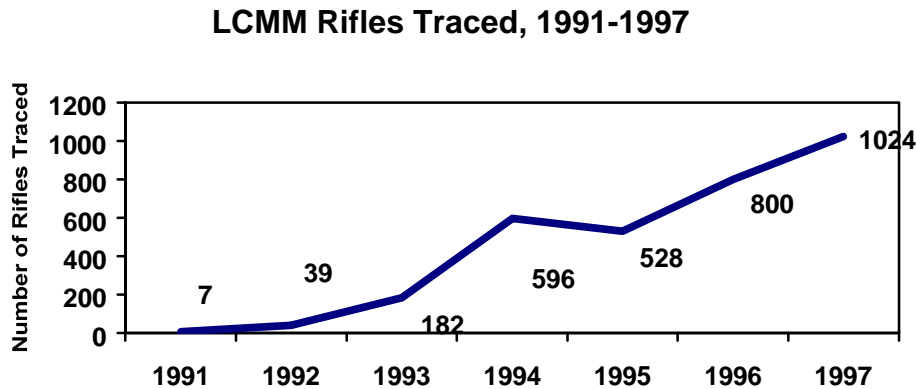


Figure 3

Two aspects of the relationship between importation and trace request patterns are significant. First, the rapid rise in traces following importation indicates that, at least in some cases, very little time elapsed between a particular LCMM rifle's importation and its recovery by law enforcement. This time lapse is known as "time to crime." A short time to crime can be an indicator of illegal trafficking. Therefore, trace patterns suggest what the case examples show: LCMM rifles have been associated with illegal trafficking. Second, while LCMM rifles have not been imported in large numbers since 1994,<sup>77</sup> the number of trace requests for LCMM rifles continues to rise. This reflects a sustained and

<sup>77</sup> One reason is that there has been an embargo on the importation of firearms from China since May 1994.

continuing pattern of criminal association for LCMM rifles despite the fact that there were fewer new LCMM rifles available.<sup>78</sup> Moreover, it is reasonable to conclude that if the importation of LCMM rifles resumes, the new rifles would contribute to the continuing rise in trace requests for them.<sup>79</sup>

All of the LCMM rifles have the ability to accept a detachable large capacity military magazine. Thus, they all have the ability to expend large amounts of ammunition quickly. In passing the 1994 ban on semiautomatic assault rifles and large capacity ammunition feeding devices, Congress found that weapons with this ability are attractive to criminals.<sup>80</sup> Thus, we can infer that the LCMM rifles may be attractive to criminals because in some ways they remain akin to military assault rifles, particularly in their ability to accept a detachable large capacity military magazine.

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<sup>78</sup> The increase in trace requests also reflects the fact that law enforcement officials were making trace requests for all types of firearms much more frequently beginning in 1996. There were 76,847 trace requests in 1995, 136,062 trace requests in 1996, and 194,235 trace requests in 1997. Traces for assault rifles were increasing by approximately the same percentage as traces for LCMM rifles during these years.

<sup>79</sup> In addition to looking at case studies and tracing and import information, we attempted to get information on the use of the LCMM rifles in crime by surveying national law enforcement agencies and organizations, as well as metropolitan police departments. Twenty-three national law enforcement agencies and organizations were surveyed and five responded. Three of the respondents stated they had no information. The other two provided information that was either outdated or not specific enough to identify the LCMM rifles.

The 26 metropolitan police departments surveyed provided the following information:

- 17 departments had no information to provide.
- 5 departments stated that the LCMM rifles were viewed as crime guns.
- 1 department stated that the LCMM rifles were nonsporting.
- 2 departments stated that the LCMM rifles were used to hunt coyotes in their areas.
- 1 department stated that the LCMM rifles were used for silhouette target shooting.

<sup>80</sup> H. Rep. No. 103-489, at 13, 18, 19.

### DETERMINATION

In 1989, ATF determined that the type of rifle defined as a semiautomatic assault rifle was not generally recognized as particularly suitable for or readily adaptable to sporting purposes. Accordingly, ATF found that semiautomatic assault rifles were not importable into the United States. This finding was based, in large part, on ATF's determination that semiautomatic assault rifles contain certain general characteristics that are common to the modern military assault rifle. These characteristics were designed for killing and disabling the enemy and distinguish the rifles from traditional sporting rifles. One of these characteristics is a military configuration, which incorporates eight physical features: Ability to accept a detachable magazine, folding/telescoping stocks, separate pistol grips, ability to accept a bayonet, flash suppressors, bipods, grenade launchers, and night sights. In 1989, ATF decided that any of these military configuration features, other than the ability to accept a detachable magazine, would make a semiautomatic assault rifle not importable.

Certain semiautomatic assault rifles that failed the 1989 sporting purposes test were modified to remove all of the military configuration features, except for the ability to accept a detachable magazine. Significantly, most of these modified rifles not only still have the ability to accept a detachable magazine but, more specifically, still have the ability to accept a large capacity military magazine. It appears that only one of the current study rifles, the VEPR caliber .308 (an AK47 variant), does not have the ability to accept a large capacity military magazine and, therefore, is not an LCMM rifle. Based on the standard developed in 1989, these modified rifles were found not to fall within the semiautomatic assault rifle type and were found to meet the sporting purposes test. Accordingly, these rifles were approved for import into the United States.

Members of Congress and others have expressed concerns that these modified semiautomatic assault rifles are essentially the same as the semiautomatic assault rifles determined to be not importable in 1989. In response to such concerns, the present study reviewed the current application of the sporting purposes test to the study rifles to determine whether the statute is being applied correctly and to ensure that the current use of the study rifles is consistent with the statute's criteria for importability.

Our review took another look at the entire matter. We reexamined the basic tenets of the 1989 study, conducted a new analysis of the physical features of the rifles, surveyed a wide variety of sources to acquire updated information relating to use and suitability, and assessed changes in law that might have bearing on the treatment of the study rifles.

This review has led us to conclude that the basic finding of the 1989 decision remains valid and that military-style semiautomatic rifles are not importable under the sporting purposes standard. Accordingly, we believe that the Department of the Treasury correctly has been denying the importation of rifles that had any of the distinctly military

configuration features identified in 1989, other than the ability to accept a detachable magazine. Our review, however, did result in a finding that the ability to accept a detachable large capacity magazine originally designed and produced for a military assault weapon should be added to the list of disqualifying military configuration features identified in 1989.

Several important changes have occurred since 1989 that have led us to reevaluate the importance of this feature in the sporting purposes test. Most significantly, by passing the 1994 bans on semiautomatic assault weapons and large capacity ammunition feeding devices, Congress sent a strong signal that firearms with the ability to expel large amounts of ammunition quickly are not sporting; rather, firearms with this ability have military purposes and are a crime problem. The House Report to the 1994 law emphasizes that the ability to accept a large capacity magazine “serve[s] specific, combat-functional ends.”<sup>81</sup> Moreover, this ability plays a role in increasing a firearm’s “capability for lethality,” creating “more wounds, more serious, in more victims.”<sup>82</sup> Furthermore, the House Report noted semiautomatic assault weapons with this ability are the “weapons of choice among drug dealers, criminal gangs, hate groups, and mentally deranged persons bent on mass murder.”<sup>83</sup>

Moreover, we did not find any evidence that the ability to accept a detachable large capacity military magazine serves any sporting purpose. The House Report to the 1994 law notes that, while most of the weapons covered by the assault weapon ban come equipped with detachable large capacity magazines, hunting rifles and shotguns typically have much smaller magazine capabilities, from 3 to 5 rounds.<sup>84</sup> Similarly, we found that a number of States limit magazine capacity for hunting to 5 to 6 rounds. We simply found no information showing that the ability to accept a detachable large capacity military magazine has any purpose in hunting or organized competitive target shooting.

Accordingly, we find that the ability to accept a detachable large capacity military magazine is a critical factor in the sporting purposes test that must be given the same weight as the other military configuration features identified in 1989.

The information we collected on the use and suitability of the LCMM rifles for hunting and organized competitive target shooting demonstrated that the rifles are not especially suitable for sporting purposes. Although our study found that the LCMM rifles, as a type, may sometimes be used for hunting, we found no evidence that they are commonly used for hunting. In fact, some of the rifles are unsuitable for certain types of hunting.

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<sup>81</sup> H. Rep. No. 103-489, at 18.

<sup>82</sup> H. Rep. No. 103-489, at 19.

<sup>83</sup> H. Rep. No. 103-489, at 13.

<sup>84</sup> H. Rep. No. 103-489, at 19 (footnote omitted).



The information we collected also demonstrated that although the LCMM rifles, as a type, may be used for organized competitive target shooting, their suitability for these competitions is limited. There are even some restrictions or prohibitions on their use for certain types of competitions. In addition, we believe that all rifles which are fairly typed as LCMM rifles should be treated the same. Therefore, the fact that there may be some evidence that a particular rifle of this type is used or recommended for sporting purposes should not control its importability. Rather, all findings as to suitability of LCMM rifles as a whole should govern each rifle within this type. The findings as a whole simply did not satisfy the standard set forth in section 925(d)(3).

Finally, the information we gathered demonstrates that the LCMM rifles are attractive to certain criminals. We find that the LCMM rifles' ability to accept a detachable large capacity military magazine likely plays a role in their appeal to these criminals. In enacting the 1994 bans on semiautomatic assault weapons and large capacity ammunition feeding devices, Congress recognized the appeal large magazine capacity has to the criminal element.

Weighing all this information, the LCMM rifles, as a type, are not generally recognized as particularly suitable for or readily adaptable to sporting purposes. As ATF found in conducting its 1989 study, although some of the issues we confronted were difficult to resolve, in the end we believe the ultimate conclusion is clear and compelling. The ability of all of the LCMM rifles to accept a detachable large capacity military magazine gives them the capability to expel large amounts of ammunition quickly; this serves a function in combat and crime, but serves no sporting purpose. Given the high standard set forth in section 925(d)(3) and the Secretary's discretion in applying the sporting purposes test, this conclusion was clear.

This decision will in no way preclude the importation of true sporting firearms. It will prevent only the importation of firearms that cannot fairly be characterized as sporting rifles.

Individual importers with existing permits for, and applications to import involving, the LCMM rifles will be notified of this determination in writing. Each of these importers will be given an opportunity to respond and present additional information and arguments. Final action will be taken on permits and applications only after an affected importer has an opportunity to make its case.

Exhibit 1

THE WHITE HOUSE  
WASHINGTON

November 14, 1997

MEMORANDUM FOR THE SECRETARY OF THE TREASURY

SUBJECT: Importation of Modified Semiautomatic  
Assault-Type Rifles

The Gun Control Act of 1968 restricts the importation of firearms unless they are determined to be particularly suitable for or readily adaptable to sporting purposes. In 1989, the Department of the Treasury (the Department) conducted a review of existing criteria for applying the statutory test based on changing patterns of gun use. As a result of that review, 43 assault-type rifles were specifically banned from importation. However, manufacturers have modified many of those weapons banned in 1989 to remove certain military features without changing their essential operational mechanism. Examples of such weapons are the Galil and the Uzi.

In recent weeks, Members of Congress have strongly urged that it is again necessary to review the manner in which the Department is applying the sporting purposes test, in order to ensure that the agency's practice is consistent with the statute and current patterns of gun use. A letter signed by 30 Senators strongly urged that modified assault-type weapons are not properly importable under the statute and that I should use my authority to suspend temporarily their importation while the Department conducts an intensive, expedited review. A recent letter from Senator Dianne Feinstein emphasized again that weapons of this type are designed not for sporting purposes but for the commission of crime. In addition, 34 Members of the House of Representatives signed a letter to Israeli Prime Minister Binyamin Netanyahu requesting that he intervene to stop all sales of Galils and Uzis into the United States. These concerns have caused the Government of Israel to announce a temporary moratorium on the exportation of Galils and Uzis so that the United States can review the importability of these weapons under the Gun Control Act.

The number of weapons at issue underscores the potential threat to the public health and safety that necessitates immediate action. Firearms importers have obtained permits to import nearly 600,000 modified assault-type rifles. In addition, there are pending before the Department applications to import more than 1 million additional such weapons. The number of rifles covered by outstanding permits is comparable to that which existed in 1989 when the Bush Administration temporarily suspended import permits for assault-type rifles. The number of weapons for which permits for importation are being sought through pending applications is approximately 10 times greater than in 1989. The number of such firearms for which import applications have been filed has skyrocketed from 10,000 on October 9, 1997, to more than 1 million today.

My Administration is committed to enforcing the statutory restrictions on importation of firearms that do not meet the sporting purposes test. It is necessary that we ensure that the statute is being correctly applied and that the current use of these modified weapons is consistent with the statute's criteria for importability. This review should be conducted at once on an expedited basis. The review is directed to weapons such as the Uzi and Galil that failed to meet the sporting purposes test in 1989, but were later found importable when certain military features were removed. The results of this review should be applied to all pending and future applications.

The existence of outstanding permits for nearly 600,000 modified assault-type rifles threatens to defeat the purpose of the expedited review unless, as in 1989, the Department temporarily suspends such permits. Importers typically obtain authorization to import firearms in far greater numbers than are actually imported into the United States. However, gun importers could effectively negate the impact of any Department determination by simply importing weapons to the maximum amount allowed by their permits. The public health and safety require that the only firearms allowed into the United States are those that meet the criteria of the statute.

Accordingly, as we discussed, you will:

- 1) Conduct an immediate expedited review not to exceed 120 days in length to determine whether modified semiautomatic assault-type rifles are properly importable under the statutory sporting purposes test. The results of this review will govern action on pending and future applications for import permits, which shall not be acted upon until the completion of this review.

Exhibit 1

3

2) Suspend outstanding permits for importation of modified semiautomatic assault-type rifles for the duration of the 120-day review period. The temporary suspension does not constitute a permanent revocation of any license. Permits will be revoked only if and to the extent that you determine that a particular weapon does not satisfy the statutory test for importation, and only after an affected importer has an opportunity to make its case to the Department.

William J. Curran

Exhibit 2

STUDY RIFLE MODELS

AK47 Variants:

MAK90*	SA2000
314*	ARM
56V*	MISR
89*	MISTR
EXP56A*	SA85M
SLG74	Mini PSL
NHM90*	ROMAK 1
NHM90-2*	ROMAK 2
NHM91*	ROMAK 4
SA85M	Hunter rifle
SA93	386S
A93	PS/K
AKS 762	VEPR caliber
VEPR	7.62 x 39mm
caliber .308	

FN-FAL Variants:

Saiga rifle	L1A1 Sporter
Galil Sporter	FAL Sporter
Haddar	FZSA
Haddar II	SAR4800
WUM 1	X FAL
WUM 2	C3
SLR95	C3A
SLR96	LAR Sporter
SLR97	
SLG94	
SLG95	
SLG96	

HK Variants:

BT96  
Centurian 2000  
SR9  
PSG1  
MSG90  
G3SA  
SAR8

Uzi Variants:

Officers 9\*  
320 carbine\*  
Uzi Sporter

SIG SG550 Variants:

SG550-1  
SG550-2

- These models were manufactured in China and have not been imported since the 1994 embargo on the importation of firearms from China.

Exhibit 3

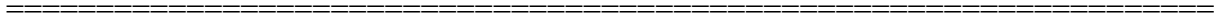
STUDY RIFLES

The study rifles are semiautomatic firearms based on the AK47, FN-FAL, HK 91 and 93, Uzi, and SIG SG550 designs. Each of the study rifles is derived from a semiautomatic assault rifle. The following are some examples of specific study rifle models grouped by design type. In each instance, a semiautomatic assault rifle is shown above the study rifles for comparison.

AK47 Variants



AK47 semiautomatic assault rifle



MISR



ARM



MAK90



WUM 1

Exhibit 3

FN-FAL Variants



FN-FAL semiautomatic assault rifle

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L1A1 Sporter



SAR 4800

HK 91 and 93 Variants



HK91 semiautomatic assault rifle

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SR9



SAR 8

Exhibit 3

Uzi Variants



Uzi semiautomatic assault rifle



320 carbine

SIG SG550 Variants

The following illustration depicts the configuration of a semiautomatic assault rifle based on the SIG SG550 design. No illustrations of modified semiautomatic versions are available.



SIG SG550 semiautomatic assault rifle



DEPARTMENT OF THE TREASURY  
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

FACTORING CRITERIA FOR WEAPONS

NOTE: The Bureau of Alcohol, Tobacco and Firearms reserves the right to preclude importation of any revolver or pistol which achieves an apparent qualifying score but does not adhere to the provisions of section 925(d)(3) of Amended Chapter 44, Title 18, U.S.C.

PISTOL			REVOLVER		
MODEL:			MODEL:		
<b>PREREQUISITES</b> 1. The pistol must have a positive manually operated safety device. 2. The combined length and height must not be less than 10" with the height (right angle measurement to barrel without magazine or extension) being at least 4" and the length being at least 6"			<b>PREREQUISITES</b> 1. Must pass safety test. 2. Must have overall frame (with conventional grips) length (not diagonal) of 4 1/2" minimum. 3. Must have a barrel length of at least 3".		
INDIVIDUAL CHARACTERISTICS	POINT VALUE	POINT SUB-TOTAL	INDIVIDUAL CHARACTERISTICS	POINT VALUE	POINT SUB-TOTAL
OVERALL LENGTH			BARREL LENGTH (Muzzle to Cylinder Face)		
FOR EACH 1/4" OVER 6"	1		LESS THAN 4"	0	
FRAME CONSTRUCTION			FOR EACH 1/4" OVER 4"	1/2	
INVESTMENT CAST OR FORGED STEEL	15		FRAME CONSTRUCTION		
INVESTMENT CAST OR FORGED HTS ALLOY	20		INVESTMENT CAST OR FORGED STEEL	15	
WEAPON WEIGHT W/MAGAZINE (Unloaded)			INVESTMENT CAST OR FORGED HTS ALLOY	20	
PER OUNCE	1		WEAPON WEIGHT (Unloaded)		
CALIBER			PER OUNCE	1	
.22 SHORT AND .25 AUTO	0		CALIBER		
.22 LR AND 7.65mm TO .380 AUTO	3		.22 SHORT TO .25 ACP	0	
9mm PARABELLUM AND OVER	10		.22 LR AND .30 TO .38 S&W	3	
SAFETY FEATURES			.38 SPECIAL	4	
LOCKED BREECH MECHANISM	5		.357 MAG AND OVER	5	
LOADED CHAMBER INDICATOR	5		MISCELLANEOUS EQUIPMENT		
GRIP SAFETY	3		ADJUSTABLE TARGET SIGHTS (Drift or Click)	5	
MAGAZINE SAFETY	5		TARGET GRIPS	5	
FIRING PIN BLOCK OR LOCK	10		TARGET HAMMER AND TARGET TRIGGER	5	
MISCELLANEOUS EQUIPMENT			<b>SAFETY TEST</b> A Double Action Revolver must have a safety feature which automatically (or in a Single Action Revolver by manual operation) causes the hammer to retract to a point where the firing pin does not rest upon the primer of the cartridge. The safety device must withstand the impact of a weight equal to the weight of the revolver dropping from a distance of 36" in a line parallel to the barrel upon the rear of the hammer spur, a total of 5 times.		
EXTERNAL HAMMER	2				
DOUBLE ACTION	10				
DRIFT ADJUSTABLE TARGET SIGHT	5				
CLICK ADJUSTABLE TARGET SIGHT	10				
TARGET GRIPS	5				
TARGET TRIGGER	2				
SCORE ACHIEVED (Qualifying score is 75 points)			SCORE ACHIEVED (Qualifying score is 45 points)		

4096

Exhibit 5

MILITARY CONFIGURATION

1. Ability to accept a detachable magazine. Virtually all modern military firearms are designed to accept large, detachable magazines. This provides the soldier with a fairly large ammunition supply and the ability to rapidly reload. Thus, large capacity magazines are indicative of military firearms. While detachable magazines are not limited to military firearms, most traditional semiautomatic sporting firearms, designed to accommodate a detachable magazine, have a relatively small magazine capacity. Additionally, some States have a limit on the magazine capacity allowed for hunting, usually five or six rounds.
2. Folding/telescoping stock. Many military firearms incorporate folding or telescoping stocks. The main advantage of this item is portability, especially for airborne troops. These stocks allow the firearm to be fired from the folded position, yet it cannot be fired nearly as accurately as with an open stock. With respect to possible sporting uses of this feature, the folding stock makes it easier to carry the firearm when hiking or backpacking. However, its predominant advantage is for military purposes, and it is normally not found on the traditional sporting rifle.
3. Pistol grips. The vast majority of military firearms employ a well-defined separate pistol grip that protrudes conspicuously beneath the action of the weapon. In most cases, the "straight line design" of the military weapon dictates a grip of this type so that the shooter can hold and fire the weapon. Further, a pistol grip can be an aid in one-handed firing of the weapon in a combat situation. Further, such grips were designed to assist in controlling machineguns during automatic fire. On the other hand, the vast majority of sporting firearms employ a more traditional pistol grip built into the wrist of the stock of the firearm since one-handed shooting is not usually employed in hunting or organized competitive target competitions.
4. Ability to accept a bayonet. A bayonet has distinct military purposes. First, it has a psychological effect on the enemy. Second, it enables soldiers to fight in close quarters with a knife attached to their rifles. No traditional sporting use could be identified for a bayonet.
5. Flash suppressor. A flash suppressor generally serves one or two functions. First, in military firearms it disperses the muzzle flash when the firearm is fired to help conceal the shooter's position, especially at night. A second purpose of some flash suppressors is to assist in controlling the "muzzle climb" of the rifle, particularly when fired as a fully automatic weapon. From the standpoint of a traditional sporting firearm, there is no particular benefit in suppressing muzzle flash. Flash suppressors that also serve to dampen muzzle climb have a limited benefit in sporting uses by allowing the shooter to reacquire

Exhibit 5

the target for a second shot. However, the barrel of a sporting rifle can be modified by "magna-porting" to achieve the same result. There are also muzzle attachments for sporting firearms to assist in the reduction of muzzle climb. In the case of military-style weapons that have flash suppressors incorporated in their design, the mere removal of the flash suppressor may have an adverse impact on the accuracy of the firearm.

6. Bipods. The majority of military firearms have bipods as an integral part of the firearm or contain specific mounting points to which bipods may be attached. The military utility of the bipod is primarily to provide stability and support for the weapon when fired from the prone position, especially when fired as a fully automatic weapon. Bipods are available accessory items for sporting rifles and are used primarily in long-range shooting to enhance stability. However, traditional sporting rifles generally do not come equipped with bipods, nor are they specifically designed to accommodate them. Instead, bipods for sporting firearms are generally designed to attach to a detachable "slingswivel mount" or simply clamp onto the firearm.
7. Grenade launcher. Grenade launchers are incorporated in the majority of military firearms as a device to facilitate the launching of explosive grenades. Such launchers are generally of two types. The first type is a flash suppressor designed to function as a grenade launcher. The second type attaches to the barrel of the rifle by either screws or clamps. No traditional sporting application could be identified for a grenade launcher.
8. Night sights. Many military firearms are equipped with luminous sights to facilitate sight alignment and target acquisition in poor light or darkness. Their uses are generally for military and law enforcement purposes and are not usually found on sporting firearms since it is generally not legal to hunt at night.

Exhibit 6

**[This document has been retyped for clarity.]**

MEMORANDUM TO FILE

FIREARMS ADVISORY PANEL

The initial meeting of the Firearms Advisory Panel was held in Room 3313, Internal Revenue Building, on December 10, 1968, with all panel members present. Internal Revenue Service personnel in attendance at the meeting were the Director, Alcohol and Tobacco Tax Division, Harold Serr; Chief, Enforcement Branch, Thomas Casey; Chief, Operations Coordination Section, Cecil M. Wolfe, and Firearms Enforcement Officer, Paul Westenberger. Deputy Assistant Commissioner Compliance, Leon Green, visited the meeting several times during the day.

The Director convened the meeting at 10:00 a.m. by welcoming the members and outlining the need for such an advisory body. He then introduced the Commissioner of Internal Revenue, Mr. Sheldon Cohen, to each panel member.

Mr. Cohen spoke to the panel for approximately fifteen minutes. He thanked the members for their willingness to serve on the panel, explained the role of the panel and some of the background which led to the enactment of the Gun Control Act of 1968. Commissioner Cohen explained to the panel members the conflict of interest provisions of regulations pertaining to persons employed by the Federal Government and requested that if any member had any personal interest in any matter that came under discussion or consideration, he should make such interest known and request to be excused during consideration of the matter.

Mr. Seer then explained to the panel the areas in which the Division would seek the advice of the panel and emphasized that the role of the panel would be advisory only, and that it was the responsibility of the Service to make final decisions. He then turned the meeting over to the moderator, Mr. Wolfe.

Mr. Wolfe explained the responsibility of the Service under the import provisions of the Gun Control Act and under the Mutual Security Act. The import provisions were read and discussed.

The panel was asked to assist in defining Asporting purposes≡ as used in the Act. It was generally agreed that firearms designed and intended for hunting and all types of organized competitive target shooting would fall within the sporting purpose category. A discussion was held on the so-called sport of Apling≡. It was the consensus that, while many persons

Exhibit 6

participated in the type of activity and much ammunition was expended in such endeavors, it was primarily a pastime and could not be considered a sport for the purposes of importation since any firearm that could expel a projectile could be used for this purpose without having any characteristics generally associated with target guns.

The point system that had been developed by the Division and another point system formula suggested and furnished by the Southern Gun Distributors through Attorney Michael Desalle, was explained and demonstrated to the panel by Paul Westenberger. Each panel member was given copies of the formulas and requested to study them and endeavor to develop a formula he believed would be equitable and could be applied to all firearms sought to be imported.

A model BM59 Beretta, 7.62 mm, NATO Caliber Sporter Version Rifle was presented to the panel and their advice sought as to their suitability for sporting purposes. It was the consensus that these rifles do have a particular use in target shooting and hunting. Accordingly, it was recommended that importation of this rifle together with the SIG-AMT 7.62mm NATO Caliber Sporting Rifle and the Cetme 7.62mm NATO Caliber Sporting Rifle be authorized for importation. Importation, however, should include the restriction that these weapons must not possess combination flash suppressors/grenade adaptors with outside diameters greater than 20mm (.22 mm is the universal grade adaptor size).

The subject of ammunition was next discussed. Panel members agreed that incendiary and tracer small arms ammunition have no use for sporting purposes. Accordingly, the Internal Revenue Service will not authorize these types of small arms ammunition importation. All other conventional small arms ammunition for pistols, revolvers, rifles and shotguns will be authorized.

The meeting was adjourned at 4:00 p.m.

C.M. Wolfe

Exhibit 7

**STATE FISH AND GAME COMMISSION REVIEW**

STATE RESTRICTION	RIFLE RESTRICTION	MAGAZINE RESTRICTION
Alabama	Not for turkey	
Alaska		
Arizona		Not more than five rounds
Arkansas	Not for turkey	
California		
Colorado		Not more than six rounds
Connecticut*	No rifles on public land	
Delaware	No rifles	
Florida		Not more than five rounds
Georgia	Not for turkey	
Hawaii		
Idaho	Not for turkey	
Illinois	Not for deer or turkey	
Indiana*	Not for deer or turkey	
Iowa	Not for deer or turkey No restrictions on coyote or fox	
Kansas		
Kentucky		
Louisiana	Not for turkey	
Maine*	Not for turkey	
Maryland*		

## Exhibit 22



DEPARTMENT OF THE TREASURY  
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
WASHINGTON, D.C. 20226

JUL 06 1989

MEMORANDUM TO: Director

FROM: Associate Director (Compliance Operations)

SUBJECT: Report and Recommendation on the  
Importability of Certain Semiautomatic Rifles

The working group has completed its evaluation of the semiautomatic rifles whose importation was suspended pending a determination as to whether these weapons are, as required by 18 U.S.C. § 925(d)(3), of a type "generally recognized as particularly suitable for or readily adaptable to sporting purposes".

Attached for your review and approval is the report and recommendation on the importability of these rifles.

  
Daniel Black

Attachment

Approved: Stephen E. Higgins 7/6/89

Disapprove: \_\_\_\_\_



**REPORT AND RECOMMENDATION OF THE ATF WORKING GROUP  
ON THE IMPORTABILITY OF CERTAIN  
SEMIAUTOMATIC RIFLES**

**SUSPENSION OF ASSAULT-TYPE RIFLE IMPORTATIONS**

On March 14, 1989, ATF announced that it was suspending, effective immediately, the importation of several makes of assault-type rifles, pending a decision as to whether these weapons meet the statutory test that they are of a type generally recognized as particularly suitable for or readily adaptable to sporting purposes. The announcement stated that ATF would not approve, until further notice, the importation of AKS-type weapons, Uzi carbines, FN/FAL-type weapons, FN/FNC-type weapons and Steyr Aug semiautomatic weapons. On April 5, 1989, the suspension was expanded to include all similar assault-type rifles.

For purposes of this suspension, assault-type rifles were rifles which generally met the following criteria:

- a. military appearance
- b. large magazine capacity
- c. semiautomatic version of a machinegun

Based on these criteria, ATF suspended action on pending applications and suspended outstanding permits covering certain firearms listed in Attachment 1. These included both centerfire and .22 rimfire caliber firearms. At that time, ATF indicated that the reexamination of these weapons would take approximately 90 days.

This ATF working group was established to conduct the reevaluation of the importability of these semiautomatic rifles. This report represents the findings and recommendations of the working group.

**BACKGROUND**

Section 925(d)(3) of Title 18, United States Code, as amended, provides in pertinent part that:

The Secretary shall authorize a firearm . . . to be imported or brought into the United States . . . if the firearm . . .

(3) is of a type that does not fall within the definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1954 and is generally recognized as particularly suitable for or readily

adaptable to sporting purposes, excluding surplus  
military firearms. . .

This provision was originally enacted by Title IV of the Omnibus Crime Control and Safe Streets Act of 1968, and was also contained in Title I of the Gun Control Act of 1968, which amended Title IV later that year. According to the Senate Report on Title IV, this provision was intended to “curb the flow of surplus military weapons and other firearms being brought into the United States which are not particularly suitable for target shooting or hunting.” S. Rep. No. 1097, 90th Cong. 2d Sess. 80, 1968 U.S. Code Cong. and Admin. News 2112, 2167.

Moreover, there is legislative history which indicates that Congress intended the standard to allow the importation of traditional sporting rifles, while excluding military-type rifles. The Senate Report on the Gun Control Act observed that the importation standards “. . . are designed and intended to provide for the importation of quality made, sporting firearms, including . . . rifles such as those manufactured and imported by Browning and other such manufacturers and importers of firearms.” S. Rep. No. 1501, 90th Cong. 2d Sess. 38 (1968). Significantly, the rifles being imported by Browning at that time were semiautomatic and manually operated traditional sporting rifles of high quality.<sup>1</sup>

An explanation of the effect of this section by one of the sponsors of the bill specifically stated that military firearms would not meet the “sporting purposes” test for importation. The mere fact that a military firearm may be used in a sporting event does not make it importable as a sporting firearm<sup>2</sup>.

There is a reference in the Senate Report on Title IV which notes that the importation prohibition “. . . would not interfere with the bringing in of currently produced firearms, such as rifles . . . of recognized quality which are used for hunting and for recreational purposes, or for personal protection.” S. Rep. No. 1097, 90th Cong. 2d Sess. 80, 1968 U.S. Code Cong. and Admin. News 2112, 2167. However, this language is not inconsistent with the expressed purpose of restricting importation to firearms particularly suitable for target shooting or hunting since firearms particularly suitable for those purposes can obviously be used for other purposes such as recreational shooting and personal protection.

The determination of a weapon’s suitability for sporting purposes “rest[s] directly with the Secretary of the Treasury.” 114 Cong. Rec. 27465 (1968) (Statement of Sen. Murphy). While the legislative history suggests that the term “sporting purposes” refers to the traditional sports of target shooting, trap and skeet shooting, and hunting, the statute itself provides no criteria beyond the “generally recognized” language of section 925(d)(3). S. Rep. No. 1097, 90th Cong. 2d Sess. 80, 1968 U.S. Code Cong. and Admin. News 2167. The Senate Report on the Gun Control Act stated:

The difficulty of defining weapons characteristics to meet this target [of eliminating importation of weapons used in crime] without discriminating against sporting quality firearms, was a major reason why the Secretary of the Treasury has been given fairly broad discretion in defining and administering the import prohibition.

S. Rep. No. 1501, 90th Cong. 2d Sess. 38 (1968).

Following enactment of the Gun Control Act in 1968, the Secretary established a Firearms Evaluation Panel to provide guidelines for implementation of the "sporting purposes" test of section 925(d)(3). This panel was composed of representatives from the military, law enforcement, and the firearms industry. The panel focused its attention on handguns and recommended the adoption of factoring criteria to evaluate the various types of handguns. These factoring criteria are based upon such considerations as overall length of the firearm, caliber, safety features, and frame construction. An evaluation sheet (ATF Form 4590) was developed thereafter by ATF and put into use for evaluating handguns pursuant to section 925(d)(3). Attachment 2.

The 1968 Firearms Evaluation Panel did not propose criteria for evaluating rifles and shotguns under section 925(d)(3). Other than surplus military firearms which Congress addressed separately, long guns being imported prior to 1968 were generally conventional rifles and shotguns specifically intended for sporting purposes. Thus, in 1968, there was no cause to develop criteria for evaluating the sporting purposes of rifles and shotguns. Until recently, all rifles and shotguns were approved for importation so long as they were not otherwise excluded by section 925(d)(3). Only rifles and shotguns covered by the National Firearms Act (NFA), 26 U.S.C. S 5845(a) (for example, machineguns and short-barreled rifles and short-barreled shotguns), and surplus military rifles and shotguns had been denied importation.

The Firearms Evaluation Panel did briefly comment on whether a model BM59 Beretta, 7.62mm NATO Caliber Sporter Version Rifle was suitable for sporting purposes. Minutes of the Firearms Advisory Panel, December 10, 1968. Attachment 3. It was the consensus of the Panel that this rifle did have a particular use in target shooting and hunting. Accordingly, it was recommended that importation of the Beretta BM59, together with the SIG-AMT 7.62mm NATO Caliber Sporting Rifle and the Cetme 7.62mm NATO Caliber Sporting Rifle, be authorized for importation. (The Beretta BM59 and the Cetme, the predecessor to the HK91, are two of the rifles whose importation has been suspended. The SIG-AMT is no longer being produced.) However, the Panel recommended that importation of these weapons should include the restriction that they not possess combination flash suppressors/grenade launchers.

The working group found the Panel's consideration of these rifles to be superficial and unpersuasive. The vast majority of the work of the 1968 Panel was devoted to handguns and the establishment of the factoring criteria for the importation of handguns. Indeed, we found compelling evidence that these rifles are not generally recognized as particularly suitable for sporting purposes.

The first time that ATF looked beyond the restrictions on NFA and surplus military rifles and shotguns and undertook a meaningful analysis under the "sporting purposes" test was in 1984. At that time, ATF was faced with a new breed of imported shotgun. It was clear that the historical assumption that all shotguns were sporting was no longer viable. Specifically, ATF was asked to determine whether the Striker-12 shotgun was suitable for sporting purposes. This shotgun is a military/law enforcement weapon initially designed and manufactured in South Africa for riot control. When the importer was asked to provide evidence of sporting purposes for the weapon, ATF was provided information that the weapon was suitable for police/combat style competitions. ATF determined that this type of competition did not constitute "sporting purposes" under the statute, and that this shotgun was not suitable for traditional sporting purposes, such as hunting, and trap and skeet shooting. Accordingly, importation was denied. Attachment 4.

Thereafter, in 1986, the Gilbert Equipment Company requested that the USAS-12 shotgun be classified as a sporting firearm under section 925(d)(3). After examination and testing of the weapon, ATF found that it was a semiautomatic version of a selective fire military-type assault shotgun. In this case, ATF determined that, due to its weight, size, bulk, designed magazine capacity, configuration, and other factors, the USAS-12 was not particularly suitable for or readily adaptable to sporting purposes. Again, ATF refused to recognize police/combat competitions as a sporting purpose under section 925(d)(3). The shotgun was reviewed on the basis of its suitability for traditional shotgun sports of hunting, and trap and skeet shooting and its importation was denied. Attachment 5. This decision was upheld by the United States District Court in Gilbert Equipment Company, Inc. v. Higgins, 709 F. Supp. 1071 (S.D. Ala. 1989). The case is currently on appeal to the Eleventh Circuit.

These two cases involving shotguns represent ATF's first thorough examination of the suitability of certain combat-type weapons for sporting purposes. In these cases ATF adopted an interpretation of sporting as being limited to certain traditional sports and not simply any lawful activity in which the weapons might be employed.

### ANALYSIS

#### A. Defining the type of weapon under review.

As noted above, section 925(d)(3) expressly provides that the Secretary shall authorize the importation of a firearm that is of a type that is generally recognized as particularly suitable for sporting purposes. The legislative history also makes it clear that the Secretary shall scrutinize types of firearms in exercising his authority under section 925(d). Specifically, in its explanation of section 925(d)(3), the Senate Report on the Gun Control Act stated:

This subsection gives the Secretary authority to permit the importation of ammunition and certain types of firearms--(1) those imported for scientific or research purposes or for use in competition or training under chapter 401 of title 10 of the United States Code; (2) an unserviceable firearm other than a machinegun; (3) those firearms not coming within the purview of the National Firearms Act (26 U.S.C. 5801, et seq.) and suitable for sporting purposes (in the case of surplus military weapons this type is limited to shotguns and rifles) and those taken out of the United States. (Emphasis added.)

S. Rep. No. 1501, 90th Cong. 2d Sess. 38 (1968).

In light of the statutory mandate that types of firearms be scrutinized, the working group first attempted to determine whether the semiautomatic rifles suspended from importation fall within a type of firearm.

The working group determined that the semiautomatic rifles in question are generally semiautomatic versions of true selective fire military assault rifles.<sup>3</sup> As a class or type of firearm they are often referred to as "assault rifles," "assault-type rifles," "military style rifles," or "paramilitary rifles."<sup>4</sup> Since we are only concerned with semiautomatic rifles, it is somewhat of a misnomer to refer to these weapons as "assault rifles." True assault rifles are selective fire

weapons that will fire in a fully automatic mode.<sup>5</sup> For the purposes of this paper, it was necessary to settle on one term that best describes the weapons under consideration, and we will refer to these weapons as "semiautomatic assault rifles." They represent a distinctive type of rifle distinguished by certain general characteristics which are common to the modern military assault rifle. The modern military assault rifle, such as the U.S. M16, German G3, Belgian FN/FAL, and Soviet AK47, is a weapon designed for killing or disabling the enemy and, as described below, has characteristics designed to accomplish this purpose.

We found that the modern military assault rifle contains a variety of physical features and characteristics designed for military applications which distinguishes it from traditional sporting rifles.<sup>6</sup> These military features and characteristics (other than selective fire) are carried over to the semiautomatic versions of the original military rifle. These features and characteristics are as follows:

1. Military Configuration.

- a. Ability to accept a detachable magazine. Virtually all modern military firearms are designed to accept large, detachable magazines.<sup>7</sup> This provides the soldier with a fairly large ammunition supply and the ability to rapidly reload. Thus, large capacity magazines are indicative of military firearms. While detachable magazines are not limited to military firearms, most traditional semiautomatic sporting firearms, designed to accommodate a detachable magazine, have a relatively small magazine capacity. In addition, some States have a limit on the magazine capacity allowed for hunting, usually 8 rounds or less.<sup>8</sup> That a firearm is designed and sold with a large capacity magazine, e.g., 20-30 rounds, is a factor to be considered in determining whether a firearm is a semiautomatic assault rifle.
- b. Folding/telescoping stocks. Many military firearms incorporate folding or telescoping stocks.<sup>9</sup> The main advantage of this item is portability, especially for airborne troops. These stocks allow the firearm to be fired from the folded position, yet it cannot be fired nearly as accurately as with an open stock. With respect to possible sporting uses of this feature, the folding stock makes it easier to carry the firearm when hiking or backpacking. However, its predominant advantage is for military purposes, and it is normally not found on the traditional sporting rifle.
- c. Pistol grips. The vast majority of military firearms employ a well-defined pistol grip that protrudes conspicuously beneath the action of the weapon.<sup>10</sup> In most cases, the "straight line design" of the military weapon dictates a grip of this type so that the shooter can hold and fire the weapon. Further, a pistol grip can be an aid in one-handed firing of the weapon in a combat situation. Further, such grips were designed to assist in controlling machineguns during automatic fire. On the other hand, the vast majority of sporting firearms employ a more traditional pistol grip built into the wrist of the stock of the firearm since one-handed shooting is not usually employed in hunting or competitive target competitions.
- d. Ability to accept a bayonet. A bayonet has distinct military purposes.<sup>11</sup> First, it has a psychological affect on the enemy. Second, it enables soldiers to fight in close quarters



with a knife attached to their rifles. We know of no traditional sporting application for a bayonet.

- e. Flash suppressor. A flash suppressor generally serves one or two functions. First, in military firearms it disperses the muzzle flash when the firearm is fired to help conceal the shooter's position, especially at night. A second purpose of some flash suppressors is to assist in controlling the "muzzle climb" of the rifle, particularly when fired fully automatic.<sup>12</sup> From the standpoint of a traditional sporting firearm, there is no particular benefit in suppressing muzzle flash. Those flash suppressors which also serve to dampen "muzzle climb" have a limited benefit in sporting uses by allowing the shooter to reacquire the target for a second shot. However, the barrel of a sporting rifle can be modified by "magna-porting" to achieve the same result. There are also muzzle attachments for sporting firearms to assist in the reduction of muzzle climb. In the case of military-style weapons that have flash suppressors incorporated in their design, the mere removal of the flash suppressor may have an adverse impact on the accuracy of the firearm.
  - f. Bipods. The majority of military firearms have bipods as an integral part of the firearm or contain specific mounting points to which bipods may be attached.<sup>13</sup> The military utility of the bipod is primarily to provide stability and support for the weapon when fired from the prone position, especially when fired fully automatic. Bipods are available accessory items for sporting rifles and are used primarily in long-range shooting to enhance stability. However, traditional sporting rifles do not come equipped with bipods, nor are they specifically designed to accommodate them. Instead, bipods for sporting firearms are generally designed to attach to a detachable "sling swivel mount" or simply clamp onto the firearm.
  - g. Grenade launcher. Grenade launchers are incorporated in the majority of military firearms as a device to facilitate the launching of explosive grenades.<sup>14</sup> Such launchers are generally of two types. The first type is a flash suppressor designed to function as a grenade launcher. The second type attaches to the barrel of the rifle either by screws or clamps. We are not aware of any particular sporting use for grenade launchers.
  - h. Night sights. Many military firearms are equipped with luminous sights to facilitate sight alignment and target acquisition in poor light or darkness.<sup>15</sup> Their uses are generally for military and law enforcement purposes and are not usually found on sporting firearms since it is generally illegal to hunt at night.
2. Whether the weapon is a semiautomatic version of a machinegun.
- The vast majority of modern military firearms are selective fire, *i.e.*, they can shoot either fully automatic or semiautomatic. Since machineguns are prohibited from importation (except for law enforcement use) the manufacturers of such weapons have developed semiautomatic versions of these firearms.<sup>16</sup>
3. Whether the rifle is chambered to accept a centerfire cartridge case having a length of 2.25 inches or less.

Modern military assault rifles and submachineguns are generally chambered to accept a centerfire cartridge case of 2.25 inches or less.<sup>17</sup> On the other hand, while many traditional sporting rifles will fire a cartridge of 2.25 inches or less, such firearms usually do not have the other military features outlined in Items 1a-h.

These features and characteristics are not usually found on traditional sporting firearms.<sup>18</sup> This is not to say that a particular rifle having one or more of the listed features should necessarily be classified as a semiautomatic assault rifle. Indeed, many traditional sporting firearms are . semiautomatic or have detachable magazines. Thus, the criteria must be viewed in total to determine whether the overall configuration places the rifle fairly within the semiautomatic assault rifle category.

Using these criteria, we determined that, on balance, all of the firearms on the original suspension list are properly included in the semiautomatic assault rifle category, with the exception of the .22 rimfire caliber rifles and the Valmet Hunter. While the .22 rimfire caliber rifles bear a striking resemblance to the true assault rifle, these rifles employ, by and large, conventional .22 rimfire caliber semiautomatic mechanisms.<sup>19</sup> Moreover, they are not semiautomatic versions of a machinegun and contain only a few of the other relevant characteristics. Further, the working group determined that, in general, .22 caliber rifles are generally recognized as suitable for small game hunting. The Valmet Hunter, while based on the operating mechanism of the AK47 assault rifle, has been substantially changed so that it is now akin to a traditional sporting rifle and does not properly fall within the semiautomatic assault rifle category. More specifically, its receiver has been modified and its pistol grips, bayonet, and flash suppressor have been removed. The trigger mechanism has been moved to the rear of the modified receiver to facilitate its use with a traditional sporting stock. Also, its military-style sights have been replaced with traditional sporting-style sights. See Attachment 6.

#### B. Scope of "Sporting Purposes".

The second step of our process was to determine the scope of "sporting purposes" as used in the statute. This is a critical aspect of the process. The broadest interpretation could take in virtually any lawful activity or competition which any person or groups of persons might undertake. Under this interpretation, any rifle could meet the "sporting purposes" test. A narrower interpretation which focuses on the traditional sports of hunting and organized marksmanship competition would result in a more selective importation process.<sup>20</sup>

To determine the proper interpretation, we consulted the statute itself, its legislative history, applicable case law, the work of the original Firearms Evaluation Panel, and prior interpretations by ATF. In terms of the statute itself, the structure of the importation provisions would suggest a somewhat narrow interpretation. In this regard, firearms are prohibited from importation (section 922(1)) with certain specific exceptions (section 925(d)(3)). A broad interpretation which permits virtually any firearm to be imported because someone may wish to use it in some lawful shooting activity would render the statute meaningless.

As discussed earlier, the legislative history suggests a narrow meaning and indicates that the term "sporting purposes" refers to the traditional sports of target shooting, skeet and trap shooting, and hunting. Moreover, the history discussed earlier strongly suggests that Congress intended the provision to allow the importation of traditional sporting type rifles while excluding military type rifles. There is nothing in its history to indicate that it was intended to recognize every conceivable

type of activity or competition which might employ a firearm. To the contrary, the history indicates that mere use in some competition would not make the rifle a sporting rifle.

Finally, the 1968 Firearms Evaluation Panel specifically addressed at least one informal shooting activity and determined that it was not a legitimate sporting purpose under the statute. The panel addressed what is commonly referred to as "plinking" (shooting at randomly selected targets such as bottles and cans). It was the Panel's view that "while many persons participated in this type of activity and much ammunition was expended in such endeavors, it was primarily a pastime and could not be considered a sport for the purposes of importation. . ."

See Attachment 3.

Based on the above, the working group determined that the term "sporting purpose" should properly be given a narrow reading. It was determined that while hunting has been a recognized rifle sport for centuries, and competitive target shooting is a recognized rifle sport, the so-called activity of plinking is not a recognized sport. Moreover, we believe that reference to sporting purposes was intended also to stand in contrast to military and law enforcement applications. Consequently, the working group does not

believe that police/combat-type competitions should be treated as sporting activities. This position is supported by the court's decision in Gilbert Equipment Company, Inc., v Higgins, 709 F. Supp. 1071 (S.D. Ala. 1989) and is consistent with prior interpretations of ATF as noted on pages 4 and 5 in discussing the Striker-12 shotgun and USAS-12 shotgun.

#### C. Suitability.

The final step in our review involved an evaluation of whether semiautomatic assault rifles are a type of rifle generally recognized as particularly suitable for or readily adaptable to the traditional sporting applications discussed above.

The criminal misuse of semiautomatic assault rifles is a matter of significant public concern and was an important factor in the decision to suspend their importation. Nevertheless, the working group did not consider criminal misuse as a factor in its analysis of the importability of this type of rifle. Instead, the working group confined its analysis to the question of whether this type of rifle meets the test provided in section 925(d)(3).

Rather than criminal misuse, our comprehensive examination of this issue focused on the legal analysis and technical assessment of these firearms discussed earlier. In addition, the working group used the information gathered under Items 1-7 outlined in the next section in determining whether this type of firearm is generally recognized as particularly suitable for sporting purposes. These items take into account technical and marketing data, expert opinions, the recommended uses of the firearms, and data on the actual uses for which the weapons are employed in this country.

In evaluating these firearms, we believe that all rifles which are fairly typed as semiautomatic assault rifles should be treated the same. Therefore, the fact that there may be some evidence that a particular rifle of this type is used or recommended for sporting purposes should not control its importability.<sup>21</sup> Rather, all findings as to suitability of these rifles as a whole should govern each rifle within this type.



This is consistent with the approach taken with respect to handguns since 1968. Although certain handguns may be used or recommended for sporting purposes, they may fall within the type of easily concealable handguns barred from importation by the administrative factoring criteria used by ATF to determine the importability of handguns. Furthermore, a pistol specifically designed for target shooting, but lacking a safety as required by the factoring criteria, would be a type of handgun prohibited from importation as not particularly suitable for sporting purposes for this reason. Finally, just as ATF allows handguns to be modified so as to meet the factoring criteria, a semiautomatic assault rifle could be modified into a sporting configuration and be importable, as was done in the case of the Valmet Hunter referred to earlier.

#### D. Evaluation of Information from Outside Sources

As part of our comprehensive analysis as to whether semiautomatic assault rifles meet the statutory criteria for importation, the following sources of information were also considered:

1. How has the weapon been advertised, marketed and categorized by the manufacturer and/or importer?
2. How has the use of the rifle been described by firearms technical writers?
3. What is the rifle's reported use by importers?
4. Do hunting guides recommend the rifle?
5. Do editors of hunting magazines recommend the rifle?
6. Is the rifle used in target shooting competitions?
7. Do State game commissions allow the use of the rifle to hunt?

Items 1-6 focus upon how the rifles are marketed, advertised, and recommended for use. Item 7 addresses the legal restrictions pertaining to the use of the weapons for sporting purposes.

The working group reviewed the advertising and marketing literature concerning each of the weapons (Item 1) and reviewed evaluations of the firearms by technical writers (Item 2). In addition, the working group solicited information from the importers of the weapons and other knowledgeable sources (Items 3-6).

Questionnaires were drafted and sent out to licensed hunting guides, State game and fish commissions, local hunting associations, competitive shooting groups, and hunting/shooting magazine editors to determine the extent to which the weapons are used for sporting purposes or recommended for such use. The working group believed that the actual uses of the weapons for sporting purposes would be a factor to be considered in determining whether this type of rifle meets the sporting purposes test.

The review of advertising and marketing literature indicates that these rifles are not generally marketed for hunting or competitive shooting. The review of the technical evaluations revealed that these rifles are not regarded as suitable for these sporting activities.<sup>22</sup>

To the extent that the technical evaluations made recommendations with respect to the use of the rifles suspended from importation, the majority recommended them for law enforcement or military use or for activities such as collecting, plinking, home and self-defense, and combat target shooting. Only 5 of over 50 evaluations reviewed contained recommendations for the use of these firearms for hunting purposes.

The importers were asked to submit information concerning the sporting uses of the semiautomatic rifles they import. Thirty-nine importers were asked to submit this information and 19 responded. In general, their comments were conclusory and stated that their weapons could be used for sporting purposes. A small number of importers, e.g., Gun South, Inc., and Heckler & Koch, Inc., provided more specific data showing the sporting uses made of their firearms by their customers.

Of 3 hunting associations to whom questionnaires were sent, 2 responded. They stated that they place no restrictions on the use of semiautomatic rifles by their members, on the minimum caliber of ammunition used to hunt large game, or on the number of rounds allowed in semiautomatic rifle magazines. However, over 1,800 hunting guides were sent questionnaires and, of these, 706 responded. Over 73 percent of those responding indicated that their patrons used either bolt or lever action rifles for hunting. Only 10 of the 706 guides indicated that their patrons had used any of the rifles whose importation had been temporarily suspended.

Of the 20 hunting/shooting editors to whom questionnaires were sent, 14 responded. Nine of the fourteen editors recommended semiautomatic rifles for use in hunting large game, including 5 who recommended use of any of the rifles subject to the temporary suspension. Eleven of the fourteen editors recommended semiautomatic rifles for target competitions, including 7 who recommended semiautomatic assault rifles for such use.

The recommendations of editors were contradictory. One editor pointed out that what made the assault rifle successful as a military weapon made the semiautomatic version totally unfit for any other use. On the other hand, another editor stated that semiautomatic rifles had certain advantages over conventional sporting rifles especially for the physically disabled and left-handed shooters. While this may be true, there appears to be no advantage to using a semiautomatic assault rifle as opposed to a semiautomatic sporting rifle.

A total of 54 competitive shooting groups were sent a questionnaire and 53 groups responded (some of the responses were from unsolicited groups). Fifty of these groups indicated that they sponsor high power rifle competition events. While none of the groups prohibited the use of the semiautomatic assault rifles in their competitions, none stated that any of the rifles covered by the temporary suspension were used in a specific event.

Finally, the information gathered under Item 7 reveals that most of these weapons could legally be used in most States for most hunting purposes.

The working group reviewed all of the information gathered under Items 1-6 and determined that while these weapons may legally be used for sporting purposes in most States, the evidence was compelling that, as a type of firearm, the semiautomatic assault rifle is not generally recognized as particularly suitable for sporting purposes. The working group found persuasive the technical and expert evaluations of these firearms which generally did not recommend them as particularly suitable for sporting purposes. The group was also impressed by the comments of the hunting guides which showed that these rifles were not widely used for hunting purposes. The comments of the hunting guides are consistent with the opinion of the technical experts who generally do not recommend the rifles for hunting purposes.

The opinions of the editors were fairly divided with respect to the sporting uses of these rifles. The importers generally recommended their own weapons for such uses. The competitive shooting groups indicated that the rifles could be used in certain shooting events. Thus, while there was some evidence that these rifles could be used for hunting and target shooting, there was no evidence of any widespread use for such purposes. The mere fact that they are not generally prohibited from use for sporting purposes does not mean that the rifles meet the test for importation.

### CONCLUSIONS

The working group has dealt with a complex issue, the resolution of which has required the group to take into account interpretations of law, technical assessments of firearms and their physical characteristics, marketing data, the assessment of data compiled from responses to questionnaires and, finally, Bureau expertise with respect to firearms. We fully recognize that particular findings as well as the results will be controversial.

From the cross section of representation within ATF, we have brought to bear our technical, legal, and administrative expertise to resolve the issues in what we believe to be a fair manner, taking into consideration all points of view. While some of the issues were difficult to resolve, in the end we believe that the ultimate conclusion is clear and compelling. These semiautomatic assault rifles were designed and intended to be particularly suitable for combat rather than sporting applications. While these weapons can be used, and indeed may be used by some, for hunting and target shooting, we believe it is clear that they are not generally recognized as particularly suitable for these purposes.

The purpose of section 925(d)(3) was to make a limited exception to the general prohibition on the importation of firearms, to preserve the sportsman's right to sporting firearms. This decision will in no way preclude the importation of true sporting firearms. It will only prevent the importation of military-style firearms which, although popular among some gun owners for collection, self-defense, combat competitions, or plinking, simply cannot be fairly characterized as sporting rifles.

Therefore, it is the finding of the working group that the semiautomatic assault rifle is not a type of firearm generally recognized as particularly suitable for or readily adaptable to sporting purposes and that importation of these rifles should not be authorized under 18 U.S.C. § 925(d)(3).

Based on our evaluation, we recommend that the firearms listed on Attachment 7 not be authorized for importation. For the reasons discussed in this report, we recommend that the firearms listed on Attachment 8 be authorized for importation. These are the .22 rimfire caliber rifles and the Valmet Hunter which we do not believe are properly included in the category of semiautomatic assault rifles. Attachment 9 is a compilation of the responses from the questionnaires. Attachment 10 combines the criteria for identifying semiautomatic assault rifles and the items considered in assessing suitability. Attachments 11 and 12 contain the data compiled for each of the criteria listed in Attachment 10. Finally, Attachment 13 contains the source materials used in locating persons and organizations who were sent questionnaires.

#### NOTES

1. Paul Wahl, ed., Gun Trader's Guide, 13th Edition, (South Hackensack, NJ. 1987), 155-162.
2. Although a firearm might be recognized as "suitable" for use in traditional sports, it would not meet the statutory criteria unless it were recognized as particularly suitable for such use. Indeed, Senator Dodd made clear that the intent of the legislation was to" [regulate] the importation of firearms by excluding surplus military handguns; and rifles and shotguns that are not truly suitable for sporting purposes." 114 Cong. Rec. 13325 (1968) (Statement of Sen. Dodd) [emphasis added].

Similarly, it is apparent that the drafters of the legislation did not intend for "sports" to include every conceivable type of activity or competition which might employ a firearm; otherwise a "sporting purpose" could be advanced for every firearm sought to be imported. For example, in response to Sen. Hansen's question concerning the meaning of "sporting purposes" in the bill which became section 925(d), Senators Dodd and Hansen engaged in the following colloquy:

Mr. HANSEN. Would the Olympic shooting competition be a "sporting purpose?"

Mr. DODD. I would think so.

Mr. HANSEN. What about trap and skeet shooting?

Mr. DODD. I would think so. I would think trap and skeet shooting would certainly be a sporting activity.

Mr. HANSEN. Would the Camp Perry national matches be considered a "sporting purpose?"

Mr. DODD. Yes; that would not [sic] fall in that arena. It should be described as a sporting purpose.

Mr. HANSEN. I understand the only difference is in the type of firearms used at Camp Perry which includes a wide variety of military types as well as commercial.

Would all of these firearms be classified as weapons constituting a "sporting purpose?"

Mr. DODD. No. I would not say so. I think when we get into that, we definitely get into military type of weapon for use in matches like these at Camp Perry; but I do not think it is generally described as a sporting weapon. It is a military weapon. I assume they have certain types of competition in which they use these military weapons as they would in an otherwise completely sporting event. I do not think that fact would change the nature of the weapon from a military to a sporting one.

Mr. HANSEN. Is it not true that military weapons are used in Olympic competition also?

Mr. DODD. I do not know. Perhaps the Senator can tell me. I am not well informed on that.

Mr. HANSEN. It is my understanding that they are. Would the Senator be inclined to modify his response if I say that is true? (27461)

Mr. DODD. It is not that I doubt the Senator's word. Here again I would have to say that if a military weapon is used in a special sporting event, it does not become a sporting weapon. It is a military weapon used in a special sporting event. I think the Senator would agree with that. I do not know how else we could describe it.

Mr. HANSEN. If I understand the Senator correctly, he said that despite the fact that a military weapon may be used in a sporting event it did not, by that action become a sporting rifle. Is that correct?

Mr. DODD. That would seem right to me ..... As I said previously the language says no firearms will be admitted into this country unless they are genuine sporting weapons..... I think the Senator and I know what a genuine sporting gun is.

114 Cong. Rec. 27461-62 (1968).(Emphasis added.)

3. Ken Warner, ed., Gun Digest 1989, (Northbrook, IL 1988), pp. 293-300; William S. Jarrett, ed., Shooter's Bible, No. 80, (Hackensack, NJ. 1988), pp. 345-363; Edward Clinton Ezell, Small Arms of the World, (Harrisburg, Pa. 1983), p. 844; Pete Dickey, "The Military Look-Alikes," American Rifleman, (April 1980), p. 31. Also, see generally, Ian V. Hogg, ed., Jane's Infantry Weapons, 1987-88, (New York 1987); Jack Lewis, ed., The Gun Digest Book of Assault Weapons, (Northbrook, IL. 1986).
4. Art Blatt, "Tomorrow's State-of-the-Art Sporting Rifle," Guns & Ammo, (July 1981), p. 48; Jarrett, pp. 345-363; Warner, pp. 293-300.
5. Daniel D. Musgrave and Thomas B. Nelson, The World's Assault Rifles, (Virginia, 1967), p. 1.
6. See generally, Angus Laidlaw, ed., Paul Wahl's Big Gun Catalog/1, (Bogota, NJ. 1988); Musgrave and Nelson; Hogg; Jarrett; and Warner.

7. Ibid.
8. Arizona, 5 rounds; Colorado, 6 rounds; Michigan 6 rounds; New Hampshire, 5 rounds; New York, 6 rounds; North Carolina, 6 rounds; North Dakota, 8 rounds; Oregon, 5 rounds; Pennsylvania, semiautomatic rifles prohibited; Vermont, 6 rounds.
9. See generally, Hogg; Musgrave and Nelson; Ezell; Warner; Jarrett; Laidlaw; and Lewis.
10. Ibid.
11. Ibid.
12. Ibid.
13. Ibid.
14. Ibid.
15. Ibid.
16. Ezell, p. 844; Dickey, p. 31.
17. Musgrave and Nelson, pp. 11-29; and, see generally, Hogg; and Ezell.
18. Ezell, pp.844-866; and, see generally, Warner; Jarrett; and Laidlaw.
19. See, for example, Walter Rickell, "The Plinker's AK GunsMagazine, (July 1986) p. 21; John Lachuk, "Bantam Battle Rifles," Guns & Ammo, (January 1987), p. 37; John Lachuk, ".22 Erma Carbine," Guns & Ammo, (May 1968), p. 58; JackLewis, "Something New: The AK in Twenty-Two," Gun World, (July 1985), p. 32; Roger Combs, "A Most Unique Carbine," Gun World, (December 1985), p. 28; Garry James, "Mitchell Arms AK-22," Guns & Ammo, (November 1985), p. 72.
20. See note 2, colloquy between Senators Dodd and Hansen.
21. Ibid.
22. See generally, bibliography.



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**NOTE:** This information was extracted from the document titled, "**Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles**", published in a memorandum to the Director, Stephen E. Higgins from the Associate Director, Daniel R. Black and approved on July 6, 1989.

## **Exhibit 23**



# Criminal Use of Assault Weapons and High-Capacity Semiautomatic Firearms: an Updated Examination of Local and National Sources

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**Abstract** Policies restricting semiautomatic assault weapons and large-capacity ammunition magazines are intended to reduce gunshot victimizations by limiting the stock of semiautomatic firearms with large ammunition capacities and other military-style features conducive to criminal use. The federal government banned such weaponry from 1994 to 2004, and a few states currently impose similar restrictions. Recent debates concerning these weapons have highlighted their use in mass shootings, but there has been little examination of their use in gun crime more generally since the expiration of the federal ban. This study investigates current levels of criminal activity with assault weapons and other high-capacity semiautomatics in the USA using several local and national data sources including the following: (1) guns recovered by police in ten large cities, (2) guns reported by police to federal authorities for investigative tracing, (3) guns used in murders of police, and (4) guns used in mass murders. Results suggest assault weapons (primarily assault-type rifles) account for 2–12% of guns used in crime in general (most estimates suggest less than 7%) and 13–16% of guns used in murders of police. Assault weapons and other high-capacity semiautomatics together generally account for 22 to 36% of crime guns, with some estimates upwards of 40% for cases involving serious

violence including murders of police. Assault weapons and other high-capacity semiautomatics appear to be used in a higher share of firearm mass murders (up to 57% in total), though data on this issue are very limited. Trend analyses also indicate that high-capacity semiautomatics have grown from 33 to 112% as a share of crime guns since the expiration of the federal ban—a trend that has coincided with recent growth in shootings nationwide. Further research seems warranted on how these weapons affect injuries and deaths from gun violence and how their regulation may impact public health.

**Keywords** Firearms · Assault weapons · Violence

## Introduction

Firearm violence imposes a significant burden on public health in the USA. From 2010 through 2012, the nation experienced an annual average of 11,256 firearm homicides and 48,534 non-fatal assault-related gunshot victimizations that cost society nearly \$22 billion a year in lifetime medical and work-related costs [1]. One type of policy response to reduce gun violence involves restricting or mandating design changes in particular types of firearms that are considered to be especially dangerous and/or attractive for criminal use.

Restrictions on assault weapons (AWs) represent one particularly controversial and highly contested form of such legislation that has featured prominently in gun policy debates in recent decades. In general, AW laws

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restrict manufacturing, sales, and ownership of semiautomatic firearms with large ammunition capacities and other military-style features that appear useful in military and criminal applications but unnecessary in shooting sports or self-defense [2]. Examples of such features include pistol grips on rifles, flash hiders, folding rifle stocks, threaded barrels for attaching silencers, and barrel shrouds on pistols. AW laws also commonly include restrictions on large-capacity magazines (LCMs), which are typically defined as ammunition feeding devices holding more than ten rounds of ammunition (some laws have higher limits). LCM restrictions are arguably the most important components of AW laws in that they also apply to the larger class of high-capacity semiautomatic firearms without military-style features. In the broadest sense, AW-LCM laws are thus intended to reduce gunshot victimizations by limiting the stock of semiautomatic firearms with large ammunition capacities and other features conducive to criminal use. The federal government enacted a national ban on AWs and LCMs in 1994 but allowed it to expire in 2004. Currently, eight states and the District of Columbia have AW and/or LCM restrictions, as do some additional localities [3].

Recent discussion and debates concerning these weapons have largely focused on their use in mass shootings. However, there has been little examination of the use of AWs and LCMs in gun crime more generally since the expiration of the federal ban. Studies conducted around the time of the federal ban found that AWs accounted for up to 8% of guns used in crime (generally between 1 and 6% and averaging around 2%) and that the broader class of firearms equipped with LCMs (including AWs and other semiautomatic firearms equipped with LCMs) accounted for up to a quarter [2, 4–12]. Criminal use of such weaponry declined during the years of the federal ban [2, 13, 14], but trends since then have only been examined in the state of Virginia, where LCM use rose following the ban's expiration [14]. Semiautomatic weapons with LCMs and/or other military-style features are common among models produced in the contemporary gun market [15, 16], but precise estimates of their production and ownership are unavailable. Growth in the use of such weapons could have important implications for public health as these weapons tend to produce more lethal and injurious outcomes when used in gun violence [2, 17]. This study provides an updated examination of the AW issue by investigating current levels of criminal activity

with AWs and other LCM firearms as measured in a variety of national and local data sources.

## Data and Methods

There is no national data source that can be used to count the numbers of homicides, non-fatal shootings, or other crimes committed with AWs and other LCM firearms. Therefore, criminal use of these weapons was approximated by examining and triangulating across several local and national data sources on guns used in different types of crimes.

### Local Data Sources

The local-level analyses are based on guns recovered by police over multiple years (defined below) in a convenience sample of ten cities including Hartford (CT), Rochester (NY), Syracuse (NY), Baltimore (MD), Richmond (VA), Minneapolis (MN), Milwaukee (WI), Kansas City (MO), Seattle (WA), and Sacramento (CA). Large cities were selected for the analysis (these cities range in size from roughly 124,000 to 684,500) due to the concentration of gun violence in urban areas [18, 19]. Patterns and trends in these particular cities may not be indicative of those elsewhere; further, some (Baltimore, Hartford, Rochester, Syracuse, and Sacramento) are covered by state AW and LCM restrictions that were in effect during all or portions of the study period (this study does not attempt to evaluate the implementation and effects of these laws or variations therein). Nonetheless, these cities constitute a geographically diverse set of ban and non-ban locations, thus strengthening generalizations. The data were obtained from law enforcement authorities in these jurisdictions except where otherwise noted. Information available in most of the police databases included the type, make, model, and caliber of each confiscated firearm; the date when it was recovered; and the type of crime with which it was associated.

Guns recovered by police (often referred to as “crime guns”) are the only readily available data with which to study patterns and trends in the types of guns used in crime across jurisdictions, and they are commonly used in research on gun markets, gun violence, and gun policy [2, 9, 20–37]. Guns confiscated by police include guns recovered in violent crime investigations as well as those recovered in connection with weapon offenses



(illegal possession, carrying, and discharges), drug violations, property crimes, and other incidents. These samples thus represent guns known to have been used in violence as well as guns possessed and/or carried by criminal and otherwise high-risk persons. As others have noted, they represent a sample from the population of guns that are at greatest risk of misuse [24] and thereby provide a probable sample of guns used to commit crimes [21]. As caveats, nonetheless, it should be noted that police do not recover all guns used and possessed illegally, and it is possible that the types of guns they confiscate differ from those of unrecovered guns linked to illegal possessors and users. The analyses highlighted below are based on all confiscated firearms in the study jurisdictions. Additional analyses conducted with just those guns clearly connected to a violent offense, which represented at least 13 to 19% of guns across the cities, produced very similar results except where noted (separate offense-type analyses could not be conducted with the Syracuse and Rochester gun data or the Richmond LCM data).

#### National Data Sources

National-level analyses were conducted using three data sources and compilations. The first consists of information on firearms recovered by law enforcement agencies throughout the nation and reported to the federal Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) for investigative tracing of their sale histories. Guns reported to ATF provide a national sample of crime guns numbering in the hundreds of thousands annually (predominantly from urban jurisdictions), but they do not constitute a statistically representative sample for the nation given that gun tracing is voluntary (agencies trace guns as needed for specific investigations and/or analysis of illegal gun markets) and varies between agencies and over time [24, 27, 38–40]. Further, publicly available data on traced guns are limited to aggregate figures on basic types and calibers of the weapons, thus limiting the analyses that could be conducted as described below. The other national data sources included information on guns used in murders of police officers and mass murder incidents. Prior research has shown that AWs and LCM firearms are used in a higher share of these crimes, due presumably to their lethality and attractiveness to the types of offenders who commit these offenses [2, 4], and this has been a prominent issue in the AW debate. Information on firearms used in murders of police,

including the type, make, model, and caliber of each weapon, was obtained from the Federal Bureau of Investigation (FBI), which compiles these data from reports by police agencies throughout the country. Information on firearms used in mass murder shooting incidents was collected from lists and reports compiled by several organizations since there is no single official data source that regularly provides detailed and comprehensive information on mass murders and the guns used in these incidents [41–50]. Consistent with many prior studies of this issue, firearm mass murders were defined as incidents in which four or more people were murdered with a firearm, not including the death of the shooter if applicable and irrespective of the number of additional victims shot but not killed. This increased the number of sources that could be used to gather information. As described below, however, detailed weapon information could not be found in public sources for many of the cases.

#### Methods

There is no universal definition of an AW that applies across current and past AW laws. For example, the expired federal ban and some current state laws define AWs as having two military-style features, whereas other state bans and a recent (2013) proposal for a new federal ban use a one feature criterion [2, 51]. For this study, AWs were defined based on the weapons that have most commonly been identified as such based on the old federal ban, current state laws, and the recently proposed federal ban. This list included more than 200 make-model combinations covered by either of the federal lists (2004 and 2013) or at least two of the state laws. Based on preliminary analyses showing that most recovered AWs are assault rifles (as opposed to assault pistols or assault shotguns), an additional ceiling estimate of AW use was calculated based on the prevalence of semiautomatic rifles. This was also done to compensate for imprecision in the AW estimates (due, for example, to missing or partial gun model data, lack of information about the specific features or configurations of the weapons that could affect their AW status, and possible omissions from the operational AW list).

Use of guns with LCMs could only be measured precisely for the Syracuse, Baltimore, and Richmond analyses, which are based on data sources having an indicator for magazine capacity (which is typically



missing from police gun databases), and some of the mass murder incidents. For most analyses, use of LCM firearms was approximated based on recoveries of semiautomatics that are commonly manufactured and sold with LCMs, referred to below as LCM-compatible firearms. Identification of these models was based on gun catalogs (such as the *Blue Book of Gun Values* and *Gun Digest*) and examination of gun manufacturers' websites. This method likely overstates LCM use to some degree since many LCM compatible firearms can also be equipped with smaller magazines. As a rough guide, inspection of all recoveries of a small number of LCM-compatible handgun models in the Baltimore data revealed that approximately four of five were equipped with LCMs. Conversely, LCM use can also be undercounted for guns that were missing complete model information or equipped with aftermarket LCMs, which are available for some guns not sold with LCMs at retail. LCM use was not estimated for Rochester and Sacramento since New York and California have had longstanding restrictions on magazines with more than ten rounds (hence, it seems less likely that LCM-compatible guns recovered in those jurisdictions were actually equipped with LCMs).

Data were collected from 2014 through 2016. Current estimates of AW and LCM use were developed using the most recent 2–3 years of data from the local police databases and ATF data. Data spanning the most recent 5–6 years were used to generate contemporary estimates of AW and LCM use in murders of police and mass murders due to the rarity of these events. As described below, some data sources were also used to estimate trends in the use of semiautomatic rifles and LCM firearms since the expiration of the federal ban. Reported figures highlight AWs and LCM firearms as a share of crime guns in order to control for differences in the volume of gun crime and overall gun recoveries between places and over time. Other noteworthy aspects of the data and analyses are discussed below.

## Results

### Local Analyses

Results of the local analyses are presented in Table 1. For each site, estimates are based on data spanning different portions of the 2011–2014 period. The number of guns

analyzed ranged from 281 in Syracuse to 4994 in Kansas City and totaled 21,551 across all data sources.

Estimates of the prevalence of AWs among crime guns ranged from a low of 2.4% in Baltimore to a high of 8.5% in Syracuse. Assault rifles (e.g., variations of the AR-15 or AK-47) accounted for the majority of AWs in all sites and more than three-quarters in all but one (Richmond). The remaining AWs consisted entirely (or nearly so) of assault pistols (e.g., the TEC-9 or TEC-22). The share of crime guns consisting of semiautomatic rifles of any sort is also displayed in Table 1 for localities that had gun databases with gun-type designations (i.e., handgun/rifle/shotgun, semiautomatic/non-semiautomatic). These estimates ranged from a low of 4.1% in Hartford to 12.4% in Rochester but were less than 9% for most cities. (The Milwaukee estimate is based on the percentage of crime guns that were rifles of any sort as semiautomatic/non-semiautomatic designations were unavailable.) As noted, the semiautomatic rifle estimates, which include both AW-type and non-AW-type rifles, provide a likely ceiling for estimates of AW prevalence.

The percentage of crime guns clearly equipped with an LCM (including AWs and other high-capacity semiautomatics, most of which are pistols) was 16.5% in Baltimore during the 2012–2014 period, but this figure rose to 21.5% for guns that were connected to a violent crime. These findings are similar to those from a recent news report (involving a separate and independent analysis of Baltimore data) indicating that 18.4% of guns recovered in Baltimore had LCMs for the period of 2010 through 2016 [52]. In Richmond, 22% of crime guns were equipped with LCMs during 2008 and 2009 based on data collected by the Virginia State Police and initially reported by *The Washington Post* [14] (the *Post's* reported figures have been reanalyzed here to focus on the most recent available years and to assess trends). Crime guns were least likely to be equipped with LCMs in Syracuse (14.6%), where New York State LCM restrictions have been in effect since the early 2000s.

For the other sites, the prevalence of LCM-compatible guns ranged from 22.2% in Hartford to 36.2% in both Kansas City and Seattle, with the majority of the estimates (3 of 5) higher than one-third. In most of these cities, the prevalence of LCM guns was similar whether focusing on all guns or those connected to a violent crime. In Hartford, however, 30% of violent crime guns were LCM compatible in contrast to 22.2% for all guns. Further, a supplemental analysis of guns linked to assault-

**Table 1** Prevalence of assault weapons, semiautomatic rifles, and semiautomatics with large-capacity magazines among guns recovered by police: estimates for selected cities and years

Location and sample	Assault weapons as % of guns	Semiautomatic rifles as % of guns	Semiautomatics with large-capacity magazines as % of guns
Hartford, CT (2011–2012, <i>N</i> = 854)	2.6%	4.1%	22.2% overall, 30% for guns linked to violent crime
Rochester, NY (2012–July 2014, <i>N</i> = 1687)	4.9%	12.4%	Not estimated
Syracuse, NY (2012–May 2014, <i>N</i> = 281)	8.5%	12.1%	14.6%
Baltimore, MD (2012–Sep. 2014, <i>N</i> = 4680)	2.4%	5.4%	16.5% overall, 21.5% for guns linked to violent crime
Richmond, VA (AW analysis: 2012–2013, <i>N</i> = 1180) (LCM analysis: 2008–2009, <i>N</i> = 1960)	2.7%	Not estimated	22.0%
Minneapolis, MN (2012–Aug. 2014, <i>N</i> = 2178)	3.4%	6.4%	25.1% overall, 46.3% for guns linked to shootings
Milwaukee, WI (Jul. 2013–Jun. 2014, <i>N</i> = 1868)	4.6%	< 9.4%	35.5%
Kansas City, MO (2012–Aug. 2014, <i>N</i> = 4994)	6.1%	6.3%	36.2%
Seattle, WA (2012–July 2014, <i>N</i> = 596 guns linked to violent crimes or weapons violations)	6.4%	7.9%	36.2%
Sacramento, CA (Aug. 2013–Jul. 2014, <i>N</i> = 1273)	6.0%	Not estimated	Not estimated

Estimates are based on general gun recovery samples except where noted. Estimates were similar for guns known to have been connected to violent crimes except where noted. Large-capacity magazine (LCM) estimates for Syracuse, Baltimore, and Richmond are based on known LCM recoveries (the Richmond estimates are based on Virginia State Police data initially reported by *The Washington Post*). Other LCM estimates are based on recoveries of LCM compatible firearm models. The Milwaukee semiautomatic rifle estimate is based on the prevalence of all rifles

related shootings in Minneapolis (using gunshot victimization data provided by Minneapolis police) revealed that 46.3% were LCM compatible, though this was based on a small sample (*n* = 80 guns).

#### National Analyses

Results of the national analyses are presented in Table 2. AW prevalence was approximated in the national ATF tracing data for 2012 and 2013 (*n* = 481,632) based on traces of guns in calibers .223, 5.56, and 7.62 mm. These are common calibers for AW-type semiautomatic rifles, though not all firearms in these calibers are AWs, and not all AWs fall into these calibers. This method nonetheless yielded an estimate of 5%, which is within the range of estimates provided by the local analyses. Further estimates of semiautomatic rifles and LCM firearms were not possible given the limitations of published tracing data.

Guns used in murders of police were analyzed for the years 2009 through 2013 (*n* = 219, excluding cases involving the officers' own weapons, which are often LCM firearms). AWs accounted for an estimated 13.2% of the firearms used in these crimes overall and varied

between 8 and 18% from year to year. Virtually all of the AWs (97%) were assault rifles. Semiautomatic rifles overall accounted for 15.5% of the firearms used in these cases and ranged from 5 to 23% annually. LCM-compatible firearms more generally constituted 40.6% of the murder weapons, ranging from 35 to 48% annually.

AW and LCM use in firearm mass murders was examined for a sample of 145 incidents that occurred from 2009 through 2015 but could only be estimated within broad ranges due to high levels of missing weapons data in public accounts. AWs were used in at least 10.3% of these incidents. However, only 42 incidents had sufficiently detailed weapon information to make a definitive determination regarding AW use; among these cases, 35.7% involved AW use. All but one AW case involved an assault rifle. (A separate estimate for semiautomatic rifle use is not presented because only two additional cases clearly involved a semiautomatic rifle with an unclear or non-AW designation.) LCM firearms overall were involved in at least 18.6% of the incidents based on cases that involved clear possession of LCMs, AWs, or other LCM-compatible models. Although many additional cases involved semiautomatic firearms, an LCM coding could



**Table 2** Prevalence of assault weapons, semiautomatic rifles, and semiautomatics with large-capacity magazines among national samples of guns recovered by police, guns used in murders of police, and guns used in mass murders

Data source and sample	Assault weapons as % of guns	Semiautomatic rifles as % of guns	Semiautomatics with large-capacity magazines as % of guns
Federal Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF): guns recovered by police and reported to ATF for investigative tracing (2012–2013, $N = 481,632$ )	5%	Not estimated	Not estimated
Federal Bureau of Investigation: guns used in murders of police (2009–2013, $N = 219$ )	13.2%	15.5%	40.6%
Public reports of firearm mass murders (4+ killed) (2009–2015, $N = 145$ )	10.3–35.7%	Not estimated	18.6–57.4%

Assault weapon estimate for ATF data is based on reported firearms in calibers .223, 5.56, and 7.62 mm. LCM estimates are based on recoveries of LCM compatible firearm models in the FBI data and recoveries of both LCMs and LCM compatible firearms in the mass murder data

only be made for 47 cases, 57.4% of which involved an LCM firearm. The identified AW and LCM cases typically occurred in public locations (80%) and resulted in more than twice as many people shot on average as did other incidents (13.7 victims on average for AW-LCM cases versus 5.2 for other cases;  $t$  test  $p$  level  $< 0.01$ ).

#### Trend Analyses

Trends in the use of AWs and LCM firearms since the end of the federal AW ban or the early post-ban years were also estimated using selected data sources that had sufficiently detailed weapon information and spanned the period of interest. First, trends in recoveries of semiautomatic rifles were used to approximate trends in crime with AWs using the FBI national data on police murders (2003–2013) and data from the following cities and time periods: Baltimore (2004–2014), Rochester (2004–2014), Syracuse (2004–2014), Milwaukee (2006–2014, based on all rifles), Seattle (2008–2014), Minneapolis (2006–2014), and Kansas City (2008–2014). In summary, these analyses (not shown) revealed little evidence of upward trends in the use of semiautomatic rifles across sites.

Second, trends in crimes with LCM firearms were estimated based on guns used in murders of police (2003–2013) as well as guns recovered in Baltimore (2004–2014), Richmond (2003–2009), and Minneapolis (2006–2014). Table 3 shows changes over time in the percentage of guns that were LCM firearms using the earliest and latest years of each data source. In relative

terms, the prevalence of LCM firearms increased from 33 to 49% in the Baltimore, Minneapolis, and national (FBI) data (note that Maryland restricted LCMs with more than 20 rounds throughout this period and extended these restrictions to LCMs with more than 10 rounds in late 2013). The largest increase occurred in Richmond, where LCM firearms increased 111.5%, rising from 10.4% of recovered guns in 2003–2004 (the final years of the federal AW ban) to 22% in 2008–2009. Similar trends have also been reported for the state of Virginia overall [14]. All of these changes were statistically significant ( $p < 0.05$ ) based on chi-square tests of the equality of proportions.

#### Discussion

Subject to caveats noted above, this examination of several national and local data sources suggests that AWs are used in between 2 and 9% of gun crimes in general with most estimates being less than 7%. Upper bound estimates of AW use based on semiautomatic rifles range from 4 to 12% in most data sources and are typically less than 9%. These estimates are broadly similar to those generated in the early 1990s prior to the federal AW ban [2], though they are perhaps somewhat higher on average. However, comparisons of these estimates with others should be made cautiously, as operational definitions of an AW have varied across studies and estimates presented here are based on the most contemporary definitions of AWs. One clearly notable

**Table 3** Changes in prevalence of semiautomatics with LCMs: estimates for selected local and national data sources and time frames, 2003–2014

Data source/location	LCM firearm prevalence: early time period	LCM firearm prevalence: late time period	Change in LCM firearm prevalence
Baltimore crime guns	11.1% (2004, 2006, N = 5369 total firearms)	16.5% (2012–Sep. 2014, N = 4381 total firearms)	+ 48.6%**
Richmond, VA crime guns	10.4% (2003–2004, N = 2413 total firearms)	22.0% (2008–2009, N = 1960 total firearms)	+ 111.5%**
Minneapolis crime guns	16.8% (2006–2007, N = 2564 total firearms)	25.1% (2012–Aug. 2014, N = 2178 total firearms)	+ 49.4%**
National (FBI): guns used in murders of police	30.4% (2003–2007, N = 224 total firearms)	40.6% (2009–2013, N = 219 total firearms)	+ 33.6%*

Change in proportions statistically significant at  $p < 0.05$  (\*) or  $p < 0.01$  (\*\*)

Estimates are based on general gun recovery samples except where noted. LCM estimates for Baltimore and Richmond are based on known LCM recoveries (the Richmond estimates are based on Virginia State Police data initially reported by *The Washington Post*). The early period estimate for Baltimore excludes the year 2005 due to an unusually large number of guns appearing that year within the buyback/tum-in/safekeeping category. Other LCM estimates are based on recoveries of LCM compatible firearm models

recent change is that assault rifles, rather than assault pistols, now account for a substantial majority of AWs used in crime in contrast to prior estimates [2]. This implies an increase over time in the average lethality of AWs used in violence.

LCM firearms, which include AWs as well as other high-capacity semiautomatics, appear to account for 22 to 36% of crime guns in most places, with some estimates upwards of 40% for cases involving serious violence. These estimates are comparable to or higher than earlier estimates of LCM use. However, the higher-end estimates may overstate LCM use somewhat as most are based on measurement of LCM-compatible guns that may not all have been equipped with LCMs.

Consistent with prior research, this study also finds that AWs and LCM firearms are more heavily represented among guns used in murders of police and mass murders. AWs account for 13–16% of guns used in murders of police, while LCM weapons overall account for about 41% of these weapons. Estimates for firearm mass murders are very imprecise due to lack of data on the guns and magazines used in these cases, but available information suggests that AWs and other high-capacity semiautomatics are involved in as many as 57% of such incidents. Further, they are particularly prominent in public mass shootings and those resulting in the highest casualty counts.

Importantly, trend analyses suggest that LCM firearms have grown substantially as a share of crime guns since the expiration of the federal ban on AWs and LCMs. This implies possible increases in the level of

gunfire and injury per gun attack during this time. Consistent with this inference, national statistics from the Centers for Disease Control and Prevention (CDC) and the FBI show that the ratio of gun homicides and assaultive non-fatal shootings to overall reported violent gun crimes (homicides, assaults, and robberies) rose from an average of 0.163 for 2003–2005 to an average of 0.21 for 2010–2012 (calculated from CDC [53] and FBI [54] data). This change was driven by non-fatal shootings, which have been trending upward since the early 2000s and recently reached their highest levels since 1995 [1]. The findings presented in this study suggest the possibility that greater use of high-capacity semiautomatics has contributed to this upward trend in shootings.

Further study would seem warranted on LCM use trends with additional jurisdictions and data sources. Research on this issue could be facilitated by more systematic efforts to collect detailed information on crime guns and magazines in local police databases as well as through national data collection systems like the Supplemental Homicide Reports and the National Violent Death Reporting System. Study of these weapons is also hampered by lack of public data on production of LCMs and LCM-compatible firearms. The need for better data on this issue may become more pressing if there continue to be significant changes in the lethality of commercially available firearms.

Additional research is also needed to quantify the effects that LCM use has on injuries and deaths from gun attacks—and by extension on the costs to society



from gun violence. Research suggests that gunfire attacks involving semiautomatics produce more lethal and injurious outcomes [2, 10, 17, 55] and that 4–5% of assault-related gunshot victims are wounded in attacks involving more than ten shots fired [2]. However, such evidence is extremely limited at present. Studies of this issue, combined with evaluation research on the effects of current state and local LCM laws, could provide additional insights into the efficacy of expanding LCM restrictions at the local, state, and/or national levels. Research illuminating the public health and safety benefits of AW-LCM restrictions could also inform the courts as they continue to adjudicate recent challenges to the constitutionality of these statutes. Although this study does not directly evaluate any AW-LCM law, it provides further evidence that the federal ban curbed the spread of high-capacity semiautomatic weapons when it was in place and, in so doing, may have had preventive effects on gunshot victimizations.

**Acknowledgments** The authors thank the police agencies that provided data for this study: the Hartford (CT) Police Department, the New York State Police, the Baltimore Police Department, the Richmond (VA) Police Department, the Minneapolis Police Department, the Milwaukee Police Department, the Kansas City (MO) Police Department, the Sacramento Police Department, the Seattle Police Department, and the Federal Bureau of Investigation. The authors also thank Grace Beya, Mark Eccles, and Thomas Prifti for additional research assistance. The opinions expressed in this manuscript are those of the authors and should not be attributed to any of the aforementioned organizations or individuals.

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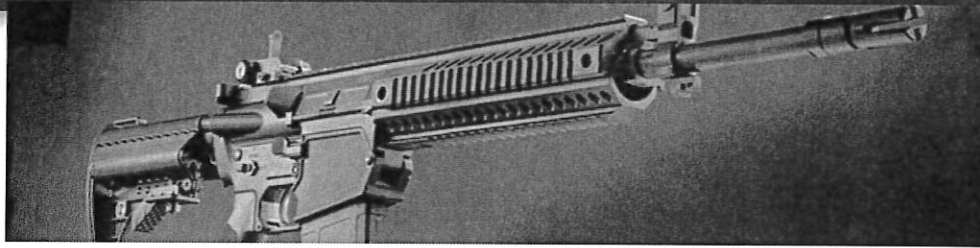
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## **Exhibit 26**

The Washington Post

## Investigations

# Data indicate drop in high-capacity magazines during federal gun ban

By David S. Fallis  
January 10, 2013

During the 10-year federal ban on assault weapons, the percentage of firearms equipped with high-capacity magazines seized by police agencies in Virginia dropped, only to rise sharply once the restrictions were lifted in 2004, according to an analysis by The Washington Post.

The White House is leading a push to reinstate a national ban on large-capacity magazines and assault weapons after a gunman armed with an AR-15 and 30-round magazines killed 20 children and seven adults in Connecticut. Vice President Biden has been holding advisory meetings to hammer out a course of action that will address the issue of the larger magazines, which under the lapsed federal ban were those that held 11 or more rounds of ammunition.

In Virginia, The Post found that the rate at which police recovered firearms with high-capacity magazines — mostly handguns and, to a smaller extent, rifles — began to drop around 1998, four years into the ban. It hit a low of 9 percent of the total number of guns recovered the year the ban expired, 2004.

The next year, the rate began to climb and continued to rise in subsequent years, reaching 20 percent in 2010, according to the analysis of a little-known Virginia database of guns recovered by police. In the period The Post studied, police in Virginia recovered more than 100,000 firearms, more than 14,000 of which had high-capacity magazines.

## Researchers see impact

To some researchers, the snapshot in Virginia suggests that the federal ban may have started to curb the widespread availability of the larger magazines.

"I was skeptical that the ban would be effective, and I was wrong," said Garen Wintemute, head of the Violence Prevention Research Program at the University of California at Davis School of Medicine. The database analysis offers "about as clear an example as we could ask for of evidence that the ban was working."

The analysis is based on an examination of the Criminal Firearms Clearinghouse, a database obtained from state police under Virginia's public information law. The data, which were first studied by The Post in 2011, offer a rare glimpse into the size of the magazines of guns seized during criminal investigations. The Bureau of Alcohol, Tobacco, Firearms and Explosives, which traces guns and regulates the industry, tracks details about the guns seized after crimes but not the magazine size.

The initial Post analysis was prompted by a mass shooting in Tucson. Jared Lee Loughner — armed with a legally purchased 9mm semiautomatic handgun and a 33-round magazine — opened fire outside a grocery store, killing six people and wounding 13, including Rep. Gabrielle Giffords (D-Ariz.).

In the following two years, a succession of mass shootings has occurred, including several in which the gunmen reportedly had high-capacity magazines.

At the Dec. 14 shooting in Newtown, Conn., the gunman was reported to have been armed with two handguns, an AR-15 rifle and numerous 30-round magazines. He killed himself at the scene. The guns were legally purchased by his mother.

The federal ban that expired in 2004 prohibited the manufacture of magazines capable of holding more than 10 rounds. But the law permitted the sale of magazines manufactured before the ban. By some estimates, 25 million of the large-capacity magazines were still on the market in 1995.

Many semiautomatic rifles and semiautomatic handguns accept magazines of various sizes. Larger magazines increase a gun's firepower, enabling more shots before reloading.

The Virginia database analyzed by The Post lists about three-quarters of guns recovered by police, missing the rest because some agencies failed to report their recoveries to the state. The database contains details about more than 100,000 guns recovered by 200 police departments in a wide range of investigations from 1993 through August 2010, when The Post last obtained it.

In recent weeks, The Post conducted additional analysis into the type of guns confiscated with large-capacity magazines. The guns included Glock and TEC-9 handguns and Bushmaster rifles. Most had magazines ranging from 11 to 30 rounds.

Of 14,478 guns equipped with large-capacity magazines that were confiscated by police, more than 87 percent — 12,664 — were classified as semiautomatic pistols. The remainder were mostly semiautomatic rifles.

The Post also identified and excluded from the counts more than 1,000 .22-caliber rifles with large-capacity tubular magazines, which were not subject to the ban.

In Virginia, handguns outfitted with large-capacity magazines saw the biggest fluctuation during and after the ban.

In 1997, three years into the ban, police across the state reported seizing 944 handguns with large-capacity magazines. In 2004, the year the ban ended, they confiscated 452. In 2009, the last full year for which data were available, the number had rebounded to 986 handguns, analysis showed.

Of these, the single biggest group were handguns equipped with 15-round magazines, accounting overall for 4,270 firearms over the 18 years.

#### **Effect hard to measure**

Nationwide, researchers who studied the federal ban had difficulty determining its effect, in part because weapons and magazines manufactured before the ban could still be sold and in part because most criminals do not use assault weapons.

Christopher Koper, who studied the ban's effect for the National Institute of Justice, the research arm of the Justice Department, noted in a 2004 report that the "success in reducing criminal use of the banned guns and magazines has been mixed."

He found that gun crimes involving assault weapons declined between 17 and 72 percent in the six cities covered in the study — Anchorage, Baltimore, Boston, Miami, Milwaukee and St. Louis. But he said he found no decline in crimes committed with other guns with large-capacity magazines, most likely "due to the immense stock of exempted pre-ban magazines."

Koper's study tracked guns through 2003. He said that The Post's findings, which looked at magazine capacity of guns recovered in Virginia before and after 2003, suggests that "maybe the federal ban was finally starting to make a dent in the market by the time it ended."

Koper, now an associate professor of criminology at George Mason University, also noted the ban on high-capacity magazines might improve public safety because larger magazines enable shooters to inflict more damage.

The use of high-capacity magazines is a contentious point in the gun debate.

"Anyone who's thought seriously about armed self-defense knows why honest Americans — private citizens and police alike — choose magazines that hold more than 10 rounds. Quite simply, they improve good people's odds in defensive situations," Chris W. Cox, the executive director of the National Rifle Association's legislative institute wrote in a piece posted online. He called the ban a "dismal failure."

The federal prohibition on high-capacity magazines and assault weapons was spurred in part by the 1989 mass killing in Stockton, Calif. Patrick Edward Purdy, a mentally unbalanced drug addict, fired 110 rounds from an AK-47 into a schoolyard, killing five children and wounding 29 others and a teacher. Purdy used a 75-round drum magazine and a 35-round banana clip, one of four he carried.

Some states still limit magazine size. Maryland limits the size to 20 rounds; California limits it to 10. Connecticut, the location of Sandy Hook Elementary School, does not.


After Giffords's shooting, Rep. Carolyn McCarthy (N.Y.) and other Democrats proposed legislation to ban the sale or transfer of high-capacity magazines. McCarthy's husband and five others were killed in 1993 on the Long Island Rail Road by a gunman armed with a semiautomatic pistol and four 15-round magazines. He fired 30 shots before being subdued as he swapped magazines.

In the wake of the Newtown shooting, President Obama and lawmakers urged that a ban on assault weapons and high-capacity magazines be made permanent.

The NRA and the National Shooting Sports Foundation, a gun industry group, have historically opposed any restrictions on magazine capacity. The NRA did not respond to requests for comment, and the sports foundation declined to comment.

### 1358 Comments

#### David S. Fallis

David S. Fallis is the deputy editor for The Washington Post's Investigations Unit. Before joining The Post in 1999, he wrote and edited for the Tulsa World. He started his career as a police reporter at the now-defunct Tulsa Tribune, and he has taught investigative reporting at George Washington University. Follow 

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## **Exhibit 27**

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103D CONGRESS 2d Session	HOUSE OF REPRESENTATIVES	REPORT 103-489
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**PUBLIC SAFETY AND RECREATIONAL FIREARMS USE  
PROTECTION ACT**

MAY 2, 1994.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. BROOKS, from the Committee on the Judiciary,  
submitted the following

**REPORT**

together with

**SUPPLEMENTAL AND DISSENTING VIEWS**

[To accompany H.R. 4296]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 4296) to make unlawful the transfer or possession of assault weapons, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

Strike out all after the enacting clause and insert in lieu thereof the following:

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Public Safety and Recreational Firearms Use Protection Act".

**SEC. 2. RESTRICTION ON MANUFACTURE, TRANSFER, AND POSSESSION OF CERTAIN SEMI-AUTOMATIC ASSAULT WEAPONS.**

(a) RESTRICTION.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(v)(1) It shall be unlawful for a person to manufacture, transfer, or possess a semiautomatic assault weapon.

"(2) Paragraph (1) shall not apply to the possession or transfer of any semiautomatic assault weapon otherwise lawfully possessed on the date of the enactment of this subsection.

"(3) Paragraph (1) shall not apply to—

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4143

Def. Exhibit 27  
Page 001078

"(A) any of the firearms, or replicas or duplicates of the firearms, specified in Appendix A to this section, as such firearms were manufactured on October 1, 1993;

"(B) any firearm that—

"(i) is manually operated by bolt, pump, lever, or slide action;

"(ii) has been rendered permanently inoperable; or

"(iii) is an antique firearm;

"(C) any semiautomatic rifle that cannot accept a detachable magazine that holds more than 5 rounds of ammunition; or

"(D) any semiautomatic shotgun that cannot hold more than 5 rounds of ammunition in a fixed or detachable magazine.

The fact that a firearm is not listed in Appendix A shall not be construed to mean that paragraph (1) applies to such firearm. No firearm exempted by this subsection may be deleted from Appendix A so long as this Act is in effect.

"(4) Paragraph (1) shall not apply to—

"(A) the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State;

"(B) the transfer of a semiautomatic assault weapon by a licensed manufacturer, licensed importer, or licensed dealer to an entity referred to in subparagraph (A) or to a law enforcement officer authorized by such an entity to purchase firearms for official use;

"(C) the possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving a firearm, of a semiautomatic assault weapon transferred to the individual by the agency upon such retirement; or

"(D) the manufacture, transfer, or possession of a semiautomatic assault weapon by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary."

(b) DEFINITION OF SEMIAUTOMATIC ASSAULT WEAPON.—Section 921(a) of such title is amended by adding at the end the following:

"(30) The term 'semiautomatic assault weapon' means—

"(A) any of the firearms, or copies or duplicates of the firearms, known as—

"(i) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models);

"(ii) Action Arms Israeli Military Industries UZI and Galil;

"(iii) Beretta Ar70 (SC-70);

"(iv) Colt AR-15;

"(v) Fabrique National FN/FAL, FN/LAR, and FNC;

"(vi) SWD M-10, M-11, M-11/9, and M-12;

"(vii) Steyr AUG;

"(viii) INTRATEC TEC-9, TEC-DC9 and TEC-22; and

"(ix) revolving cylinder shotguns, such as (or similar to) the Street Sweeper and Striker 12;

"(B) a semiautomatic rifle that has an ability to accept a detachable magazine and has at least 2 of—

"(i) a folding or telescoping stock;

"(ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;

"(iii) a bayonet mount;

"(iv) a flash suppressor or threaded barrel designed to accommodate a flash suppressor; and

"(v) a grenade launcher;

"(C) a semiautomatic pistol that has an ability to accept a detachable magazine and has at least 2 of—

"(i) an ammunition magazine that attaches to the pistol outside of the pistol grip;

"(ii) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer;

"(iii) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the nontrigger hand without being burned;

"(iv) a manufactured weight of 50 ounces or more when the pistol is unloaded; and

"(v) a semiautomatic version of an automatic firearm; and

"(D) a semiautomatic shotgun that has at least 2 of—

"(i) a folding or telescoping stock;

"(ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;



"(iii) a fixed magazine capacity in excess of 5 rounds; and  
"(iv) an ability to accept a detachable magazine."

(c) **PENALTIES.**—

- (1) **VIOLATION OF SECTION 922(V).**—Section 924(a)(1)(B) of such title is amended by striking "or (q) of section 922" and inserting "(r), or (v) of section 922".
- (2) **USE OR POSSESSION DURING CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.**—Section 924(c)(1) of such title is amended in the first sentence by inserting "or semiautomatic assault weapon," after "short-barreled shotgun,".
- (d) **IDENTIFICATION MARKINGS FOR SEMIAUTOMATIC ASSAULT WEAPONS.**—Section 923(i) of such title is amended by adding at the end the following: "The serial number of any semiautomatic assault weapon manufactured after the date of the enactment of this sentence shall clearly show the date on which the weapon was manufactured."

**SEC. 3. RECORDKEEPING REQUIREMENTS FOR TRANSFERS OF GRANDFATHERED FIREARMS.**

(a) **OFFENSE.**—Section 922 of title 18, United States Code, as amended by section 2(a) of this Act, is amended by adding at the end the following:

"(w)(1) It shall be unlawful for a person to sell, ship, or deliver a semiautomatic assault weapon to a person who has not completed a form 4473 in connection with the transfer of the semiautomatic assault weapon.

"(2) It shall be unlawful for a person to receive a semiautomatic assault weapon unless the person has completed a form 4473 in connection with the transfer of the semiautomatic assault weapon.

"(3) If a person receives a semiautomatic assault weapon from anyone other than a licensed dealer, both the person and the transferor shall retain a copy of the form 4473 completed in connection with the transfer.

"(4) Within 90 days after the date of the enactment of this subsection, the Secretary shall prescribe regulations ensuring the availability of form 4473 to owners of semiautomatic assault weapons.

"(5) As used in this subsection, the term 'form 4473' means—

"(A) the form which, as of the date of the enactment of this subsection, is designated by the Secretary as form 4473; or

"(B) any other form which—

"(i) is required by the Secretary, in lieu of the form described in subparagraph (A), to be completed in connection with the transfer of a semiautomatic assault weapon; and

"(ii) when completed, contains, at a minimum, the information that, as of the date of the enactment of this subsection, is required to be provided on the form described in subparagraph (A)."

(b) **PENALTY.**—Section 924(a) of such title is amended by adding at the end the following:

"(6) A person who knowingly violates section 922(w) shall be fined not more than \$1,000, imprisoned not more than 6 months, or both. Section 3571 shall not apply to any offense under this paragraph."

**SEC. 4. BAN OF LARGE CAPACITY AMMUNITION FEEDING DEVICES.**

(a) **PROHIBITION.**—Section 922 of title 18, United States Code, as amended by sections 2 and 3 of this Act, is amended by adding at the end the following:

"(x)(1) Except as provided in paragraph (2), it shall be unlawful for a person to transfer or possess a large capacity ammunition feeding device.

"(2) Paragraph (1) shall not apply to the possession or transfer of any large capacity ammunition feeding device otherwise lawfully possessed on the date of the enactment of this subsection.

"(3) This subsection shall not apply to—

"(A) the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State;

"(B) the transfer of a large capacity ammunition feeding device by a licensed manufacturer, licensed importer, or licensed dealer to an entity referred to in subparagraph (A) or to a law enforcement officer authorized by such an entity to purchase large capacity ammunition feeding devices for official use;

"(C) the possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving ammunition, of a large capacity ammunition feeding device transferred to the individual by the agency upon such retirement; or

"(D) the manufacture, transfer, or possession of any large capacity ammunition feeding device by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary."

(b) DEFINITION OF LARGE CAPACITY AMMUNITION FEEDING DEVICE.—Section 921(a) of such title, as amended by section 2(b) of this Act, is amended by adding at the end the following:

“(31) The term ‘large capacity ammunition feeding device’—

“(A) means—

“(i) a magazine, belt, drum, feed strip, or similar device that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition; and

“(ii) any combination of parts from which a device described in clause (i) can be assembled; but

“(B) does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition.”.

(c) LARGE CAPACITY AMMUNITION FEEDING DEVICES TREATED AS FIREARMS.—Section 921(a)(3) of such title is amended in the first sentence by striking “or (D) any destructive device.” and inserting “(D) any destructive device; or (E) any large capacity ammunition feeding device.”.

(d) PENALTY.—Section 924(a)(1)(B) of such title, as amended by section 2(c) of this Act, is amended by striking “or (v)” and inserting “(v), or (x)”.

(e) IDENTIFICATION MARKINGS FOR LARGE CAPACITY AMMUNITION FEEDING DEVICES.—Section 923(i) of such title, as amended by section 2(d) of this Act, is amended by adding at the end the following: “A large capacity ammunition feeding device manufactured after the date of the enactment of this sentence shall be identified by a serial number that clearly shows that the device was manufactured or imported after the effective date of this subsection, and such other identification as the Secretary may by regulation prescribe.”.

#### SEC. 5. STUDY BY ATTORNEY GENERAL.

(a) STUDY.—The Attorney General shall investigate and study the effect of this Act and the amendments made by this Act, and in particular shall determine their impact, if any, on violent and drug trafficking crime. The study shall be conducted over a period of 18 months, commencing 12 months after the date of enactment of this Act.

(b) REPORT.—Not later than 30 months after the date of enactment of this Act, the Attorney General shall prepare and submit to the Congress a report setting forth in detail the findings and determinations made in the study under subsection (a).

#### SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act—

(1) shall take effect on the date of the enactment of this Act; and

(2) are repealed effective as of the date that is 10 years after that date.

#### SEC. 7. APPENDIX A TO SECTION 922 OF TITLE 18.

Section 922 of title 18, United States Code, is amended by adding at the end the following appendix:

##### “APPENDIX A

##### Centerfire Rifles—Autoloaders

Browning BAR Mark II Safari Semi-Auto Rifle  
Browning BAR Mark II Safari Magnum Rifle  
Browning High-Power Rifle  
Heckler & Koch Model 300 Rifle  
Iver Johnson M-1 Carbine  
Iver Johnson 50th Anniversary M-1 Carbine  
Marlin Model 9 Camp Carbine  
Marlin Model 45 Carbine  
Remington Nylon 66 Auto-Loading Rifle  
Remington Model 7400 Auto Rifle  
Remington Model 7400 Rifle  
Remington Model 7400 Special Purpose Auto Rifle  
Ruger Mini-14 Autoloading Rifle (w/o folding stock)  
Ruger Mini Thirty Rifle

##### Centerfire Rifles—Lever & Slide

Browning Model 81 BLR Lever-Action Rifle  
Browning Model 81 Long Action BLR  
Browning Model 1886 Lever-Action Carbine  
Browning Model 1886 High Grade Carbine  
Cimarron 1860 Henry Replica  
Cimarron 1866 Winchester Replicas  
Cimarron 1873 Short Rifle  
Cimarron 1873 Sporting Rifle  
Cimarron 1873 30" Express Rifle  
Dixie Engraved 1873 Rifle  
E.M.F. 1866 Yellowboy Lever Actions



E.M.F. 1860 Henry Rifle  
E.M.F. Model 73 Lever-Action Rifle  
Marlin Model 336CS Lever-Action Carbine  
Marlin Model 30AS Lever-Action Carbine  
Marlin Model 444SS Lever-Action Sporter  
Marlin Model 1894S Lever-Action Carbine  
Marlin Model 1894CS Carbine  
Marlin Model 1894CL Classic  
Marlin Model 1895SS Lever-Action Rifle  
Mitchell 1868 Henry Replica  
Mitchell 1866 Winchester Replica  
Mitchell 1873 Winchester Replica  
Navy Arms Military Henry Rifle  
Navy Arms Henry Trapper  
Navy Arms Iron Frame Henry  
Navy Arms Henry Carbine  
Navy Arms 1866 Yellowboy Rifle  
Navy Arms 1873 Winchester-Style Rifle  
Navy Arms 1873 Sporting Rifle  
Remington 7600 Slide Action  
Remington Model 7600 Special Purpose Slide Action  
Rossi M92 SRC Saddle-Ring Carbine  
Rossi M92 SRS Short Carbine  
Savage 99C Lever-Action Rifle  
Uberti Henry Rifle  
Uberti 1866 Sporting Rifle  
Uberti 1873 Sporting Rifle  
Winchester Model 94 Side Eject Lever-Action Rifle  
Winchester Model 94 Trapper Side Eject  
Winchester Model 94 Big Bore Side Eject  
Winchester Model 94 Ranger Side Eject Lever-Action Rifle  
Winchester Model 94 Wrangler Side Eject

**Centerfire Rifles—Bolt Action**

Alpine Bolt-Action Rifle  
A-Square Caesar Bolt-Action Rifle  
A-Square Hannibal Bolt-Action Rifle  
Anschutz 1700D Classic Rifles  
Anschutz 1700D Custom Rifles  
Anschutz 1700D Bavarian Bolt-Action Rifle  
Anschutz 1733D Mannlicher Rifle  
Barret Model 90 Bolt-Action Rifle  
Beeman/HW 60J Bolt-Action Rifle  
Blaser R84 Bolt-Action Rifle  
BRNO 537 Sporter Bolt-Action Rifle  
BRNO ZKB 527 Fox Bolt-Action Rifle  
BRNO ZKK 600, 601, 602 Bolt-Action Rifles  
Browning A-Bolt Rifle  
Browning A-Bolt Stainless Stalker  
Browning A-Bolt Left Hand  
Browning A-Bolt Short Action  
Browning Euro-Bolt Rifle  
Browning A-Bolt Gold Medallion  
Browning A-Bolt Micro Medallion  
Century Centurion 14 Sporter  
Century Enfield Sporter #4  
Century Swedish Sporter #38  
Century Mauser 98 Sporter  
Cooper Model 38 Centerfire Sporter  
Dakota 22 Sporter Bolt-Action Rifle  
Dakota 76 Classic Bolt-Action Rifle  
Dakota 76 Short Action Rifles  
Dakota 76 Safari Bolt-Action Rifle  
Dakota 416 Rigby African  
E.A.A./Sabatti Rover 870 Bolt-Action Rifle  
Auguste Francotte Bolt-Action Rifles  
Carl Gustaf 2000 Bolt-Action Rifle  
Heym Magnum Express Series Rifle  
Hows Lightning Bolt-Action Rifle  
Hows Realtree Camo Rifle  
Interarms Mark X Viscount Bolt-Action Rifle  
Interarms Mini-Mark X Rifle  
Interarms Mark X Whitworth Bolt-Action Rifle  
Interarms Whitworth Express Rifle  
Iver Johnson Model 5100A1 Long-Range Rifle  
KDF K15 American Bolt-Action Rifle  
Krico Model 600 Bolt-Action Rifle  
Krico Model 700 Bolt-Action Rifles  
Mauser Model 66 Bolt-Action Rifle  
Mauser Model 99 Bolt-Action Rifle  
McMillan Signature Classic Sporter  
McMillan Signature Super Varminter  
McMillan Signature Alaskan  
McMillan Signature Titanium Mountain Rifle  
McMillan Classic Stainless Sporter  
McMillan Talon Safari Rifle  
McMillan Talon Sporter Rifle  
Midland 1500S Survivor Rifle  
Navy Arms TU-33/40 Carbine  
Parker-Hale Model 81 Classic Rifle

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Parker-Hale Model 81 Classic African Rifle  
Parker-Hale Model 1000 Rifle  
Parker-Hale Model 1100M African Magnum  
Parker-Hale Model 1100 Lightweight Rifle  
Parker-Hale Model 1200 Super Rifle  
Parker-Hale Model 1200 Super Clip Rifle  
Parker-Hale Model 1300C Scout Rifle  
Parker-Hale Model 2100 Midland Rifle  
Parker-Hale Model 2700 Lightweight Rifle  
Parker-Hale Model 2800 Midland Rifle  
Remington Model Seven Bolt-Action Rifle  
Remington Model Seven Youth Rifle  
Remington Model Seven Custom KS  
Remington Model Seven Custom MS Rifle  
Remington 700 ADL Bolt-Action Rifle  
Remington 700 BDL Bolt-Action Rifle  
Remington 700 BDL Varmint Special  
Remington 700 BDL European Bolt-Action Rifle  
Remington 700 Varmint Synthetic Rifle  
Remington 700 BDL SS Rifle  
Remington 700 Stainless Synthetic Rifle  
Remington 700 MTRSS Rifle  
Remington 700 BDL Left Hand  
Remington 700 Camo Synthetic Rifle  
Remington 700 Safari  
Remington 700 Mountain Rifle  
Remington 700 Custom KS Mountain Rifle  
Remington 700 Classic Rifle  
Ruger M77 Mark II Rifle  
Ruger M77 Mark II Magnum Rifle  
Ruger M77RL Ultra Light  
Ruger M77 Mark II All-Weather Stainless Rifle  
Ruger M77 RSI International Carbine  
Ruger M77 Mark II Express Rifle  
Ruger M77VT Target Rifle  
Sako Hunter Rifle  
Sako Fiberclass Sporter  
Sako Safari Grade Bolt Action  
Sako Hunter Left-Hand Rifle  
Sako Classic Bolt Action  
Sako Hunter LS Rifle  
Sako Deluxe Lightweight  
Sako Super Deluxe Sporter  
Sako Mannlicher-Style Carbine  
Sako Varmint Heavy Barrel  
Sako TRG-S Bolt-Action Rifle  
Sauer 90 Bolt-Action Rifle  
Savage 110G Bolt-Action Rifle  
Savage 110CY Youth/Ladies Rifle  
Savage 110WLE One of One Thousand Limited Edition Rifle  
Savage 110GXP3 Bolt-Action Rifle  
Savage 110F Bolt-Action Rifle  
Savage 110FXP3 Bolt-Action Rifle  
Savage 110GV Varmint Rifle  
Savage 112FV Varmint Rifle  
Savage Model 112FVS Varmint Rifle  
Savage Model 112BV Heavy Barrel Varmint Rifle  
Savage 116FSS Bolt-Action Rifle  
Savage Model 116FSK Kodiak Rifle  
Savage 110FP Police Rifle  
Steyr-Mannlicher Sporter Models SL, L, M, S, S/T  
Steyr-Mannlicher Luxus Model L, M, S  
Steyr-Mannlicher Model M Professional Rifle  
Tikka Bolt-Action Rifle  
Tikka Premium Grade Rifles  
Tikka Varmint/Continental Rifle  
Tikka Whitetail/Battue Rifle  
Ultra Light Arms Model 20 Rifle  
Ultra Light Arms Model 28, Model 40 Rifles  
Voere VEC 91 Lightning Bolt-Action Rifle  
Voere Model 2165 Bolt-Action Rifle  
Voere Model 2155, 2150 Bolt-Action Rifles  
Weatherby Mark V Deluxe Bolt-Action Rifle  
Weatherby Lasermark V Rifle  
Weatherby Mark V Crown Custom Rifles  
Weatherby Mark V Sporter Rifle  
Weatherby Mark V Safari Grade Custom Rifles  
Weatherby Weathermark Rifle  
Weatherby Weathermark Alaskan Rifle  
Weatherby Classicmark No. 1 Rifle  
Weatherby Weatherguard Alaskan Rifle  
Weatherby Vanguard VGX Deluxe Rifle  
Weatherby Vanguard Classic Rifle  
Weatherby Vanguard Classic No. 1 Rifle  
Weatherby Vanguard Weatherguard Rifle  
Wichita Classic Rifle  
Wichita Varmint Rifle  
Winchester Model 70 Sporter  
Winchester Model 70 Sporter WinTuff  
Winchester Model 70 SM Sporter

Winchester Model 70 Stainless Rifle  
Winchester Model 70 Varmint  
Winchester Model 70 Synthetic Heavy Varmint Rifle  
Winchester Model 70 DBM Rifle  
Winchester Model 70 DBM-S Rifle  
Winchester Model 70 Featherweight  
Winchester Model 70 Featherweight WinTuff  
Winchester Model 70 Featherweight Classic  
Winchester Model 70 Lightweight Rifle  
Winchester Ranger Rifle  
Winchester Model 70 Super Express Magnum  
Winchester Model 70 Super Grade  
Winchester Model 70 Custom Sharpshooter  
Winchester Model 70 Custom Sporting Sharpshooter Rifle

**Centerfire Rifles—Single Shot**

Armsport 1866 Sharps Rifle, Carbine  
Brown Model One Single Shot Rifle  
Browning Model 1885 Single Shot Rifle  
Dakota Single Shot Rifle  
Desert Industries G-90 Single Shot Rifle  
Harrington & Richardson Ultra Varmint Rifle  
Model 1885 High Wall Rifle  
Navy Arms Rolling Block Buffalo Rifle  
Navy Arms #2 Creedmoor Rifle  
Navy Arms Sharps Cavalry Carbine  
Navy Arms Sharps Plains Rifle  
New England Firearms Handi-Rifle  
Red Willow Armory Ballard No. 5 Pacific  
Red Willow Armory Ballard No. 1.5 Hunting Rifle  
Red Willow Armory Ballard No. 8 Union Hill Rifle  
Red Willow Armory Ballard No. 4.5 Target Rifle  
Remington-Style Rolling Block Carbine  
Ruger No. 1B Single Shot  
Ruger No. 1A Light Sporter  
Ruger No. 1H Tropical Rifle  
Ruger No. 1S Medium Sporter  
Ruger No. 1 RSI International  
Ruger No. 1V Special Varminter  
C. Sharps Arms New Model 1874 Old Reliable  
C. Sharps Arms New Model 1875 Rifle  
C. Sharps Arms 1875 Classic Sharps  
C. Sharps Arms New Model 1875 Target & Long Range  
Shiloh Sharps 1874 Long Range Express  
Shiloh Sharps 1874 Montana Roughrider  
Shiloh Sharps 1874 Military Carbine  
Shiloh Sharps 1874 Business Rifle  
Shiloh Sharps 1874 Military Rifle  
Sharps 1874 Old Reliable  
Thompson/Center Contender Carbine  
Thompson/Center Stainless Contender Carbine  
Thompson/Center Contender Carbine Survival System  
Thompson/Center Contender Carbine Youth Model  
Thompson/Center TCR '87 Single Shot Rifle  
Uberti Rolling Block Baby Carbine

**Drillings, Combination Guns, Double Rifles**

Baretta Express SSO O/U Double Rifles  
Baretta Model 455 SxS Express Rifle  
Chapuis RG Express Double Rifle  
Auguste Francotte Sidelock Double Rifles  
Auguste Francotte Boxlock Double Rifle  
Heym Model 55B O/U Double Rifle  
Heym Model 55FW O/U Combo Gun  
Heym Model 88b Side-by-Side Double Rifle  
Kodiak Mk. IV Double Rifle  
Kreighoff Teck O/U Combination Gun  
Kreighoff Trumpf Drilling  
Merkel Over/Under Combination Guns  
Merkel Drillings  
Merkel Model 160 Side-by-Side Double Rifles  
Merkel Over/Under Double Rifles  
Savage 24F O/U Combination Gun  
Savage 24F-12T Turkey Gun  
Springfield Inc. M6 Scout Rifle/Shotgun  
Tikka Model 412a Combination Gun  
Tikka Model 412S Double Fire  
A. Zoli Rifle-Shotgun O/U Combo

**Rimfire Rifles—Autoloaders**

AMT Lightning 25/22 Rifle  
AMT Lightning Small-Game Hunting Rifle II  
AMT Magnum Hunter Auto Rifle  
Anschutz 525 Deluxe Auto  
Armscor Model 20P Auto Rifle  
Browning Auto-22 Rifle  
Browning Auto-22 Grade VI  
Krico Model 260 Auto Rifle

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Lakefield Arms Model 64B Auto Rifle  
Marlin Model 60 Self-Loading Rifle  
Marlin Model 60ss Self-Loading Rifle  
Marlin Model 70 HC Auto  
Marlin Model 990I Self-Loading Rifle  
Marlin Model 70P Papoose  
Marlin Model 922 Magnum Self-Loading Rifle  
Marlin Model 995 Self-Loading Rifle  
Norinco Model 22 ATD Rifle  
Remington Model 522 Viper Autoloading Rifle  
Remington 552BDL Speedmaster Rifle  
Ruger 10/22 Autoloading Carbine (w/o folding stock)  
Survival Arms AR-7 Explorer Rifle  
Texas Remington Revolving Carbine  
Voere Model 2115 Auto Rifle

**Rimfire Rifles—Lever & Slide Action**

Browning BL-22 Lever-Action Rifle  
Marlin 39TDS Carbine  
Marlin Model 39AS Golden Lever-Action Rifle  
Remington 572BDL Fieldmaster Pump Rifle  
Norinco EM-321 Pump Rifle  
Roosi Model 62 SA Pump Rifle  
Roosi Model 62 SAC Carbine  
Winchester Model 9422 Lever-Action Rifle  
Winchester Model 9422 Magnum Lever-Action Rifle

**Rimfire Rifles—Bolt Actions & Single Shots**

Anschutz Achiever Bolt-Action Rifle  
Anschutz 1416D/1516D Classic Rifles  
Anschutz 1418D/1518D Mannlicher Rifles  
Anschutz 1700D Classic Rifles  
Anschutz 1700D Custom Rifles  
Anschutz 1700 FWT Bolt-Action Rifle  
Anschutz 1700D Graphite Custom Rifle  
Anschutz 1700D Bavarian Bolt-Action Rifle  
Armcor Model 14P Bolt-Action Rifle  
Armcor Model 1500 Rifle  
BRNO ZKM-452 Deluxe Bolt-Action Rifle  
BRNO ZKM 452 Deluxe  
Beeman/HW 60-J-ST Bolt-Action Rifle  
Browning A-Bolt 22 Bolt-Action Rifle  
Browning A-Bolt Gold Medallion  
Cabanas Phaser Rifle  
Cabanas Master Bolt-Action Rifle  
Cabanas Espronceda IV Bolt-Action Rifle  
Cabanas Leyre Bolt-Action Rifle  
Chipmunk Single Shot Rifle  
Cooper Arms Model 36S Sporter Rifle  
Dakota 22 Sporter Bolt-Action Rifle  
Krico Model 300 Bolt-Action Rifles  
Lakefield Arms Mark II Bolt-Action Rifle  
Lakefield Arms Mark I Bolt-Action Rifle  
Magtech Model MT-22C Bolt-Action Rifle  
Marlin Model 880 Bolt-Action Rifle  
Marlin Model 881 Bolt-Action Rifle  
Marlin Model 882 Bolt-Action Rifle  
Marlin Model 883 Bolt-Action Rifle  
Marlin Model 883SS Bolt-Action Rifle  
Marlin Model 25MN Bolt-Action Rifle  
Marlin Model 25N Bolt-Action Repeater  
Marlin Model 15YN "Little Buckaroo"  
Mauser Model 107 Bolt-Action Rifle  
Mauser Model 201 Bolt-Action Rifle  
Navy Arms TU-KKW Training Rifle  
Navy Arms TU-33/40 Carbine  
Navy Arms TU-KKW Sniper Trainer  
Norinco JW-27 Bolt-Action Rifle  
Norinco JW-15 Bolt-Action Rifle  
Remington 541-T  
Remington 40-XR Rimfire Custom sporter  
Remington 541-T HB Bolt-Action Rifle  
Remington 581-S Sportsman Rifle  
Ruger 77/22 Rimfire Bolt-Action Rifle  
Ruger K77/22 Varmint Rifle  
Ultra Light Arms Model 20 RF Bolt-Action Rifle  
Winchester Model 52B Sporting Rifle

**Competition Rifles—Centerfire & Rimfire**

Anschutz 64-MS Left Silhouette  
Anschutz 1808D RT Super Match 54 Target  
Anschutz 1827B Biathlon Rifle  
Anschutz 1903D Match Rifle  
Anschutz 1803D Intermediate Match  
Anschutz 1911 Match Rifle  
Anschutz 54.18MS REP Deluxe Silhouette Rifle  
Anschutz 1913 Super Match Rifle  
Anschutz 1907 Match Rifle

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Anschutz 1910 Super Match II  
Anschutz 54.18M5 Silhouette Rifle  
Anschutz Super Match 54 Target Model 2013  
Anschutz Super Match 54 Target Model 2007  
Beeman/Feinwerkbau 2600 Target Rifle  
Cooper Arms Model TRP-1 ISU Standard Rifle  
E.A.A./HW 660 Match Rifle  
Finniah Lion Standard Target Rifle  
Krico Model 360 S2 Biathlon Rifle  
Krico Model 400 Match Rifle  
Krico Model 360S Biathlon Rifle  
Krico Model 500 Kricotronic Match Rifle  
Krico Model 600 Sniper Rifle  
Krico Model 600 Match Rifle  
Lakefield Arms Model 90B Target Rifle  
Lakefield Arms Model 91T Target Rifle  
Lakefield Arms Model 92S Silhouette Rifle  
Marlin Model 2000 Target Rifle  
Mauser Model 86-SR Specialty Rifle  
McMillan M-86 Sniper Rifle  
McMillan Combo M-87/M-88 50-Caliber Rifle  
McMillan 300 Phoenix Long Range Rifle  
McMillan M-89 Sniper Rifle  
McMillan National Match Rifle  
McMillan Long Range Rifle  
Parker-Hale M-87 Target Rifle  
Parker-Hale M-85 Sniper Rifle  
Remington 40-XB Rangemaster Target Centerfire  
Remington 40-XR KS Rimfire Position Rifle  
Remington 40-XBRR KS  
Remington 40-XC KS National Match Course Rifle  
Sako TRG-21 Bolt-Action Rifle  
Steyr-Mannlicher Match SPG-UTT Rifle  
Steyr-Mannlicher SSG P-I Rifle  
Steyr-Mannlicher SSG P-III Rifle  
Steyr-Mannlicher SSG P-IV Rifle  
Tanner Standard UIT Rifle  
Tanner 50 Meter Free Rifle  
Tanner 300 Meter Free Rifle  
Wichita Silhouette Rifle

**Shotguns—Autoloaders**

American Arms/Franchi Black Magic 48/AL  
Benelli Super Black Eagle Shotgun  
Benelli Super Black Eagle Slug Gun  
Benelli M1 Super 90 Field Auto Shotgun  
Benelli Montefeltro Super 90 20-Gauge Shotgun  
Benelli Montefeltro Super 90 Shotgun  
Benelli M1 Sporting Special Auto Shotgun  
Benelli Black Eagle Competition Auto Shotgun  
Beretta A-303 Auto Shotgun  
Beretta 390 Field Auto Shotgun  
Beretta 390 Super Trap, Super Skeet Shotguns  
Beretta Vittoria Auto Shotgun  
Beretta Model 1201F Auto Shotgun  
Browning BSA 10 Auto Shotgun  
Browning Bea 10 Stalker Auto Shotgun  
Browning A-500R Auto Shotgun  
Browning A-500G Auto Shotgun  
Browning A-500G Sporting Clays  
Browning Auto-5 Light 12 and 20  
Browning Auto-5 Stalker  
Browning Auto-5 Magnum 20  
Browning Auto-5 Magnum 12  
Churchill Turkey Automatic Shotgun  
Cosmi Automatic Shotgun  
Maverick Model 60 Auto Shotgun  
Mossberg Model 5500 Shotgun  
Mossberg Model 9200 Regal Semi-Auto Shotgun  
Mossberg Model 9200 USST Auto Shotgun  
Mossberg Model 9200 Camo Shotgun  
Mossberg Model 6000 Auto Shotgun  
Remington Model 1100 Shotgun  
Remington 11-87 Premier shotgun  
Remington 11-87 Sporting Clays  
Remington 11-87 Premier Skeet  
Remington 11-87 Premier Trap  
Remington 11-87 Special Purpose Magnum  
Remington 11-87 SPS-T Camo Auto Shotgun  
Remington 11-87 Special Purpose Deer Gun  
Remington 11-87 SPS-BG-Camo Deer/Turkey Shotgun  
Remington 11-87 SPS-Deer Shotgun  
Remington 11-87 Special Purpose Synthetic Camo  
Remington SP-10 Magnum-Camo Auto Shotgun  
Remington SP-10 Magnum Auto Shotgun  
Remington SP-10 Magnum Turkey Combo  
Remington 1100 LT-20 Auto  
Remington 1100 Special Field  
Remington 1100 20-Gauge Deer Gun



Remington 1100 LT-20 Tournament Skeet  
Winchester Model 1400 Semi-Auto Shotgun

**Shotguns—Slide Actions**

Browning Model 42 Pump Shotgun  
Browning BPS Pump Shotgun  
Browning BPS Stalker Pump Shotgun  
Browning BPS Pigeon Grade Pump Shotgun  
Browning BPS Pump Shotgun (Ladies and Youth Model)  
Browning BPS Game Gun Turkey Special  
Browning BPS Game Gun Deer Special  
Ithaca Model 87 Supreme Pump Shotgun  
Ithaca Model 87 Deerslayer Shotgun  
Ithaca Deerslayer II Rifled Shotgun  
Ithaca Model 87 Turkey Gun  
Ithaca Model 87 Deluxe Pump Shotgun  
Magtech Model 586-VR Pump Shotgun  
Maverick Models 88, 91 Pump Shotguns  
Mossberg Model 500 Sporting Pump  
Mossberg Model 500 Camo Pump  
Mossberg Model 500 Muzzleloader Combo  
Mossberg Model 500 Trophy Slugster  
Mossberg Turkey Model 500 Pump  
Mossberg Model 500 Bantam Pump  
Mossberg Field Grade Model 835 Pump Shotgun  
Mossberg Model 835 Regal Ulti-Mag Pump  
Remington 870 Wingmaster  
Remington 870 Special Purpose Deer Gun  
Remington 870 SPS-BG-Camo Deer/Turkey Shotgun  
Remington 870 SPS-Deer Shotgun  
Remington 870 Marine Magnum  
Remington 870 TC Trap  
Remington 870 Special Purpose Synthetic Camo  
Remington 870 Wingmaster Small Gauges  
Remington 870 Express Rifle Sighted Deer Gun  
Remington 879 SPS Special Purpose Magnum  
Remington 870 SPS-T Camo Pump Shotgun  
Remington 870 Special Field  
Remington 870 Express Turkey  
Remington 870 High Grades  
Remington 870 Express  
Remington Model 870 Express Youth Gun  
Winchester Model 12 Pump Shotgun  
Winchester Model 42 High Grade Shotgun  
Winchester Model 1300 Walnut Pump  
Winchester Model 1300 Slug Hunter Deer Gun  
Winchester Model 1300 Ranger Pump Gun Combo & Deer Gun  
Winchester Model 1300 Turkey Gun  
Winchester Model 1300 Ranger Pump Gun

**Shotguns—Over/Unders**

American Arms/Franchi Falconet 2000 O/U  
American Arms Silver I O/U  
American Arms Silver II Shotgun  
American Arms Silver Skeet O/U  
American Arms/Franchi Sporting 2000 O/U  
American Arms Silver Sporting O/U  
American Arms Silver Trap O/U  
American Arms WS/OU 12, TS/OU 12 Shotguns  
American Arms WT/OU 10 Shotgun  
Armsport 2700 O/U Goose Gun  
Armsport 2700 Series O/U  
Armsport 2900 Tri-Barrel Shotgun  
Baby Breton Over/Under Shotgun  
Beretta Model 686 Ultralight O/U  
Beretta ASE 90 Competition O/U Shotgun  
Beretta Over/Under Field Shotguns  
Beretta Onyx Hunter Sport O/U Shotgun  
Beretta Model SO5, SO6, SO9 Shotguns  
Beretta Sporting Clay Shotguns  
Beretta 687EL Sporting O/U  
Beretta 682 Super Sporting O/U  
Beretta Series 682 Competition Over/Unders  
Browning Citori O/U Shotgun  
Browning Superlight Citori Over/Under  
Browning Lightning Sporting Clays  
Browning Micro Citori Lightning  
Browning Citori Plus Trap Combo  
Browning Citori Plus Trap Gun  
Browning Citori O/U Skeet Models  
Browning Citori O/U Trap Models  
Browning Special Sporting Clays  
Browning Citori GTI Sporting Clays  
Browning 325 Sporting Clays  
Centurion Over/Under Shotgun  
Chapuis Over/Under Shotgun  
Connecticut Valley Classics Classic Sporter O/U  
Connecticut Valley Classics Classic Field Waterfowler  
Charles Daly Field Grade O/U

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Charles Daly Lux Over/Under  
E.A.A./Sabatti Sporting Clays Pro-Gold O/U  
E.A.A./Sabatti Falcon-Mon Over/Under  
Kasanar Grade I O/U Shotgun  
Krieghoff K-80 Sporting Clays O/U  
Krieghoff K-80 Skeet Shotgun  
Krieghoff K-80 International Skeet  
Krieghoff K-80 Four-Barrel Skeet Set  
Krieghoff K-80/RT Shotguns  
Krieghoff K-80 O/U Trap Shotgun  
Laurona Silhouette 300 Sporting Clays  
Laurona Silhouette 300 Trap  
Laurona Super Model Over/Unders  
Ljutic LM-6 Deluxe O/U Shotgun  
Marocchi Conquista Over/Under Shotgun  
Marocchi Avanza O/U Shotgun  
Merkel Model 200E O/U Shotgun  
Merkel Model 200E Skeet, Trap Over/Unders  
Merkel Model 203E, 303E Over/Under Shotguns  
Perazzi Mirage Special Sporting O/U  
Perazzi Mirage Special Four-Gauge Skeet  
Perazzi Sporting Classic O/U  
Perazzi MX7 Over/Under Shotguns  
Perazzi Mirage Special Skeet Over/Under  
Perazzi MX8/MX8 Special Trap, Skeet  
Perazzi MX8/20 Over/Under Shotgun  
Perazzi MX9 Single Over/Under Shotguns  
Perazzi MX12 Hunting Over/Under  
Perazzi MX28, MX410 Game O/U Shotguns  
Perazzi MX20 Hunting Over/Under  
Piotti Boas Over/Under Shotgun  
Remington Peerless Over/Under Shotgun  
Ruger Red Label O/U Shotgun  
Ruger Sporting Clays O/U Shotgun  
San Marco 12-Ga. Wildflower Shotgun  
San Marco Field Special O/U Shotgun  
San Marco 10-Ga. O/U Shotgun  
SKB Model 505 Deluxe Over/Under Shotgun  
SKB Model 685 Over/Under Shotgun  
SKB Model 885 Over/Under Trap, Skeet, Sporting Clays  
Stoeger/IGA Condor I O/U Shotgun  
Stoeger/IGA ERA 2000 Over/Under Shotgun  
Techni-Mec Model 610 Over/Under  
Tikka Model 412S Field Grade Over/Under  
Weatherby Athena Grade IV O/U Shotguns  
Weatherby Athena Grade V Classic Field O/U  
Weatherby Orion O/U Shotguns  
Weatherby II, III Classic Field O/Us  
Weatherby Orion II Classic Sporting Clays O/U  
Weatherby Orion II Sporting Clays O/U  
Winchester Model 1001 O/U Shotgun  
Winchester Model 1001 Sporting Clays O/U  
Pietro Zanoletti Model 2000 Field O/U

**Shotguns—Side by Sides**

American Arms Brittany Shotgun  
American Arms Gentry Double Shotgun  
American Arms Derby Side-by-Side  
American Arms Grulla #2 Double Shotgun  
American Arms WS/SS 10  
American Arms TS/SS 10 Double Shotgun  
American Arms TS/SS 12 Side-by-Side  
Arrieta Sidelock Double Shotguns  
Armsport 1050 Series Double Shotguns  
Arizaga Model 31 Double Shotgun  
AYA Boxlock Shotguns  
AYA Sidelock Double Shotguns  
Beretta Model 452 Sidelock Shotgun  
Beretta Side-by-Side Field Shotguns  
Crucelegui Hermanos Model 150 Double  
Chapuis Side-by-Side Shotgun  
E.A.A./Sabatti Saba-Mon Double Shotgun  
Charles Daly Model Dsa Double  
Ferlib Model F VII Double Shotgun  
Auguste Francotte Boxlock Shotgun  
Auguste Francotte Sidelock Shotgun  
Garbi Model 100 Double  
Garbi Model 101 Side-by-Side  
Garbi Model 103A, B Side-by-Side  
Garbi Model 200 Side-by-Side  
Bill Hanus Birdgun Doubles  
Hatfield Uplander Shotgun  
Merkell Model 8, 47E Side-by-Side Shotguns  
Merkel Model 47LSC Sporting Clays Double  
Merkel Model 47S, 147S Side-by-Sides  
Parker Reproductions Side-by-Side  
Piotti King No. 1 Side-by-Side  
Piotti Lunik Side-by-Side  
Piotti King Extra Side-by-Side  
Piotti Puma Side-by-Side



**Precision Sports Model 600 Series Doubles**  
**Rizzini Boxlock Side-by-Side**  
**Rizzini Sidelock Side-by-Side**  
**Stoeger/IGA Uplander Side-by-Side Shotgun**  
**Ugartechea 10-Ga. Magnum Shotgun**

### Shotguns—Bolt Actions & Single Shots

Armsport Single Barrel Shotgun  
 Browning BT-99 Competition Trap Special  
 Browning BT-99 Plus Trap Gun  
 Browning BT-99 Plus Micro  
 Browning Recoiless Trap Shotgun  
 Browning Micro Recoiless Trap Shotgun  
 Desert Industries Big Twenty Shotgun  
 Harrington & Richardson Topper Model 098  
 Harrington & Richardson Topper Classic Youth Shotgun  
 Harrington & Richardson N.W.T.F. Turkey Mag  
 Harrington & Richardson Topper Deluxe Model 098  
 Krieghoff KS-5 Trap Gun  
 Krieghoff KS-5 Special  
 Krieghoff K-80 Single Barrel Trap Gun  
 Ljutic Mono Gun Single Barrel  
 Ljutic LTX Super Deluxe Mono Gun  
 Ljutic Recoiless Space Gun Shotgun  
 Marlin Model 55 Goose Gun Bolt Action  
 New England Firearms Turkey and Goose Gun  
 New England Firearms N.W.T.F. Shotgun  
 New England Firearms Tracker Slug Gun  
 New England Firearms Standard Pardner  
 New England Firearms Survival Gun  
 Perazzi TM1 Special Single Trap  
 Remington 90-T Super Single Shotgun  
 Snake Charmer II Shotgun  
 Stoeger/IGA Reuna Single Barrel Shotgun  
 Thompson/Center TCR '87 Hunter Shotgun."

## SUMMARY AND PURPOSE

The purpose of this bill is to create criminal penalties for the manufacture, transfer, or possession of certain firearms within the category of firearms known as "semiautomatic assault weapons." It also creates such penalties for certain ammunition feeding devices, as well as any combination of parts from which such a device can be assembled.

In reporting legislation banning certain assault weapons last Congress, the Committee on the Judiciary said:

The threat posed by criminals and mentally deranged individuals armed with semi-automatic assault weapons has been tragically widespread.<sup>1</sup>

Since then, the use of semiautomatic assault weapons by criminal gangs, drug-traffickers, and mentally deranged persons continues to grow.<sup>2</sup>

H.R. 4296 will restrict the availability of such weapons in the future. The bill protects the rights of persons who lawfully own such weapons on its date of enactment by a universal "grandfathering" clause and specifically exempts certain firearms traditionally used for hunting and other legitimate support. It contains no confiscation or registration provisions; however, it does establish record-keeping requirements for transfers involving grandfathered semiautomatic assault weapons. Such record-keeping is not required for transfers of grandfathered ammunition feeding devices

<sup>1</sup>"Omnibus Crime Control Act of 1991," Report of the Committee on the Judiciary, House of Representatives, on H.R. 3371, 102d Cong., 1st Sess., Rept. 102-242, October 7, 1991, at 202.

<sup>2</sup>See, e.g., Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Firearms); Chief Sylvester Daughtry, President, International Association of Chiefs of Police; Mr. John Pitta, National Executive Director, Federal Law Enforcement Officers Association).

(or their component parts.) H.R. 4296 expires ("sunsets") on its own terms after 10 years.

#### BACKGROUND

A series of hearings over the last five years on the subject of semiautomatic assault weapons has demonstrated that they are a growing menace to our society of proportion to their numbers:<sup>3</sup> As this Committee said in its report to the last Congress:

The carnage inflicted on the American people by criminals and mentally deranged people armed with Rambo-style, semi-automatic assault weapons has been overwhelming and continuing. Police and law enforcement groups all over the nation have joined together to support legislation that would help keep these weapons out of the hands of criminals.<sup>4</sup>

Since then, evidence continues to mount that these semiautomatic assault weapons are the weapons of choice among drug dealers, criminal gangs, hate groups, and mentally deranged persons bent on mass murder.

Use in Crimes. On April 25, 1994, the Director of the Federal Bureau of Alcohol, Tobacco and Firearms testified that the percentage of semiautomatic assault weapons among guns traced because of their use in crime is increasing:

In 1990, 5.9 percent of firearms traced were assault weapons. In 1993, that percentage rose to 8.1 percent. Since Justice Department studies have shown that assault weapons make up only about 1 percent of the firearms in circulation, these percentages strongly suggest that they are proportionately more often used in crimes.<sup>5</sup>

Law enforcement officials confirm this statistical evidence in accounts of the rising level of lethality they face from assault weapons on the street. For example, the representative of a national police officers' organization testified:

In the past, we used to face criminals armed with a cheap Saturday Night Special that could fire off six rounds before loading. Now it is not at all unusual for a cop to look down the barrel of a TEC-9 with a 32 round clip. The ready availability of and easy access to assault weapons by criminals has increased so dramatically that police forces across the country are being required to upgrade their service weapons merely as a matter of self-defense and

<sup>3</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994; Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991; Hearing on Semiautomatic Assault Weapons, Part II, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, July 25, 1991; Hearing on H.R. 1190, Semiautomatic Assault Weapons Act of 1989, and related bills, House of Representatives, Committee on the Judiciary, Subcommittee on Crime, April 5 and 6, 1989.

<sup>4</sup> "Omnibus Crime Control Act of 1991," Report of the Committee on the Judiciary, House of Representatives, on H.R. 3371, 102d Cong., 1st Sess., Rept. 102-242, October 7, 1991, at 203.

<sup>5</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of Hon. John Magaw, Director, Bureau of Alcohol, Tobacco and Firearms).



preservation. The six-shot .38 caliber service revolver, standard law enforcement issue for years, it just no match against a criminal armed with a semi-automatic assault weapon.<sup>6</sup>

A representative of federal law enforcement officers testified that semiautomatic assault weapons “dramatically escalate the firepower or the user” and “have become the weapon of choice for drug runners, hate groups and the mentally unstable.”<sup>7</sup>

The TEC-9 assault pistol is the undisputed favorite of drug traffickers, gang members and violent criminals. Cities across the country confiscate more TEC-9s than any other assault pistol. The prototype for the TEC-9 was originally designed as a submachine gun for the South African government. Now it comes standard with an ammunition magazine holding 36 rounds of 9 mm cartridges. It also has a threaded barrel to accept a silencer, and a barrel shroud to cool the barrel during rapid fire. To any real sportsman or collector, this firearm is a piece of junk, yet is very popular among criminals.<sup>8</sup>

The Secretary of Housing and Urban Development testified that criminal gangs in Chicago routinely use semiautomatic assault weapons to intimidate not only residents but also security guards, forcing the latter to remove metal detectors installed to detect weapons.<sup>9</sup>

Use in Mass Killings and Killings of Law Enforcement Officers. Public concern about semiautomatic assault weapons has grown because of shootings in which large numbers of innocent people have been killed and wounded, and in which law enforcement officers have been murdered.

On April 25, 1994, the Subcommittee on Crime and Criminal Justice heard testimony about several incidents representative of such killings.

On February 22, 1994, Los Angeles (CA) Police Department rookie officer Christy Lynn Hamilton was ambushed and killed by a

<sup>6</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of Tony Loizzo, executive vice president, National Association of Police Organizations). See also, Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991 (Statement of Dewey R. Stokes, National President, Fraternal Order of Police) (assault weapons “pose a grave and immediate threat to the lives of those sworn to uphold our laws”); Hearing on H.R. 1190, Semiautomatic Assault Weapons Act of 1989, and related bills, House of Representatives, Committee on the Judiciary, Subcommittee on Crime, April 5, 1989 (Testimony of Daniel M. Hartnett, associate director, law enforcement, Bureau of Alcohol, Tobacco and Firearms) (“Fifteen years ago, police rarely encountered armed drug dealers. Today, firearms, especially certain types of semiautomatic weapons, are status symbols and tools of the trade for this country’s most vicious criminals.”)

<sup>7</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of John Pitta, executive vice president, Federal Law Enforcement Officers Association).

<sup>8</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of John Pitta, executive vice president, Federal Law Enforcement Officers Association).

<sup>9</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of Hon. Henry Cisneros, Secretary, Department of Housing and Urban Development).

drug-abusing teenager using a Colt AR-15. The round that killed Officer Hamilton penetrated a car door, skirted the armhole of her protective vest, and lodged in her chest. The teenager also killed his father, who had given him the gun, and took his own life as well. Officer Hamilton had been voted the most inspirational officer in her graduating class only weeks before her murder. Officer Hamilton's surviving brother testified about the impact of this murder.<sup>10</sup>

On December 7, 1993, a deranged gunman walked through a Long Island Railroad commuter train, shooting commuters. Six died and 19 were wounded. The gunman used a Ruger semiautomatic pistol. Although the pistol itself would not be classified as an assault weapon under this bill, its 15 round ammunition magazine ("clip") would be banned. The gunman had several of these high capacity 15 round magazines and reloaded several times, firing between 30 to 50 rounds before he was overpowered while trying to reload yet again. The parents of one of the murdered victims, Amy Locicero Federici, testified about the impact of this murder.<sup>11</sup>

On February 28, 1993, 4 special agents of the Bureau of Alcohol, Tobacco and Firearms were killed and 15 were wounded while trying to serve federal search and arrest warrants at the Branch Davidian compound in Waco, Texas. The Branch Davidian arsenal included hundreds of assault weapons, including AR-15s, AK-47s, Street Sweepers, MAC10s and MAC-11s, along with extremely high capacity magazines (up to 260 rounds).<sup>12</sup>

Finally, on July 1, 1993, gunman Gian Luigi Ferri Killed 8 people and wounded 6 others in a San Francisco high rise office building. Ferri—who took his own life—used two TEC DC9 assault pistols with 50 round magazines, purchased from a gun dealer in Las Vegas, Nevada. Two witnesses, both of whom lost spouses in the slaughter, and one of whom was herself seriously injured, testified about this incident.<sup>13</sup>

Numerous other notorious incidents involving semiautomatic assault weapons have occurred. They include the January 25, 1993, slaying of 2 CIA employees and wounding of 3 others at McLean, VA, (AK-47), and the January 17, 1989 murder in a Stockton, CA, schoolyard of 5 small children, and wounding of 29 others (AK-47 and 75 round magazine, firing 106 rounds in less than 2 minutes).

Several witnesses who were victims themselves during such incidents testified in opposition to H.R. 4296/H.R. 3527, and in opposition to the banning of any semiautomatic assault weapons or ammunition feeding devices.

Dr. Suzanna Gratia witnessed the brutal murder, in Luby's cafeteria located in Killeen, Texas, of both of her parents who had just

<sup>10</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of Ken Brondell, Jr.).

<sup>11</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statements of Jacob Locicero and Arlene Locicero).

<sup>12</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of John Pitta, executive vice president, Federal Law Enforcement Officers Association).

<sup>13</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statements of Michelle Scully and Steve Sposato).





a three-time loser with 34 prior convictions who was violating his third adult State parole for a knife assault. Mr. Murphy testified:

I respectfully urge this Committee and the Congress of the United States to restrain themselves from forcing tens of millions of law-abiding Americans like me to choose between the law and their lives.<sup>17</sup>

The Characteristics of Military-Style Semiautomatic Assault Weapons. The question of what constitutes an assault weapon has been studied by the Congress and the executive branch as the role of these guns in criminal violence has grown.

A Bureau of Alcohol, Tobacco and Firearms working group formed under the Bush administration to consider banning foreign imports of such semiautomatic assault weapons conducted the most recent comprehensive study of military assault weapons and the civilian firearms that are modelled after them.<sup>18</sup> The working group formulated a definition of the civilian version, and a list of the assault weapon characteristics that distinguish them from sporting guns. That technical work has to a large extent been incorporated into H.R. 4296.<sup>19</sup>

The working group settled on the term "semiautomatic assault" for the civilian firearms at issue. That term distinguishes the civilian firearms from the fully automatic military weapons (machine-guns)<sup>20</sup> after which they are modelled and often simply adapted by eliminating the automatic fire feature. The group determined that "semiautomatic assault rifles \* \* \* represent a distinctive type of rifle distinguished by certain general characteristics which are common to the modern military assault rifle."<sup>21</sup>

The group elaborated on the nature of those characteristics as follows:

The modern military assault rifle, such as the U.S. M16, German G3, Belgian FN/FAL, and Soviet AK-47, is a weapon designed for killing or disabling the enemy and \* \* \* has characteristics designed to accomplish this purpose.

We found that the modern military assault rifle contains a variety of physical features and characteristics designed

<sup>17</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement of Mr. Phillip Murphy, Tucson, Arizona).

<sup>18</sup> U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, "Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles," July, 1989.

<sup>19</sup> The ultimate question of law upon which the working group was advising the Secretary of the Treasury was whether these import firearms met a "sporting purpose" test under 18 U.S.C. Code section 925(d). He held that they did not. Although that legal question is not directly posed by this bill, the working group's research and analysis on assault weapons is relevant on the questions of the purposes underlying the design of assault weapons, the characteristics that distinguish them from sporting guns, and the reasons underlying each of the distinguishing features.

<sup>20</sup> An automatic gun fires a continuous stream as long as the trigger is held down, until it has fired all of the cartridges ("rounds" or "bullets") in its magazine (or "clip"). Automatic firearms are also known as machineguns. A semi-automatic gun fires one round, then loads a new round, each time the trigger is pulled until its magazine is exhausted. Manually operated guns require the shooter to manually operate a bolt, slide, pump, or lever action to extract the fired round and load a new round before pulling the trigger.

<sup>21</sup> U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, "Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles," July, 1989, p. 6.



for military applications which distinguishes it from traditional sporting rifles. These military features and characteristics (other than selective fire) are carried over to the semiautomatic versions of the original military rifle.<sup>22</sup>

The "selective fire" feature to which the working group referred is the ability of the military versions to switch from fully automatic to semiautomatic fire at the option of the user. Since Congress has already banned certain civilian transfer or possession of machineguns,<sup>23</sup> the civilian models of these guns are produced with semiautomatic fire capability only. However, testimony was received by the Subcommittee on Crime and Criminal Justice that it is a relatively simple task to convert<sup>24</sup> a semiautomatic weapon to automatic fire<sup>25</sup> and that semiautomatic weapons can be fired at rates of 300 to 500 rounds per minute, making them virtually indistinguishable in practical effect from machineguns.<sup>26</sup>

The 1989 Report's analysis of assault characteristics which distinguish such firearms from sporting guns was further explained by an ATF representative at a 1991 hearing before the Subcommittee on Crime and Criminal Justice:

We found that the banned rifles represented a distinctive type of rifle characterized by certain military features which differentiated them from the traditional sporting rifles. These include the ability to accept large capacity detachable magazines, bayonets, folding or telescoping stocks, pistol grips, flash suppressors, bipods, grenade launchers and night sights, and the fact that they are semiautomatic versions of military machineguns.<sup>27</sup>

Proponents of these military style semiautomatic assault weapons often dismiss these combat-designed features as merely "cosmetic." The Subcommittee received testimony that, even if these characteristics were merely "cosmetic" in effect, it is precisely those cosmetics that contribute to their usefulness as tools of intimidation by criminals.<sup>28</sup>

However, the expert evidence is that the features that characterize a semiautomatic weapon as an assault weapon are not merely cosmetic, but do serve specific, combat-functional ends. By facilitat-

<sup>22</sup> U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, "Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles," July, 1989, p. 6.

<sup>23</sup> 18 U.S. Code, section 922(o).

<sup>24</sup> The Committee notes that such conversion is a Federal felony that carries penalties of up to 10 years imprisonment and a \$250,000 fine under 26 U.S.C. 5861.

<sup>25</sup> Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991 (Statement of Dewey R. Stokes, National President, Fraternal Order of Police).

<sup>26</sup> Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991 (Statement of Dewey R. Stokes, National President, Fraternal Order of Police).

<sup>27</sup> Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991 (Statement of Richard Cook, Chief, Firearms Divisions, Bureau of Alcohol, Tobacco and Firearms) at 268.

<sup>28</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms, Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statements of Hon. Henry Cisneros, Secretary, Department of Housing and Urban Development and John Pitta, National Executive Vice President, Federal Law Enforcement Officers Association); Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991 (Statement of Paul J. McNulty, Principal Deputy Director, Office of Policy Development, Department of Justice) at 288.

ing the deadly “spray fire” of the weapon or enhancing its portability—a useful attribute in combat but one which serves to enhance the ability to conceal the gun in civilian life.<sup>29</sup>

High-capacity magazine, for example, make it possible to fire a large number of rounds without re-loading, then to reload quickly when those rounds are spent.<sup>30</sup> Most of the weapons covered by the proposed legislation come equipped with magazines that hold 30 rounds. Even these magazines, however, can be replaced with magazines that hold 50 or even 100 rounds. Furthermore, expended magazines can be quickly replaced, so that a single person with a single assault weapon can easily fire literally hundreds of rounds within minutes. As noted above, tests demonstrate that semiautomatic guns can be fired at very high rates of fire. In contrast, hunting rifles and shotguns typically have much smaller magazine capabilities—from 3 to 5.

Because of the greater enhanced lethality—numbers of rounds that can be fired quickly without reloading—H.R. 4296 also contains a ban on ammunition magazines which hold more than 10 rounds, as well as any combination of parts from which such a magazine can be assembled.

Barrel shrouds also serve a combat-functional purpose.<sup>31</sup> Gun barrels become very hot when multiple rounds are fired through them quickly. The barrel shroud cools the barrel so that it will not overheat, and provides the shooter with a convenient grip especially suitable for spray-firing.

Similar military combat purposes are served by flash suppressors (designed to help conceal the point of fire in night combat), bayonet mounts, grenade launchers, and pistol grips engrafted on long guns.<sup>32</sup>

The net effect of these military combat features is a capability for lethality—more wounds, more serious, in more victims—far beyond

<sup>29</sup>Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statements and testimony of John McGaw, Director, Bureau of Alcohol, Tobacco and Firearms, and John Pitta, National Executive Vice President, Federal Law Enforcement Officers Association); Hearing on Semiautomatic Assault Weapons, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, June 12, 1991 (Statement of Richard Cook, Chief, Firearms Division, Bureau of Alcohol, Tobacco and Firearms); U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, “Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles,” July, 1989, p. 6.

<sup>30</sup>U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, “Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles,” July, 1989, p. 6.

<sup>31</sup>Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statements and testimony of John McGaw, Director, Bureau of Alcohol, Tobacco and Firearms, and John Pitta, National Executive Vice President, Federal Law Enforcement Officers Association); U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, “Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles,” July, 1989, p. 6.

<sup>32</sup>Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statements and testimony of John McGaw, Director, Bureau of Alcohol, Tobacco and Firearms, and John Pitta, National Executive Vice President, Federal Law Enforcement Officers Association); U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, “Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles,” July, 1989, p. 6.



that of other firearms in general, including other semiautomatic guns.<sup>33</sup>

## BRIEF EXPLANATION OF H.R. 4296

H.R. 4296 combines two approaches which have been followed in the past in legislation proposed to control semiautomatic assault weapons—the so-called “list” approach and the “characteristics” approach.

The bill does not ban any semiautomatic assault weapons nor large capacity ammunition feeding device (or component parts) otherwise lawfully possessed on the date of enactment. However, records must be kept by both the transferor and the transferee involved in any transfer of these weapons, but not of the feeding devices (or combination of parts).

The bill explicitly exempts all guns with other than semiautomatic actions—i.e., bolt, slide, pump, and lever actions. In addition, it specifically exempts by make and model 661 long guns most commonly used in hunting and recreational sports,<sup>34</sup> making clear that these semiautomatic assault weapons are not and cannot be subject to any ban.

Section 2(z) of the bill lists 19 specific semiautomatic assault weapons—such as the AK-47, M-10, TEC-9, Uzi, etc.—that are banned.<sup>35</sup> It also defines other assault weapons by specifically enumerating combat style characteristics and bans those semiautomatic assault weapons that have 2 or more of those characteristics.<sup>36</sup>

The bill makes clear that the list of exempted guns is not exclusive. The fact that a gun is not on the exempted list may not be construed to mean that it is banned. Thus, a gun that is not on the list of guns specifically banned by name would only be banned if it met the specific characteristics set out in the characteristics test. No gun may be removed from the exempted list.

H.R. 4296 also bans large capacity ammunition feeding devices—clips that accept more than 10 rounds of ammunition—as well as

<sup>33</sup> Hearing on H.R. 4296 and H.R. 3527, Public Safety and Recreational Firearms Use Protection Act, House of Representatives, Committee on the Judiciary, Subcommittee on Crime and Criminal Justice, April 25, 1994 (Statement and testimony of Dr. David Milzman, Associate Director, Trauma Services, Georgetown University Medical Center, Washington, DC); U.S. Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, "Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles," July, 1989, p. 6.

<sup>34</sup> See H.R. 4296, Appendix A, for the list.

<sup>35</sup> H.R. 4296 bans the following semiautomatic assault weapons by name (as well as any copies or duplicates, in any caliber): All AK-47 type; Beretta AR-70; Colt AR-15; DC9, 22; FNC; FN-FAL/LAR; Galil; MAC 10, MAC 11-type; Steyr AUG; Street Sweeper; Striker 12; TEC-9; Uzi.

<sup>36</sup> While noting that its list is not all-inclusive, the Bureau of Alcohol, Tobacco, and Firearms has listed the following semi-automatic firearms that would be banned based on their general characteristics:

1. Semi-automatic Rifles: AA Arms AR9 semi-automatic rifle; AMT Lightning 25 rifle; Auto Ordnance Thompson Model 1927 carbines (finned barrel versions); Calico M100 carbine; Colt Sporter Rifle (all variations); Federal XC900 carbine; Federal XC450 carbine; Grendel R31 carbine; Iver Johnson M1 carbine (version w/collapsible stock and bayonet mount); Springfield M1A rifle.

2. Pistols: AA Arms AP9 pistol; Australian Automatic Arms pistol; Auto Ordnance Model 1927A5 pistol; American Arms Spectra pistol; Calico Model M950 pistol; Calico Model 110 pistol; All Claridge Hi-Tec pistol; D Max auto pistol; Grendel P-311 pistol; Heckler & Koch SP89 pistol; Wilkinson Linda pistol.

3. Shotguns: Benelli M1 Super 90 Defense shotgun; Benelli M3 Super 90 shotgun; Franchi LAW 12 shotgun; Franchi SPAS 12 shotgun; USAS 12 shotgun.

any combination of parts from which such a device can be assembled.

The bill exempts all semiautomatic assault weapons and large capacity ammunition feeding devices (as well as any combination of parts) that are lawfully possessed on date of enactment. Owners of such semiautomatic assault weapons need do nothing under the bill unless they wish to transfer the semiautomatic assault weapon.

H.R. 4296 differs significantly from previously-proposed legislation—it is designed to be more tightly focused and more carefully crafted to clearly exempt legitimate sporting guns. Most significantly, the ban in the 1991 proposed bill gave the Bureau of Alcohol, Tobacco, and Firearms authority to ban any weapon which “embodies the same configuration” as the named list of guns. The current bill, H.R. 4296 does not contain any such general authority. Instead, it contains a set of specific characteristics that must be present in order to ban any additional semiautomatic assault weapons.

#### 102D CONGRESS

The Subcommittee on Crime and Criminal Justice held hearings on semiautomatic assault weapons on June 12 and July 25, 1991. A ban on certain semiautomatic assault weapons was included as Subtitle A of Title XX in H.R. 3371, the Omnibus Crime Control Act of 1991. A ban on large capacity ammunition feeding devices was included in the same bill. The bill was reported out of the Judiciary Committee on October 7, 1991. The provisions dealing with semiautomatic assault weapons and large capacity ammunition feeding devices were struck by the House of Representatives by a vote of 247–177 on October 17, 1991.

#### 103D CONGRESS

The Subcommittee on Crime and Criminal Justice held hearings on H.R. 4296 and its predecessor, H.R. 3527, which ban semiautomatic assault weapons, on April 25, 1994. The Subcommittee reported favorably on an amendment in the nature of a substitute to H.R. 4296 on April 26, 1994, by a recorded vote of 8–5.

#### COMMITTEE ACTION

The Committee on the Judiciary met on April 28, 1994 to consider H.R. 4296, as amended. Two amendments were adopted during the Committee’s consideration.

An amendment was offered to provide that the absence of a firearm from the list of guns specifically exempted from the ban may not be construed as evidence that the semiautomatic assault weapon is banned, and that no gun may be removed from the exempt list so long as the Act is in effect. This amendment was adopted by voice vote.

An amendment was offered to delete a provision that barred from owning any firearms those persons convicted of violating the recordkeeping requirements relating to grandfathered weapons. This amendment was adopted by voice vote.



A reporting quorum being present, the Committee on the Judiciary, by a roll call vote of 20 to 15, ordered H.R. 4296, as amended, favorably reported to the House.

#### SECTION-BY-SECTION ANALYSIS

##### SECTION 1—SHORT TITLE

This section provides that the Act may be cited as the “Public Safety and Recreational Firearms Use Protection Act”.

##### SECTION 2—RESTRICTION ON MANUFACTURE, TRANSFER, AND POSSESSION OF CERTAIN SEMIAUTOMATIC ASSAULT WEAPONS

Subsection 2(a) makes it unlawful for a person to manufacture, transfer, or possess a semiautomatic assault weapon (including any “copies or duplicates.”)

The ban on transfer and possession does not apply to (1) weapons otherwise lawfully possessed on the date of enactment; (2) any of the firearms (or their replicas or duplicates) listed in Appendix A; (3) any manually operated (bolt, pump, slide, lever action), permanently inoperable, or antique firearms; (4) semiautomatic rifles that cannot accept a detachable magazine that holds more than 5 rounds; or, a semiautomatic shotgun that cannot hold more than 5 rounds in a fixed or detachable magazine.

The fact that a gun is not listed in Appendix A may not be construed to mean that it is banned. No gun listed in Appendix A may be removed from that exempted list so long as the Act is in effect.

Federal departments and agencies and those of States and their subdivisions are exempted. Law enforcement officers authorized to purchase firearms for official use are exempted, as are such officers presented with covered weapons upon retirement who are not otherwise prohibited from receiving such a weapon. Finally, weapons made, transferred, possessed, or imported for the purposes of testing or experiments authorized by the Secretary of the Treasury are exempted.

Subsection 2(b) defines semiautomatic assault weapons, both by name and by characteristics. It lists by name specific firearms, including “copies or duplicates” of such firearms.<sup>37</sup> Characteristics of covered semiautomatic rifles, pistols, and shotguns are defined by separate subsections applicable to each. In the case of rifles and pistols, in addition to being semiautomatic, a gun must be able to accept a detachable magazine and have at least 2 listed characteristics.

In the case of rifles, those characteristics are: (1) folding or telescoping stock; (2) a pistol grip that protrudes conspicuously beneath the action of the weapon; (3) a bayonet mount; (4) a flash suppressor or threaded barrel designed to accommodate a flash suppressor; and (5) a grenade launcher.

In the case of pistols, the characteristics are: (1) a magazine that attaches to the pistol outside of the pistol grip; (2) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer; (3) a barrel shroud that permits the

<sup>37</sup> H.R. 4296 bans the following semiautomatic assault weapons by name (as well as any copies or duplicates, in any caliber): All AK-47 type; Beretta AR-70; Colt AR-15; DC9, 22; FNC; FN-FAL/LAR; Galil; MAC 10, MAC 11-type; Steyr AUG; Street Sweeper; Striker 12; TEC-9; Uzi



shooter to hold the firearm without being burned; (4) an unloaded manufactured weight of 50 ounces or more; and (5) a semiautomatic version of an automatic firearm.

In the case of shotguns, covered weapons must have at least 2 of the following four features: (1) a folding or telescoping stock; (2) a pistol grip that protrudes conspicuously beneath the action of the weapon; (3) a fixed magazine capacity in excess of 5 rounds; and (4) an ability to accept a detachable magazine.

The section provides a fine of not more than \$5,000, imprisonment for not more than 5 years, or both, for knowingly violating the ban on manufacture, transfer and possession. It also adds use of a semiautomatic assault weapon to the crimes covered by the mandatory minimum of 5 years under 18 USC Section 924(c)(1) for use in a federal crime of violence or drug trafficking crime.

Finally, the section requires that semiautomatic assault weapons manufactured after the date of enactment must clearly show the date on which the weapon was manufactured.

#### SECTION 3—RECORDKEEPING REQUIREMENTS FOR TRANSFERS OF GRANDFATHERED FIREARMS

This section makes it unlawful to transfer a grandfathered semiautomatic assault weapon unless both the transferor and the transferee complete and retain a copy of federal form 4473 (or its successor). Within 90 days of enactment, the Secretary of the Treasury must issue regulations ensuring the availability of the form to owners of semiautomatic assault weapons. The Committee expects the Secretary to make such forms easily and readily available to such gun owners. The Committee further expects the Secretary to maintain the confidentiality of the requester and to ensure the destruction of any and all information pertaining to any request for such forms immediately upon complying with the request. The Committee does not expect the Secretary to release any such information to any other Department of the Federal, State or local Governments or to use the information in any way other than to comply with the requests for the form. The Committee would consider failure to comply with these expectations a very serious breach.

A person who knowingly violates the recordkeeping requirement shall be fined not more than \$1,000, imprisoned for not more than 6 months or both.

#### SECTION 4—BAN OF LARGE CAPACITY AMMUNITION FEEDING DEVICES

Subsection 4(a) makes it unlawful for a person to transfer or possess a large capacity ammunition feeding device (which is defined to include any combination of parts from which such a device can be assembled.)

The ban on transfer and possession does not apply to (1) devices (or component parts) otherwise lawfully possessed on the date of enactment; (2) Federal departments and agencies and those of States and their subdivisions; (3) law enforcement officers authorized to purchase ammunition feeding devices for official use; devices transferred to such officers upon retirement who are not otherwise prohibited from receiving them; and (3) devices (or combination of parts) made, transferred, possessed, or imported for the pur-

pose of testing or experiments authorized by the Secretary of the Treasury are exempted.

Subsection 4(b) defines large capacity ammunition feeding device to mean a magazine, belt, drum, feed strip, or similar device that has a capacity of more than 10 rounds, or can be readily restored or converted to accept more than 10 rounds. It includes any combination of parts from which such a device can be assembled. It exempts an attached tubular device designed to accept and capable of operating only with .22 caliber rimfire ammunition.

Subsection 4(c) adds large capacity ammunition feeding devices to the definition of "firearm" under 18 US Code section 921(a)(3).

Subsection 4(d) provides a fine of not more than \$5,000, imprisonment for not more than 5 years, or both, for knowingly violating the ban.

Subsection 4(e) requires that large capacity ammunition feeding devices manufactured after the date of enactment be identified by a serial number that clearly shows the device was manufactured after the date or imported after the date of enactment, and such other identification as the Secretary of the Treasury may by regulation prescribe.

#### SECTION 5—STUDY BY ATTORNEY GENERAL

This section requires the Attorney General to study and report to the Congress no later than 30 months after its enactment the effects of the Act, particularly with regard to its impact—if any—on violent and drug-trafficking crime.

The study shall be conducted over a period of 18 months, commencing 12 months after the date of enactment.

#### SECTION 6—EFFECTIVE DATE

The Act and the amendment made by the Act take effect on the date of enactment and are repealed effective as of the date that is 10 years after that date.

#### SECTION 7—APPENDIX A TO SECTION 922 OF TITLE 18

This section adds, as Appendix A, a list of firearms that are specifically exempted from the ban on semiautomatic assault weapons.

#### COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 2(1)(3)(A) of rule XI of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

#### COMMITTEE ON GOVERNMENT OPERATIONS OVERSIGHT FINDINGS

No findings or recommendations of the Committee on Government Operations were received as referred to in clause 2(1)(3)(D) of rule XI of the Rules of the House of Representatives.



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#### NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 2(l)(3)(B) of House Rule XI is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

#### INFLATIONARY IMPACT STATEMENT

Pursuant to clause 2(l)(4) of rule XI of the Rules of the House of Representatives, the Committee estimates that H.R. 4296 will have no significant inflationary impact on prices and costs in the national economy.

#### CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 2(l)(3)(C) of rule XI of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill H.R. 4296, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 403 of the Congressional Budget Act of 1974:

U.S. CONGRESS,  
CONGRESSIONAL BUDGET OFFICE.  
*Washington, DC, May 2, 1994.*

Hon. JACK BROOKS,  
*Chairman, Committee on the Judiciary,  
House of Representatives, Washington, DC.*

DEAR MR. CHAIRMAN: The Congressional Budget Office has reviewed H.R. 4296, the Public Safety and Recreational Firearms Use Protection Act, as ordered reported by the House Committee on the Judiciary on April 28, 1994. We estimate that enactment of the bill would result in costs to the federal government over the 1995–1999 period of less than \$500,000 from appropriated amounts. In addition, we estimate that enactment of H.R. 4296 would lead to increases in receipts of less than \$10 million a year from new criminal fines. Such receipts would be deposited in the Crime Victims Fund and spent in the following year. Because the bill could affect direct spending and receipts, pay-as-you-go procedures would apply. The bill would not affect the budgets of state or local governments.

H.R. 4296 would ban the manufacture, transfer, and possession of certain semiautomatic assault weapons not lawfully possessed as of the date of the bill's enactment. The bill also would ban the transfer and possession of certain large-capacity ammunition feeding devices not lawfully possessed as of the date of enactment. In addition, H.R. 4296 would establish recordkeeping requirements for transfers of grandfathered weapons and would direct the Attorney General to conduct a study of the bill's impact. Finally, the bill would create new federal crimes and associated penalties—prison sentences and criminal fines—for violation of its provisions.

The new recordkeeping requirements and the impact study would increase costs to the Department of the Treasury and the Department of Justice, respectively, but we estimate that these costs would be less than \$500,000 over the next several years from appropriated amounts. The imposition of new criminal fines in H.R. 4296 could cause governmental receipts to increase through greater

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penalty collections. We estimate that any such increase would be less than \$10 million annually. Criminal fines would be deposited in the Crime Victims Fund and would be spent in the following year. Thus, direct spending from the fund would match the increase in revenues with a one-year lag.

If you wish further details on this estimate, we will be pleased to provide them.

Sincerely,

ROBERT D. REISCHAUER, *Director*.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3 of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

CHAPTER 44 OF TITLE 18, UNITED STATES CODE

\* \* \* \* \*

CHAPTER 44—FIREARMS

§ 921. Definitions

(a) As used in this chapter—

(1) \* \* \*

\* \* \* \* \*

(3) The term “firearm” means (A) any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive; (B) the frame or receiver of any such weapon; (C) any firearm muffler or firearm silencer; [or (D) any destructive device.] *(D) any destructive device; or (E) any large capacity ammunition feeding device.* Such term does not include an antique firearm.

\* \* \* \* \*

(30) The term “semiautomatic assault weapon” means—

(A) any of the firearms, or copies or duplicates of the firearms, known as—

(i) Norinco, Mitchell, and Poly Technologies Automat Kalashnikovs (all models);

(ii) Action Arms Israeli Military Industries UZI and Galil;

(iii) Beretta Ar70 (SC-70);

(iv) Colt AR-15;

(v) Fabrique National FN/FAL, FN/LAR, and FNC;

(vi) SWD M-10, M-11, M-11/9, and M-12;

(vii) Steyr AUG;

(viii) INTRATEC TEC-9, TEC-DC9 and TEC-22; and

(ix) revolving cylinder shotguns, such as (or similar to) the Street Sweeper and Striker 12;

(B) a semiautomatic rifle that has an ability to accept a detachable magazine and has at least 2 of—

(i) a folding or telescoping stock;



- (ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;
- (iii) a bayonet mount;
- (iv) a flash suppressor or threaded barrel designed to accommodate a flash suppressor; and
- (v) a grenade launcher;
- (C) a semiautomatic pistol that has an ability to accept a detachable magazine and has at least 2 of—
  - (i) an ammunition magazine that attaches to the pistol outside of the pistol grip;
  - (ii) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer;
  - (iii) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the nontrigger hand without being burned;
  - (iv) a manufactured weight of 50 ounces or more when the pistol is unloaded; and
  - (v) a semiautomatic version of an automatic firearm; and
- (D) a semiautomatic shotgun that has at least 2 of—
  - (i) a folding or telescoping stock;
  - (ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;
  - (iii) a fixed magazine capacity in excess of 5 rounds; and
  - (iv) an ability to accept a detachable magazine.
- (31) The term “large capacity ammunition feeding device”—
  - (A) means—
    - (i) a magazine, belt, drum, feed strip, or similar device that has a capacity of, or that can be readily restored or converted to accept, more than 10 rounds of ammunition; and
    - (ii) any combination of parts from which a device described in clause (i) can be assembled; but
  - (B) does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition.

**§ 922. Unlawful acts**

- (a) It shall be unlawful—

- \* \* \* \* \*
- (v)(1) It shall be unlawful for a person to manufacture, transfer, or possess a semiautomatic assault weapon.
  - (2) Paragraph (1) shall not apply to the possession or transfer of any semiautomatic assault weapon otherwise lawfully possessed on the date of the enactment of this subsection.
  - (3) Paragraph (1) shall not apply to—
    - (A) any of the firearms, or replicas or duplicates of the firearms, specified in Appendix A to this section, as such firearms were manufactured on October 1, 1993;
    - (B) any firearm that—
      - (i) is manually operated by bolt, pump, lever, or slide action;
      - (ii) has been rendered permanently inoperable; or



(iii) is an antique firearm;

(C) any semiautomatic rifle that cannot accept a detachable magazine that holds more than 5 rounds of ammunition; or

(D) any semiautomatic shotgun that cannot hold more than 5 rounds of ammunition in a fixed or detachable magazine.

The fact that a firearm is not listed in Appendix A shall not be construed to mean that paragraph (1) applies to such firearm. No firearm exempted by this subsection may be deleted from Appendix A so long as this Act is in effect.

(4) Paragraph (1) shall not apply to—

(A) the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State;

(B) the transfer of a semiautomatic assault weapon by a licensed manufacturer, licensed importer, or licensed dealer to an entity referred to in subparagraph (A) or to a law enforcement officer authorized by such an entity to purchase firearms for official use;

(C) the possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving a firearm, of a semiautomatic assault weapon transferred to the individual by the agency upon such retirement; or

(D) the manufacture, transfer, or possession of a semiautomatic assault weapon by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.

(w)(1) It shall be unlawful for a person to sell, ship, or deliver a semiautomatic assault weapon to a person who has not completed a form 4473 in connection with the transfer of the semiautomatic assault weapon.

(2) It shall be unlawful for a person to receive a semiautomatic assault weapon unless the person has completed a form 4473 in connection with the transfer of the semiautomatic assault weapon.

(3) If a person receives a semiautomatic assault weapon from anyone other than a licensed dealer, both the person and the transferor shall retain a copy of the form 4473 completed in connection with the transfer.

(4) Within 90 days after the date of the enactment of this subsection, the Secretary shall prescribe regulations ensuring the availability of form 4473 to owners of semiautomatic assault weapons.

(5) As used in this subsection, the term "form 4473" means—

(A) the form which, as of the date of the enactment of this subsection, is designated by the Secretary as form 4473; or

(B) any other form which—

(i) is required by the Secretary, in lieu of the form described in subparagraph (A), to be completed in connection with the transfer of a semiautomatic assault weapon; and

(ii) when completed, contains, at a minimum, the information that, as of the date of the enactment of this subsection, is required to be provided on the form described in subparagraph (A).

(x)(1) *Except as provided in paragraph (2), it shall be unlawful for a person to transfer or possess a large capacity ammunition feeding device.*

(2) *Paragraph (1) shall not apply to the possession or transfer of any large capacity ammunition feeding device otherwise lawfully possessed on the date of the enactment of this subsection.*

(3) *This subsection shall not apply to—*

(A) *the United States or a department or agency of the United States or a State or a department, agency, or political subdivision of a State;*

(B) *the transfer of a large capacity ammunition feeding device by a licensed manufacturer, licensed importer, or licensed dealer to an entity referred to in subparagraph (A) or to a law enforcement officer authorized by such an entity to purchase large capacity ammunition feeding devices for official use;*

(C) *the possession, by an individual who is retired from service with a law enforcement agency and is not otherwise prohibited from receiving ammunition, of a large capacity ammunition feeding device transferred to the individual by the agency upon such retirement; or*

(D) *the manufacture, transfer, or possession of any large capacity ammunition feeding device by a licensed manufacturer or licensed importer for the purposes of testing or experimentation authorized by the Secretary.*

#### **APPENDIX A**

##### **Centerfire Rifles—Autoloaders**

Browning BAR Mark II Safari Semi-Auto Rifle  
Browning BAR Mark II Safari Magnum Rifle  
Browning High-Power Rifle  
Heckler & Koch Model 300 Rifle  
Iver Johnson M-1 Carbine  
Iver Johnson 50th Anniversary M-1 Carbine  
Marlin Model 9 Camp Carbine  
Marlin Model 45 Carbine  
Remington Nylon 66 Auto-Loading Rifle  
Remington Model 7400 Auto Rifle  
Remington Model 7400 Rifle  
Remington Model 7400 Special Purpose Auto Rifle  
Ruger Mini-14 Autoloading Rifle (w/o folding stock)  
Ruger Mini Thirty Rifle

##### **Centerfire Rifles—Lever & Slide**

Browning Model 81 BLR Lever-Action Rifle  
Browning Model 81 Long Action B.L.R.  
Browning Model 1886 Lever-Action Carbine  
Browning Model 1886 High Grade Carbine  
Cimarron 1860 Henry Replica  
Cimarron 1866 Winchester Replicas  
Cimarron 1873 Short Rifle  
Cimarron 1873 Sporting Rifle  
Cimarron 1873 30" Express Rifle  
Dixie Engraved 1873 Rifle  
E.M.F. 1866 Yellowboy Lever Actions  
E.M.F. 1860 Henry Rifle  
E.M.F. Model 73 Lever-Action Rifle  
Marlin Model 336CS Lever-Action Carbine  
Marlin Model 30AS Lever-Action Carbine  
Marlin Model 444SS Lever-Action Sporter  
Marlin Model 1894S Lever-Action Carbine  
Marlin Model 1894CS Carbine

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*Marlin Model 1894CL Classic*  
*Marlin Model 1895SS Lever-Action Rifle*  
*Mitchell 1858 Henry Replica*  
*Mitchell 1866 Winchester Replica*  
*Mitchell 1873 Winchester Replica*  
*Navy Arms Military Henry Rifle*  
*Navy Arms Henry Trapper*  
*Navy Arms Iron Frame Henry*  
*Navy Arms Henry Carbine*  
*Navy Arms 1866 Yellowboy Rifle*  
*Navy Arms 1873 Winchester-Style Rifle*  
*Navy Arms 1873 Sporting Rifle*  
*Remington 7600 Slide Action*  
*Remington Model 7600 Special Purpose Slide Action*  
*Rossi M92 SRC Saddle-Ring Carbine*  
*Rossi M92 SRS Short Carbine*  
*Savage 99C Lever-Action Rifle*  
*Uberti Henry Rifle*  
*Uberti 1866 Sporting Rifle*  
*Uberti 1873 Sporting Rifle*  
*Winchester Model 94 Side Eject Lever-Action Rifle*  
*Winchester Model 94 Trapper Side Eject*  
*Winchester Model 94 Big Bore Side Eject*  
*Winchester Model 94 Ranger Side Eject Lever-Action Rifle*  
*Winchester Model 94 Wrangler Side Eject*

**Centerfire Rifles—Bolt Action**

*Alpine Bolt-Action Rifle*  
*A-Square Caesar Bolt-Action Rifle*  
*A-Square Hannibal Bolt-Action Rifle*  
*Anschutz 1700D Classic Rifles*  
*Anschutz 1700D Custom Rifles*  
*Anschutz 1700D Bavarian Bolt-Action Rifle*  
*Anschutz 1733D Mannlicher Rifle*  
*Barret Model 90 Bolt-Action Rifle*  
*Beman/HW 60J Bolt-Action Rifle*  
*Blaser R84 Bolt-Action Rifle*  
*BRNO 537 Sporter Bolt-Action Rifle*  
*BRNO ZKB 527 Fox Bolt-Action Rifle*  
*BRNO ZKK 600, 601, 602 Bolt-Action Rifles*  
*Browning A-Bolt Rifle*  
*Browning A-Bolt Stainless Stalker*  
*Browning A-Bolt Left Hand*  
*Browning A-Bolt Short Action*  
*Browning Euro-Bolt Rifle*  
*Browning A-Bolt Gold Medallion*  
*Browning A-Bolt Micro Medallion*  
*Century Centurion 14 Sporter*  
*Century Enfield Sporter #4*  
*Century Svedish Sporter #38*  
*Century Mauser 98 Sporter*  
*Cooper Model 38 Centerfire Sporter*  
*Dakota 22 Sporter Bolt-Action Rifle*  
*Dakota 76 Classic Bolt-Action Rifle*  
*Dakota 76 Short Action Rifles*  
*Dakota 76 Safari Bolt-Action Rifle*  
*Dakota 416 Rigby African*  
*E.A.A./Sabatti Rover 870 Bolt-Action Rifle*  
*Auguste Francotte Bolt-Action Rifles*  
*Carl Gustaf 2000 Bolt-Action Rifle*  
*Heym Magnum Express Series Rifle*  
*Howa Lightning Bolt-Action Rifle*  
*Howa Realtree Camo Rifle*  
*Interarms Mark X Viscount Bolt-Action Rifle*  
*Interarms Mini-Mark X Rifle*  
*Interarms Mark X Whitworth Bolt-Action Rifle*  
*Interarms Whitworth Express Rifle*  
*Iver Johnson Model 5100A1 Long-Range Rifle*

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*Red Willow Armory Ballard No. 4.5 Target Rifle*  
*Remington-Style Rolling Block Carbine*  
*Ruger No. 1B Single Shot*  
*Ruger No. 1A Light Sporter*  
*Ruger No. 1H Tropical Rifle*  
*Ruger No. 1S Medium Sporter*  
*Ruger No. 1 RSI International*  
*Ruger No. 1V Special Varminter*  
*C. Sharps Arms New Model 1874 Old Reliable*  
*C. Sharps Arms New Model 1875 Rifle*  
*C. Sharps Arms 1875 Classic Sharps*  
*C. Sharps Arms New Model 1875 Target & Long Range*  
*Shiloh Sharps 1874 Long Range Express*  
*Shiloh Sharps 1874 Montana Roughrider*  
*Shiloh Sharps 1874 Military Carbine*  
*Shiloh Sharps 1874 Business Rifle*  
*Shiloh Sharps 1874 Military Rifle*  
*Sharps 1874 Old Reliable*  
*Thompson/Center Contender Carbine*  
*Thompson/Center Stainless Contender Carbine*  
*Thompson/Center Contender Carbine Survival System*  
*Thompson/Center Contender Carbine Youth Model*  
*Thompson/Center TCR '87 Single Shot Rifle*  
*Uberti Rolling Block Baby Carbine*

**Drillings, Combination Guns, Double Rifles**

*Baretta Express SSO O/U Double Rifles*  
*Baretta Model 455 SxS Express Rifle*  
*Chapuis RGExpress Double Rifle*  
*Auguste Francotte Sidelock Double Rifles*  
*Auguste Francotte Boxlock Double Rifle*  
*Heym Model 55B O/U Double Rifle*  
*Heym Model 55FW O/U Combo Gun*  
*Heym Model 88b Side-by-Side Double Rifle*  
*Kodiak Mk. IV Double Rifle*  
*Kreighoff Teck O/U Combination Gun*  
*Kreighoff Trumpf Drilling*  
*Merkel Over/Under Combination Guns*  
*Merkel Drillings*  
*Merkel Model 160 Side-by-Side Double Rifles*  
*Merkel Over/Under Double Rifles*  
*Savage 24F O/U Combination Gun*  
*Savage 24F-12T Turkey Gun*  
*Springfield Inc. M6 Scout Rifle/Shotgun*  
*Tikka Model 412s Combination Gun*  
*Tikka Model 412S Double Fire*  
*A. Zoli Rifle-Shotgun O/U Combo*

**Rimfire Rifles—Autoloaders**

*AMT Lightning 25/22 Rifle*  
*AMT Lightning Small-Game Hunting Rifle II*  
*AMT Magnum Hunter Auto Rifle*  
*Anschutz 525 Deluxe Auto*  
*Armstrong Model 20P Auto Rifle*  
*Browning Auto-22 Rifle*  
*Browning Auto-22 Grade VI*  
*Krico Model 260 Auto Rifle*  
*Lakefield Arms Model 64B Auto Rifle*  
*Marlin Model 60 Self-Loading Rifle*  
*Marlin Model 60ss Self-Loading Rifle*  
*Marlin Model 70 HC Auto*  
*Marlin Model 990I Self-Loading Rifle*  
*Marlin Model 70P Papoose*  
*Marlin Model 922 Magnum Self-Loading Rifle*  
*Marlin Model 995 Self-Loading Rifle*  
*Norinco Model 22 ATD Rifle*  
*Remington Model 522 Viper Autoloading Rifle*

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*Remington 552BDL Speedmaster Rifle*  
*Ruger 10/22 Autoloading Carbine (w/o folding stock)*  
*Survival Arms AR-7 Explorer Rifle*  
*Texas Remington Revolving Carbine*  
*Voere Model 2115 Auto Rifle*

***Rimfire Rifles—Lever & Slide Action***

*Browning BL-22 Lever-Action Rifle*  
*Marlin 39TDS Carbine*  
*Marlin Model 39AS Golden Lever-Action Rifle*  
*Remington 572BDL Fieldmaster Pump Rifle*  
*Norinco EM-321 Pump Rifle*  
*Rossi Model 62 SA Pump Rifle*  
*Rossi Model 62 SAC Carbine*  
*Winchester Model 9422 Lever-Action Rifle*  
*Winchester Model 9422 Magnum Lever-Action Rifle*

***Rimfire Rifles—Bolt Actions & Single Shots***

*Anschutz Achiever Bolt-Action Rifle*  
*Anschutz 1416D/1516D Classic Rifles*  
*Anschutz 1418D/1518D Mannlicher Rifles*  
*Anschutz 1700D Classic Rifles*  
*Anschutz 1700D Custom Rifles*  
*Anschutz 1700 FWT Bolt-Action Rifle*  
*Anschutz 1700D Graphite Custom Rifle*  
*Anschutz 1700D Bavarian Bolt-Action Rifle*  
*Armscor Model 14P Bolt-Action Rifle*  
*Armscor Model 1500 Rifle*  
*BRNO ZKM-452 Deluxe Bolt-Action Rifle*  
*BRNO ZKM 452 Deluxe*  
*Beeman/HW 60-J-ST Bolt-Action Rifle*  
*Browning A-Bolt 22 Bolt-Action Rifle*  
*Browning A-Bolt Gold Medallion*  
*Cabanas Phaser Rifle*  
*Cabanas Master Bolt-Action Rifle*  
*Cabanas Espronceda IV Bolt-Action Rifle*  
*Cabanas Leyre Bolt-Action Rifle*  
*Chipmunk Single Shot Rifle*  
*Cooper Arms Model 36S Sporter Rifle*  
*Dakota 22 Sporter Bolt-Action Rifle*  
*Krico Model 300 Bolt-Action Rifles*  
*Lakefield Arms Mark II Bolt-Action Rifle*  
*Lakefield Arms Mark I Bolt-Action Rifle*  
*Magtech Model MT-22C Bolt-Action Rifle*  
*Marlin Model 880 Bolt-Action Rifle*  
*Marlin Model 881 Bolt-Action Rifle*  
*Marlin Model 882 Bolt-Action Rifle*  
*Marlin Model 883 Bolt-Action Rifle*  
*Marlin Model 883SS Bolt-Action Rifle*  
*Marlin Model 25MN Bolt-Action Rifle*  
*Marlin Model 25N Bolt-Action Repeater*  
*Marlin Model 15YN "Little Buckaroo"*  
*Mauser Model 107 Bolt-Action Rifle*  
*Mauser Model 201 Bolt-Action Rifle*  
*Navy Arms TU-KKW Training Rifle*  
*Navy Arms TU-33/40 Carbine*  
*Navy Arms TU-KKW Sniper Trainer*  
*Norinco JW-27 Bolt-Action Rifle*  
*Norinco JW-15 Bolt-Action Rifle*  
*Remington 541-T*  
*Remington 40-XR Rimfire Custom Sporter*  
*Remington 541-T HB Bolt-Action Rifle*  
*Remington 581-S Sportsman Rifle*  
*Ruger 77/22 Rimfire Bolt-Action Rifle*  
*Ruger K77/22 Varmint Rifle*  
*Ultra Light Arms Model 20 RF Bolt-Action Rifle*  
*Winchester Model 52B Sporting Rifle*



*KDF K15 American Bolt-Action Rifle*  
*Krico Model 600 Bolt-Action Rifle*  
*Krico Model 700 Bolt-Action Rifle*  
*Mauser Model 66 Bolt-Action Rifle*  
*Mauser Model 99 Bolt-Action Rifle*  
*McMillan Signature Classic Sporter*  
*McMillan Signature Super Varminter*  
*McMillan Signature Alaskan*  
*McMillan Signature Titanium Mountain Rifle*  
*McMillan Classic Stainless Sporter*  
*McMillan Talon Safari Rifle*  
*McMillan Talon Sporter Rifle*  
*Midland 1500S Survivor Rifle*  
*Navy Arms TU-33/40 Carbine*  
*Parker-Hale Model 81 Classic Rifle*  
*Parker-Hale Model 81 Classic African Rifle*  
*Parker-Hale Model 1000 Rifle*  
*Parker-Hale Model 1100M African Magnum*  
*Parker-Hale Model 1100 Lightweight Rifle*  
*Parker-Hale Model 1200 Super Rifle*  
*Parker-Hale Model 1200 Super Clip Rifle*  
*Parker-Hale Model 1300C Scout Rifle*  
*Parker-Hale Model 2100 Midland Rifle*  
*Parker-Hale Model 2700 Lightweight Rifle*  
*Parker-Hale Model 2800 Midland Rifle*  
*Remington Model Seven Bolt-Action Rifle*  
*Remington Model Seven Youth Rifle*  
*Remington Model Seven Custom KS*  
*Remington Model Seven Custom MS Rifle*  
*Remington 700 ADL Bolt-Action Rifle*  
*Remington 700 BDL Bolt-Action Rifle*  
*Remington 700 BDL Varmint Special*  
*Remington 700 BDL European Bolt-Action Rifle*  
*Remington 700 Varmint Synthetic Rifle*  
*Remington 700 BDL SS Rifle*  
*Remington 700 Stainless Synthetic Rifle*  
*Remington 700 MTRSS Rifle*  
*Remington 700 BDL Left Hand*  
*Remington 700 Camo Synthetic Rifle*  
*Remington 700 Safari*  
*Remington 700 Mountain Rifle*  
*Remington 700 Custom KS Mountain Rifle*  
*Remington 700 Classic Rifle*  
*Ruger M77 Mark II Rifle*  
*Ruger M77 Mark II Magnum Rifle*  
*Ruger M77RL Ultra Light*  
*Ruger M77 Mark II All-Weather Stainless Rifle*  
*Ruger M77 RSI International Carbine*  
*Ruger M77 Mark II Express Rifle*  
*Ruger M77VT Target Rifle*  
*Sako Hunter Rifle*  
*Sako Fiberclass Sporter*  
*Sako Safari Grade Bolt Action*  
*Sako Hunter Left-Hand Rifle*  
*Sako Classic Bolt Action*  
*Sako Hunter LS Rifle*  
*Sako Deluxe Lightweight*  
*Sako Super Deluxe Sporter*  
*Sako Mannlicher-Style Carbine*  
*Sako Varmint Heavy Barrel*  
*Sako TRG-S Bolt-Action Rifle*  
*Sauer 90 Bolt-Action Rifle*  
*Savage 110G Bolt-Action Rifle*  
*Savage 110CY Youth / Ladies Rifle*  
*Savage 110WLE One of One Thousand Limited Edition Rifle*  
*Savage 110GXP3 Bolt-Action Rifle*  
*Savage 110F Bolt-Action Rifle*  
*Savage 110FXP3 Bolt-Action Rifle*

*Savage 110GV Varmint Rifle*  
*Savage 112FV Varmint Rifle*  
*Savage Model 112FVS Varmint Rifle*  
*Savage Model 112BV Heavy Barrel Varmint Rifle*  
*Savage 116FSS Bolt-Action Rifle*  
*Savage Model 116FSK Kodiak Rifle*  
*Savage 110FP Police Rifle*  
*Steyr-Mannlicher Sporter Models SL, L, M, S, S/T*  
*Steyr-Mannlicher Luxus Model L, M, S*  
*Steyr-Mannlicher Model M Professional Rifle*  
*Tikka Bolt-Action Rifle*  
*Tikka Premium Grade Rifles*  
*Tikka Varmint/Continental Rifle*  
*Tikka Whitetail/Battue Rifle*  
*Ultra Light Arms Model 20 Rifle*  
*Ultra Light Arms Model 28, Model 40 Rifles*  
*Voere VEC 91 Lightning Bolt-Action Rifle*  
*Voere Model 2165 Bolt-Action Rifle*  
*Voere Model 2155, 2150 Bolt-Action Rifles*  
*Weatherby Mark V Deluxe Bolt-Action Rifle*  
*Weatherby Lasermark V Rifle*  
*Weatherby Mark V Crown Custom Rifles*  
*Weatherby Mark V Sporter Rifle*  
*Weatherby Mark V Safari Grade Custom Rifles*  
*Weatherby Weathermark Rifle*  
*Weatherby Weathermark Alaskan Rifle*  
*Weatherby Classicmark No. 1 Rifle*  
*Weatherby Weatherguard Alaskan Rifle*  
*Weatherby Vanguard VGX Deluxe Rifle*  
*Weatherby Vanguard Classic Rifle*  
*Weatherby Vanguard Classic No. 1 Rifle*  
*Weatherby Vanguard Weatherguard Rifle*  
*Wichita Classic Rifle*  
*Wichita Varmint Rifle*  
*Winchester Model 70 Sporter*  
*Winchester Model 70 Sporter WinTuff*  
*Winchester Model 70 SM Sporter*  
*Winchester Model 70 Stainless Rifle*  
*Winchester Model 70 Varmint*  
*Winchester Model 70 Synthetic Heavy Varmint Rifle*  
*Winchester Model 70 DBM Rifle*  
*Winchester Model 70 DBM-S Rifle*  
*Winchester Model 70 Featherweight*  
*Winchester Model 70 Featherweight WinTuff*  
*Winchester Model 70 Featherweight Classic*  
*Winchester Model 70 Lightweight Rifle*  
*Winchester Ranger Rifle*  
*Winchester Model 70 Super Express Magnum*  
*Winchester Model 70 Super Grade*  
*Winchester Model 70 Custom Sharpshooter*  
*Winchester Model 70 Custom Sporting Sharpshooter Rifle*

**Centerfire Rifles—Single Shot**

*Armsport 1866 Sharps Rifle, Carbine*  
*Brown Model One Single Shot Rifle*  
*Browning Model 1885 Single Shot Rifle*  
*Dakota Single Shot Rifle*  
*Desert Industries G-90 Single Shot Rifle*  
*Harrington & Richardson Ultra Varmint Rifle*  
*Model 1885 High Wall Rifle*  
*Navy Arms Rolling Block Buffalo Rifle*  
*Navy Arms #2 Creedmoor Rifle*  
*Navy Arms Sharps Cavalry Carbine*  
*Navy Arms Sharps Plains Rifle*  
*New England Firearms Handi-Rifle*  
*Red Willow Armory Ballard No. 5 Pacific*  
*Red Willow Armory Ballard No. 1.5 Hunting Rifle*  
*Red Willow Armory Ballard No. 8 Union Hill Rifle*

**Competition Rifles—Centerfire & Rimfire**

Anschutz 64-MS Left Silhouette  
Anschutz 1808D RT Super Match 54 Target  
Anschutz 1827B Biathlon Rifle  
Anschutz 1903D Match Rifle  
Anschutz 1803D Intermediate Match  
Anschutz 1911 Match Rifle  
Anschutz 54.18MS REP Deluxe Silhouette Rifle  
Anschutz 1913 Super Match Rifle  
Anschutz 1907 Match Rifle  
Anschutz 1910 Super Match II  
Anschutz 54.18MS Silhouette Rifle  
Anschutz Super Match 54 Target Model 2013  
Anschutz Super Match 54 Target Model 2007  
Beeman/Feinwerkbau 2600 Target Rifle  
Cooper Arms Model TRP-1 ISU Standard Rifle  
E.A.A./Weihrauch HW 60 Target Rifle  
E.A.A./HW 660 Match Rifle  
Finnish Lion Standard Target Rifle  
Krico Model 360 S2 Biathlon Rifle  
Krico Model 400 Match Rifle  
Krico Model 360S Biathlon Rifle  
Krico Model 500 Kricotronic Match Rifle  
Krico Model 600 Sniper Rifle  
Krico Model 600 Match Rifle  
Lakefield Arms Model 90B Target Rifle  
Lakefield Arms Model 91T Target Rifle  
Lakefield Arms Model 92S Silhouette Rifle  
Marlin Model 2000 Target Rifle  
Mauser Model 86-SR Specialty Rifle  
McMillan M-86 Sniper Rifle  
McMillan Combo M-87/M-88 50-Caliber Rifle  
McMillan 300 Phoenix Long Range Rifle  
McMillan M-89 Sniper Rifle  
McMillan National Match Rifle  
McMillan Long Range Rifle  
Parker-Hale M-87 Target Rifle  
Parker-Hale M-85 Sniper Rifle  
Remington 40-XB Rangemaster Target Centerfire  
Remington 40-XR KS Rimfire Position Rifle  
Remington 40-XBBR KS  
Remington 40-XC KS National Match Course Rifle  
Sako TRG-21 Bolt-Action Rifle  
Steyr-Mannlicher Match SPG-UIT Rifle  
Steyr-Mannlicher SSG P-I Rifle  
Steyr-Mannlicher SSG P-III Rifle  
Steyr-Mannlicher SSG P-IV Rifle  
Tanner Standard UIT Rifle  
Tanner 50 Meter Free Rifle  
Tanner 300 Meter Free Rifle  
Wichita Silhouette Rifle

**Shotguns—Autoloaders**

American Arms/Franchi Black Magic 48/AL  
Benelli Super Black Eagle Shotgun  
Benelli Super Black Eagle Slug Gun  
Benelli M1 Super 90 Field Auto Shotgun  
Benelli Montefeltro Super 90 20-Gauge Shotgun  
Benelli Montefeltro Super 90 Shotgun  
Benelli M1 Sporting Special Auto Shotgun  
Benelli Black Eagle Competition Auto Shotgun  
Beretta A-303 Auto Shotgun  
Beretta 390 Field Auto Shotgun  
Beretta 390 Super Trap, Super Skeet Shotguns  
Beretta Vittoria Auto Shotgun  
Beretta Model 1201F Auto Shotgun  
Browning BSA 10 Auto Shotgun



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*Browning Bsa 10 Stalker Auto Shotgun*  
*Browning A-500R Auto Shotgun*  
*Browning A-500G Auto Shotgun*  
*Browning A-500G Sporting Clays*  
*Browning Auto-5 Light 12 and 20*  
*Browning Auto-5 Stalker*  
*Browning Auto-5 Magnum 20*  
*Browning Auto-5 Magnum 12*  
*Churchill Turkey Automatic Shotgun*  
*Cosmi Automatic Shotgun*  
*Maverick Model 60 Auto Shotgun*  
*Mossberg Model 5500 Shotgun*  
*Mossberg Model 9200 Regal Semi-Auto Shotgun*  
*Mossberg Model 9200 USST Auto Shotgun*  
*Mossberg Model 9200 Camo Shotgun*  
*Mossberg Model 6000 Auto Shotgun*  
*Remington Model 1100 Shotgun*  
*Remington 11-87 Premier Shotgun*  
*Remington 11-87 Sporting Clays*  
*Remington 11-87 Premier Skeet*  
*Remington 11-87 Premier Trap*  
*Remington 11-87 Special Purpose Magnum*  
*Remington 11-87 SPS-T Camo Auto Shotgun*  
*Remington 11-87 Special Purpose Deer Gun*  
*Remington 11-87 SPS-BG-Camo Deer/Turkey Shotgun*  
*Remington 11-87 SPS-Deer Shotgun*  
*Remington 11-87 Special Purpose Synthetic Camo*  
*Remington SP-10 Magnum-Camo Auto Shotgun*  
*Remington SP-10 Magnum Auto Shotgun*  
*Remington SP-10 Magnum Turkey Combo*  
*Remington 1100 LT-20 Auto*  
*Remington 1100 Special Field*  
*Remington 1100 20-Gauge Deer Gun*  
*Remington 1100 LT-20 Tournament Skeet*  
*Winchester Model 1400 Semi-Auto Shotgun*

***Shotguns—Slide Actions***

*Browning Model 42 Pump Shotgun*  
*Browning BPS Pump Shotgun*  
*Browning BPS Stalker Pump Shotgun*  
*Browning BPS Pigeon Grade Pump Shotgun*  
*Browning BPS Pump Shotgun (Ladies and Youth Model)*  
*Browning BPS Game Gun Turkey Special*  
*Browning BPS Game Gun Deer Special*  
*Ithaca Model 87 Supreme Pump Shotgun*  
*Ithaca Model 87 Deerslayer Shotgun*  
*Ithaca Deerslayer II Rifled Shotgun*  
*Ithaca Model 87 Turkey Gun*  
*Ithaca Model 87 Deluxe Pump Shotgun*  
*Magtech Model 586-VR Pump Shotgun*  
*Maverick Models 88, 91 Pump Shotguns*  
*Mossberg Model 500 Sporting Pump*  
*Mossberg Model 500 Camo Pump*  
*Mossberg Model 500 Muzzleloader Combo*  
*Mossberg Model 500 Trophy Slugster*  
*Mossberg Turkey Model 500 Pump*  
*Mossberg Model 500 Bantam Pump*  
*Mossberg Field Grade Model 835 Pump Shotgun*  
*Mossberg Model 835 Regal Ulti-Mag Pump*  
*Remington 870 Wingmaster*  
*Remington 870 Special Purpose Deer Gun*  
*Remington 870 SPS-BG-Camo Deer/Turkey Shotgun*  
*Remington 870 SPS-Deer Shotgun*  
*Remington 870 Marine Magnum*  
*Remington 870 TC Trap*  
*Remington 870 Special Purpose Synthetic Camo*  
*Remington 870 Wingmaster Small Gauges*  
*Remington 870 Express Rifle Sighted Deer Gun*

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*Remington 879 SPS Special Purpose Magnum*  
*Remington 870 SPS-T Camo Pump Shotgun*  
*Remington 870 Special Field*  
*Remington 870 Express Turkey*  
*Remington 870 High Grades*  
*Remington 870 Express*  
*Remington Model 870 Express Youth Gun*  
*Winchester Model 12 Pump Shotgun*  
*Winchester Model 42 High Grade Shotgun*  
*Winchester Model 1300 Walnut Pump*  
*Winchester Model 1300 Slug Hunter Deer Gun*  
*Winchester Model 1300 Ranger Pump Gun Combo & Deer Gun*  
*Winchester Model 1300 Turkey Gun*  
*Winchester Model 1300 Ranger Pump Gun*

**Shotguns—Over/Unders**

*American Arms/Franchi Falconet 2000 O/U*  
*American Arms Silver I O/U*  
*American Arms Silver II Shotgun*  
*American Arms Silver Skeet O/U*  
*American Arms/Franchi Sporting 2000 O/U*  
*American Arms Silver Sporting O/U*  
*American Arms Silver Trap O/U*  
*American Arms WS/OU 12, TS/OU 12 Shotguns*  
*American Arms WT/OU 10 Shotgun*  
*Armsport 2700 O/U Goose Gun*  
*Armsport 2700 Series O/U*  
*Armsport 2900 Tri-Barrel Shotgun*  
*Baby Bretton Over/Under Shotgun*  
*Beretta Model 686 Ultralight O/U*  
*Beretta ASE 90 Competition O/U Shotgun*  
*Beretta Over/Under Field Shotguns*  
*Beretta Onyx Hunter Sport O/U Shotgun*  
*Beretta Model SO5, SO6, SO9 Shotguns*  
*Beretta Sporting Clay Shotguns*  
*Beretta 687EL Sporting O/U*  
*Beretta 682 Super Sporting O/U*  
*Beretta Series 682 Competition Over/Unders*  
*Browning Citori O/U Shotgun*  
*Browning Superlight Citori Over/Under*  
*Browning Lightning Sporting Clays*  
*Browning Micro Citori Lightning*  
*Browning Citori Plus Trap Combo*  
*Browning Citori Plus Trap Gun*  
*Browning Citori O/U Skeet Models*  
*Browning Citori O/U Trap Models*  
*Browning Special Sporting Clays*  
*Browning Citori GTI Sporting Clays*  
*Browning 325 Sporting Clays*  
*Centurion Over/Under Shotgun*  
*Chapuis Over/Under Shotgun*  
*Connecticut Valley Classics Classic Sporter O/U*  
*Connecticut Valley Classics Classic Field Waterfowler*  
*Charles Daly Field Grade O/U*  
*Charles Daly Lux Over/Under*  
*E.A.A./Sabatti Sporting Clays Pro-Gold O/U*  
*E.A.A./Sabatti Falcon-Mon Over/Under*  
*Kassnar Grade I O/U Shotgun*  
*Krieghoff K-80 Sporting Clays O/U*  
*Krieghoff K-80 Skeet Shotgun*  
*Krieghoff K-80 International Skeet*  
*Krieghoff K-80 Four-Barrel Skeet Set*  
*Krieghoff K-80/RT Shotguns*  
*Krieghoff K-80 O/U Trap Shotgun*  
*Laurona Silhouette 300 Sporting Clays*  
*Laurona Silhouette 300 Trap*  
*Laurona Super Model Over/Unders*  
*Ljutic LM-6 Deluxe O/U Shotgun*

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Marocchi Conquista Over/Under Shotgun  
Marocchi Avanza O/U Shotgun  
Merkel Model 200E O/U Shotgun  
Merkel Model 200E Skeet, Trap Over/Unders  
Merkel Model 203E, 303E Over/Under Shotguns  
Perazzi Mirage Special Sporting O/U  
Perazzi Mirage Special Four-Gauge Skeet  
Perazzi Sporting Classic O/U  
Perazzi MX7 Over/Under Shotguns  
Perazzi Mirage Special Skeet Over/Under  
Perazzi MX8/MX8 Special Trap, Skeet  
Perazzi MX8/20 Over/Under Shotgun  
Perazzi MX9 Single Over/Under Shotguns  
Perazzi MX12 Hunting Over/Under  
Perazzi MX28, MX410 Game O/U Shotguns  
Perazzi MX20 Hunting Over/Under  
Piotti Boss Over/Under Shotgun  
Remington Peerless Over/Under Shotgun  
Ruger Red Label O/U Shotgun  
Ruger Sporting Clays O/U Shotgun  
San Marco 12-Ga. Wildflower Shotgun  
San Marco Field Special O/U Shotgun  
San Marco 10-Ga. O/U Shotgun  
SKB Model 505 Deluxe Over/Under Shotgun  
SKB Model 685 Over/Under Shotgun  
SKB Model 885 Over/Under Trap, Skeet, Sporting Clays  
Stoeger/IGA Condor I O/U Shotgun  
Stoeger/IGA ERA 2000 Over/Under Shotgun  
Techni-Mec Model 610 Over/Under  
Tikka Model 412S Field Grade Over/Under  
Weatherby Athena Grade IV O/U Shotguns  
Weatherby Athena Grade V Classic Field O/U  
Weatherby Orion O/U Shotguns  
Weatherby II, III Classic Field O/Us  
Weatherby Orion II Classic Sporting Clays O/U  
Weatherby Orion II Sporting Clays O/U  
Winchester Model 1001 O/U Shotgun  
Winchester Model 1001 Sporting Clays O/U  
Pietro Zanoletti Model 2000 Field O/U

**Shotguns—Side by Sides**

American Arms Brittany Shotgun  
American Arms Gentry Double Shotgun  
American Arms Derby Side-by-Side  
American Arms Grulla #2 Double Shotgun  
American Arms WS/SS 10  
American Arms TS/SS 10 Double Shotgun  
American Arms TS/SS 12 Side-by-Side  
Arrieta Sidelock Double Shotguns  
Armsport 1050 Series Double Shotguns  
Arizaga Model 31 Double Shotgun  
AYA Boxlock Shotguns  
AYA Sidelock Double Shotguns  
Beretta Model 452 Sidelock Shotgun  
Beretta Side-by-Side Field Shotguns  
Crucelegui Hermanos Model 150 Double  
Chapuis Side-by-Side Shotgun  
E.A.A./Sabatti Saba-Mon Double Shotgun  
Charles Daly Model Dss Double  
Ferlib Model F VII Double Shotgun  
Auguste Francotte Boxlock Shotgun  
Auguste Francotte Sidelock Shotgun  
Garbi Model 100 Double  
Garbi Model 101 Side-by-Side  
Garbi Model 103A, B Side-by-Side  
Garbi Model 200 Side-by-Side  
Bill Hanus Birdgun Doubles  
Hatfield Uplander Shotgun

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*Merkell Model 8, 47E Side-by-Side Shotguns*  
*Merkel Model 47LSC Sporting Clays Double*  
*Merkel Model 47S, 147S Side-by-Sides*  
*Parker Reproductions Side-by-Side*  
*Piotti King No. 1 Side-by-Side*  
*Piotti Lunik Side-by-Side*  
*Piotti King Extra Side-by-Side*  
*Piotti Puma Side-by-Side*  
*Precision Sports Model 600 Series Doubles*  
*Rizzini Boxlock Side-by-Side*  
*Rizzini Sidelock Side-by-Side*  
*Stoeger/IGA Uplander Side-by-Side Shotgun*  
*Ugartechea 10-Ga. Magnum Shotgun*

**Shotguns—Bolt Actions & Single Shots**

*Armsport Single Barrel Shotgun*  
*Browning BT-99 Competition Trap Special*  
*Browning BT-99 Plus Trap Gun*  
*Browning BT-99 Plus Micro*  
*Browning Recoilless Trap Shotgun*  
*Browning Micro Recoilless Trap Shotgun*  
*Desert Industries Big Twenty Shotgun*  
*Harrington & Richardson Topper Model 098*  
*Harrington & Richardson Topper Classic Youth Shotgun*  
*Harrington & Richardson N.W.T.F. Turkey Mag*  
*Harrington & Richardson Topper Deluxe Model 098*  
*Krieghoff KS-5 Trap Gun*  
*Krieghoff KS-5 Special*  
*Krieghoff K-80 Single Barrel Trap Gun*  
*Ljutic Mono Gun Single Barrel*  
*Ljutic LTX Super Deluxe Mono Gun*  
*Ljutic Recoilless Space Gun Shotgun*  
*Marlin Model 55 Goose Gun Bolt Action*  
*New England Firearms Turkey and Goose Gun*  
*New England Firearms N.W.T.F. Shotgun*  
*New England Firearms Tracker Slug Gun*  
*New England Firearms Standard Pardner*  
*New England Firearms Survival Gun*  
*Perazzi TM1 Special Single Trap*  
*Remington 90-T Super Single Shotgun*  
*Snake Charmer II Shotgun*  
*Stoeger/IGA Reuna Single Barrel Shotgun*  
*Thompson/Center TCR '87 Hunter Shotgun.*

**§ 923. Licensing**

(a) \* \* \*

\* \* \* \* \*

(i) Licensed importers and licensed manufacturers shall identify by means of a serial number engraved or cast on the receiver or frame of the weapon, in such manner as the Secretary shall by regulations prescribe, each firearm imported or manufactured by such importer or manufacturer. *The serial number of any semiautomatic assault weapon manufactured after the date of the enactment of this sentence shall clearly show the date on which the weapon was manufactured. A large capacity ammunition feeding device manufactured after the date of the enactment of this sentence shall be identified by a serial number that clearly shows that the device was manufactured or imported after the effective date of this subsection, and such other identification as the Secretary may by regulation prescribe.*



**§ 924. Penalties**

(a)(1) Except as otherwise provided in this subsection, subsection (b), (c), or (f) of this section, or in section 929, whoever—

(A) knowingly makes any false statement or representation with respect to the information required by this chapter to be kept in the records of a person licensed under this chapter or in applying for any license or exemption or relief from disability under the provisions of this chapter;

(B) knowingly violates subsection (a)(4), (a)(6), (f), (k), [(or (q) of section 922)] (r), (v), or (x) of section 922;

\* \* \* \* \*

(6) A person who knowingly violates section 922(w) shall be fined not more than \$1,000, imprisoned not more than 6 months, or both. Section 3571 shall not apply to any offense under this paragraph.

\* \* \* \* \*

(c)(1) Whoever, during and in relation to any crime of violence or drug trafficking crime (including a crime of violence or drug trafficking crime which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device) for which he may be prosecuted in a court of the United States, uses or carries a firearm, shall, in addition to the punishment provided for such crime of violence or drug trafficking crime, be sentenced to imprisonment for five years, and if the firearm is a short-barreled rifle, short-barreled shotgun, or semiautomatic assault weapon, to imprisonment for ten years, and if the firearm is a machinegun, or a destructive device, or is equipped with a firearm silencer or firearm muffler, to imprisonment for thirty years. In the case of his second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for twenty years, and if the firearm is a machinegun, or a destructive device, or is equipped with a firearm silencer or firearm muffler, to life imprisonment without release. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the crime of violence or drug trafficking crime in which the firearm was used or carried. No person sentenced under this subsection shall be eligible for parole during the term of imprisonment imposed herein.

\* \* \* \* \*



#### SUPPLEMENTAL VIEWS OF HON. DAN GLICKMAN

I supported this bill because it is a narrowly crafted bill focused on specific weapons that have no business being on our streets. It is aimed at rapid fire weapons that have the sole purpose of killing people, and it is aimed at weapons that are more suited for the battlefield than the target range.

I believe that violence in our nation is getting out of hand. It is devastating to read that a student killed a student with a semi-automatic weapon. But it is equally devastating to hear of students killing students with anyone. What we really need to focus on is why students are engaging in violence in the first place. For this reason, I think this legislation must be viewed as part of the effort to reduce crime—in conjunction with the comprehensive crime bill that increases penalties, calls for tougher sentencing, provides for more jails and police officers, and provides for prevention programs.

But we must not abrogate the Second Amendment rights that are provided for in the Constitution. We must be extremely careful that in this legislation and in any legislation in the future, that we are not taking away guns that truly are used for sports, hunting, or self-defense.

I don't believe that this bill is the first step in a long road to banning guns. However, some of my constituents have expressed their fear that the Congress is moving slowly toward banning all guns for all people. We must be absolutely clear that this narrowly crafted legislation is not that first step and is not just a precursor to further, broader federal gun control and federal gun bans. Sport shooters and hunters tell me that they don't want assault weapons on the streets and in the hands of gang members any more than anyone else. But what they don't want is for Congress to take the short step to saying that the hunting rifles are being used on the streets, and should be taken away. And then the handguns are being used on the streets and should be taken away.

I want to make sure that what we are doing has a purpose—that it gets at the weapons that are being used by gang members and others in killing sprees or other random violence. I want to be able to assure the hunters, sport shooters and folks who want to be prepared for self-defense that we're not going to turn around and tell these gun owners that their sporting guns are illegal. This is a good bill, but let's tread very carefully before going any further.

Finally, because I want to make sure that there is no mistake about which guns are banned and which are exempt, especially guns that will be developed in the future, I offered an amendment during Committee markup that was accepted by the Committee. This amendment clarifies that simply because a gun is not on the list of specifically exempted guns, does not mean that that firearm is banned. A firearm must meet the specific criteria set out in the

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bill, or be specifically named as a banned gun before it can be banned. In other words, the exempted gun list is not exhaustive.

Furthermore, my amendment makes clear that no gun may be taken off the list of specifically exempted guns as long as the act is in effect. In this way, it is absolutely clear that the intent of Congress is that exempted guns remain exempted.

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DISSENTING VIEWS OF HON. F. JAMES SENSENBRENNER, JR., HON. GEORGE GEKAS, HON. LAMAR S. SMITH, HON. BILL MCCOLLUM, HON. HOWARD COBLE, HON. STEVE SCHIFF, AND HON. BOB GOODLATTE

We strongly oppose H.R. 4296 which would ban a variety of guns. The primary problem with this bill is that it targets law abiding citizens. If this bill passes, simply possessing a shotgun or rifle could land you in jail. You don't have to shoot anybody. You don't have to threaten anyone, just leaving it in the hall closet is enough to land you in jail. Even if you use the gun for self-defense, you can go to jail.

It is already a federal crime for convicted criminals to possess these weapons, or any other gun for that matter. The laws aimed at these criminals should be fully enforced before we start going into the homes of law-abiding citizens and arresting them.

Another problem with this legislation is that simple, cosmetic changes to certain guns would turn those guns from being illegal to, all of a sudden being legal. For example, simply by removing a pistol grip, or a bayonet mount from a rifle saves the owner from going to jail, but leaves the gun's performance unaffected.

Finally, the problem of these guns has been greatly exaggerated. Although semiautomatic weapons are used in the most high profile killings that make it on the nightly news, in fact, more than 99 percent of killers eschew assault rifles and use more prosaic devices. According to statistics from the Justice Department and reports from local law enforcement, five times as many people are kicked or beaten to death than are killed with assault rifles.

Passing this legislation is an excuse to avoid the real issues of violent crime, and threatens the rights of law-abiding citizens. Therefore, we oppose H.R. 4296.

F. JAMES SENSENBRENNER, Jr.  
GEORGE W. GEKAS.  
LAMAR SMITH.  
BILL MCCOLLUM.  
HOWARD COBLE.  
STEVE SCHIFF.  
BOB GOODLATTE.

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#### DISSENTING VIEWS OF HON. JACK BROOKS

I am strongly opposed to H.R. 4296, the Public Safety and Recreational Firearms Use Protection Act, because it misidentifies the causes of violent crime in the United States; diverts national priorities away from meaningful solutions to the problem of violent crime; punishes honest American gun owners who buy and use firearms for legitimate, lawful purposes such as, but not necessarily limited to, self-defense, target shooting, hunting, and firearms collection; fails to focus the punitive powers of government upon criminals. Most fundamentally, a prohibition on firearms violates the right of individual Americans to keep and bear arms, protected by the Second Amendment to the Constitution of the United States—a stark fact of constitutional life that the proponents of H.R. 4296 conveniently overlook in their zeal to abridge the rights of law-abiding citizens.

Reasons claimed to justify a prohibition on the firearms that would be affected by H.R. 4296 include the assertion that those particular firearms are used often in the commission of violent crimes. Data on the use of the firearms H.R. 4296 labels as “assault weapons” is not comprehensive, but such data as do exist consistently show that “assault weapons” are involved in a small percentage of violent crimes.

Most of the firearms labelled as “assault weapons” in H.R. 4296 are rifles—yet rifles are the general category of firearms used least often in the commission of violent crimes. The FBI Uniform Crime Reports, 1992, the most recent comprehensive data available, shows that rifles of any description are used in 3.1 percent of homicides, for example, while knives are used in 14.5 percent, fists and feet are used in 5 percent, and blunt objects are used in another 5 percent.

Professor Gary Kleck, of Florida State University, the 1993 recipient of the American Society of Criminology’s Hindelang Award, estimates that one-half of 1 percent of violent crimes are committed with “assault weapons.” University of Texas criminologist Sheldon Ekland-Olson estimates that one-quarter of rifle-related homicides may involve rifles chambered for military cartridges, which would include not only so-called “assault” type semi-automatic rifles, but non-semiautomatic rifles as well.

Since 1980, rifle-related homicides have declined by more than a third. According to the Metropolitan Police of Washington, D.C., the city which has the highest per capita rate of homicides of any major city in the United States, between 1980–1993 there occurred only 4 rifle-related homicides out of a total of more than 4,200 homicides in the period. The last rifle homicide during the period was recorded in 1984. Other data from D.C. police show that rifles are used in about one-tenth of 1 percent of robberies and assaults.

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The California Department of Justice surveyed law enforcement agencies in the state in 1990, as the state's legislature addressed "assault weapon" ban legislation there. The California Department of Justice found that only 3.7 percent of the firearms that are used in homicides and assaults were "assault weapons," defined there to include even more firearms than are defined as "assault weapons" in H.R. 4296.

Connecticut State Police report that less than 2 percent of firearms seized by police in the state are "assault weapons"; the Massachusetts State Police report that "assault" type rifles were used in one-half of 1 percent of homicides between 1985-1991.

I believe the proponents of H.R. 4296 are in error in claiming that the Bureau of Alcohol, Tobacco and Firearms (BATF) has traced a large number of "assault weapons" to crime. This claim has been effectively contradicted by both the BATF itself and the Congressional Research Service's (CRS) report on the BATF firearms tracing system. The BATF has stated that it "does not always know if a firearm being traced has been used in a crime." For instance, sometimes a firearm is traced simply to determine the rightful owner after it is found by a law enforcement officer.

Each year, the BATF traces about 50,000 firearms, yet only about 1 percent of these traces relate to "assault weapons" that have been seized by police in the course of investigations of violent crimes. Most "assault weapons" traced relate not to violent crime but to property violations, such as stolen guns being traced so that they may be returned to their lawful owners, violations of the Gun Control Act, and other non-violent circumstances.

As noted by BATF and by CRS in its report to Congress entitled "Assault Weapons: Military-Style Semiautomatic Firearms Facts and Issues" (1992) that firearms traces are not intended to "trace guns to crime," that few "assault weapons" traced relative to violent crime investigations, and that available state and local law enforcement agency data shows relatively little use of "assault weapons" are used frequently in violent crimes.

"Assault weapons" function in the same manner as any other semi-automatic firearm. They fire once with each pull of the trigger, like most firearms. They use the same ammunition as other firearms, both semi-automatic and not. Therefore, "assault weapons" are useful for target shooting, self-defense, hunting, and other legitimate purposes, just as other firearms are.

H.R. 4296 would prohibit rifles that are commonly used for competitive shooting, such as the Springfield N1A and the Colt "AR-15."

Accessories found on some models of "assault weapons," such as folding stocks, flash suppressors, pistol grips, bayonet lugs, and detachable magazines may look menacing to persons unfamiliar with firearms, but there is absolutely no evidence that any of these accessories provide any advantage to a criminal. As has been demonstrated on many occasions, firearms which H.R. 4296 specifically exempts from its prohibition, firearms not equipped with those accessories, can be fired at the same rate, with the same accuracy, and with the same power as "assault weapons."

Time and again, supporters of H.R. 4296 have claimed that "assault weapons" can be "spray-fired from the hip"; but this is simply

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not true. The firearms targeted in H.R. 4296 are not machineguns. Machineguns are restricted under the National Firearms Act of 1934. H.R. 4296's guns are semi-automatic, and fire only one shot at a time.

H.R. 4296's limitation on the capacity of ammunition feeding devices would do nothing to reduce the number of rounds available to a criminal. It has been demonstrated frequently that such devices can be switched in less than a second, so a criminal determined to have available a number of rounds greater than H.R. 4296 would permit in a single magazine would need only to possess additional smaller magazines. However, police have reportedly consistently that when criminals fire shots, they rarely discharge more than 2-5 rounds, well below the number of rounds H.R. 4296 would permit in a single magazine.

Most fundamentally, to impinge upon the constitutionally-protected rights of honest, law-abiding Americans on the basis of myth, misinformation, and newspaper headlines is a crime in and of itself. To protect against such a mockery of our Constitution and the infliction of such harm upon our citizens, I intend to oppose H.R. 4296 vigorously on the House floor in the hope that careful reflection will permit cooler heads and the light of reason to prevail.

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Def. Exhibit 27  
Page 001123

## **Exhibit 28**

More Than Half of Mass Shooters Used Assault Weapons and High-Capacity Magazines ... Page 1 of 4

# MotherJones

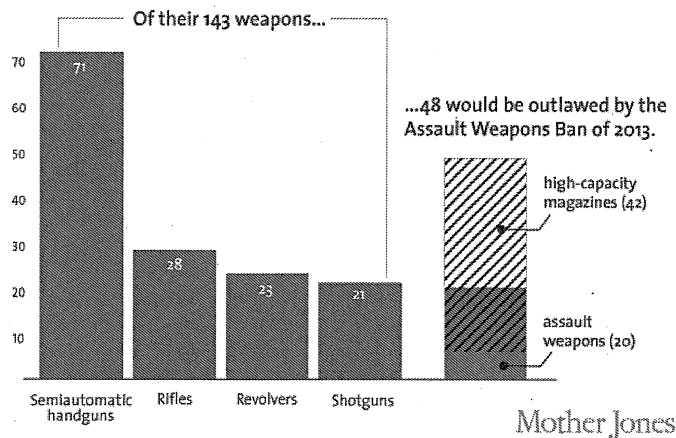
## More Than Half of Mass Shooters Used Assault Weapons and High-Capacity Magazines

Congress considers banning weapons that have caused carnage in shopping malls, schools, and city streets.

Mark Follman, Jaeah Lee and Gavin Aronsen February 27, 2013 11:01 AM

### Mass Shooters' Weapons, 1982-2012

More than half of all mass shooters possessed high-capacity magazines, assault weapons, or both.



The political fortunes of the Assault Weapons Ban of 2013 have looked dim from the start. But as Congress considers the new legislation put forth by Sen. Dianne Feinstein (D-Calif.), one thing is clear: If it were to pass, the bill would outlaw highly lethal firearms that dozens of mass shooters in the United States have used to unleash carnage.

More than half of the killers we studied in our investigation of 62 mass shootings over the last three decades possessed weapons that would be banned by Feinstein's bill, including various semi-automatic rifles, guns with military features, and handguns using magazines with more than 10 rounds. The damage these weapons can cause has been on grim display since last summer, from Aurora to Milwaukee to Minneapolis to Newtown, where attacks carried out with them left a total of 118 people injured and dead.

*"They got the most shots,"*

Ultimately, "assault weapon" and "high-capacity magazine" are political terms—there is no official or widely

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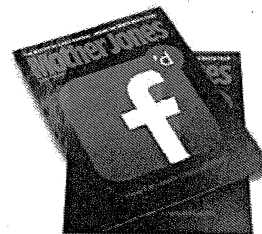
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More Than Half of Mass Shooters Used Assault Weapons and High-Capacity Magazines ... Page 2 of 4

firearms: semi-automatic handguns, rifles, revolvers, and shotguns. Across those four categories, we account for assault weapons and guns using high-capacity magazines that would be specifically outlawed by the new legislation. The data includes all guns recovered at the scene in each case, though not all of them were used in the crimes. Using this criteria we found:

- 42 guns with high-capacity magazines, across 31 mass-shooting cases
- 20 assault weapons, across 14 mass-shooting cases
- 33 cases involving assault weapons or high-capacity magazines (or both)

A total of 48 of these weapons (accounting for the overlap between the two categories) would be illegal under the new legislation.\*

Feinstein's Assault Weapons Ban of 2013 isn't just about mass shootings, of course. By far the most common weapons used in these cases are semi-automatic handguns—the type of weapon also at the heart of the daily gun violence plaguing American communities.

Banning high-capacity magazines may be especially key with regard to these guns, not only because they're popular among mass shooters, but also because they tend to increase casualties in street violence, as a veteran ATF agent explained to us in a recent interview.

The devices have appeal on the streets. A Chicago high school student recently described his preference for 30-round magazines to a reporter for *This American Life*: "They got the most shots. You can shoot forever. Let out 15. Run back to where you going. Somebody else come out and let out five more. There you go."

---

Don't miss our **yearlong investigation into gun laws and mass shootings**. And **click here for the full view** of the below data set.

**ICE Predicted Record-Breaking Arrest Numbers. Instead, They Keep Dropping.**

Noah Lanard

More Than Half of Mass Shooters Used Assault Weapons and High-Capacity Magazines ... Page 3 of 4

Mother Jones' Investigation: Assault Weapons and High-Capacity Magazines

Case & location	Date	Guns possessed	Guns with high-capacity magazines	Assault weapons per Feinstein bill
Sandy Hook Elementary	12/14/2012	10mm Glock, 9mm SIG	4	2
Accent Signage Systems	9/27/2012	9mm Glock semiautom	1	0
Sikh temple - Oak Creek,	8/5/2012	9mm Springfield Arm	1	0
Aurora movie theater - C	7/20/2012	Two .40-caliber Glock	2	1
Seattle cafe - WA	5/20/2012	Two .45-caliber semiau	unknown	0
Oikos University - Oakl	4/2/2012	.45-caliber semiautom	0	0
Su Jung Health Sauna - F	2/22/2012	.45-caliber semiautom	unknown	0
Hair salon - Seal Beach,	10/14/2011	.45-caliber Heckler & K	unknown	0
IHOP - Carson City, NV	9/6/2011	AK-47 Norinco Arms v	2	2
Tucson shooting - AZ	1/8/2011	9mm Glock 19 semiaut	1	0
Hartford Distributors - M	8/3/2010	Two 9mm Ruger SR9 s	1	0
Coffee shop - Parkland, V	11/29/2009	9mm Glock 17 semiaut	unknown	0
Fort Hood massacre - TX	11/5/2009	FN Five-seven semiau	1	0
Immigration center - Bine	4/3/2009	9mm Beretta, .45-calib	1	0
Nursing home - Carthage	3/29/2009	Winchester 1300 pump	0	0
Atlantis Plastics - Hende	6/25/2008	.45-caliber Hi-Point ser	unknown	0
Northern Illinois Univers	2/14/2008	9mm Glock 19, Hi-Poin	3	0
City Council - Kirkwood,	2/7/2008	.40-caliber Smith & We	unknown	0
Westroads Mall - Omaha	12/5/2007	WASR-10 Century Arm	1	1
Homecoming party - Crai	10/7/2007	AR-15 SWAT semiaut	unknown	1
Virginia Tech - Blacksbur	4/16/2007	9mm Glock 19, .22-cal	2	0
Trolley Square - Salt Lak	2/12/2007	Mossberg Maverick 88	0	0
Amish school - Lancaste	10/2/2006	Springfield semiautom	unknown	0
Capitol Hill afterparty - S	3/25/2006	.40-caliber Ruger, one	unknown	1
Goleta post office - CA	1/30/2006	9mm Smith & Wesson	1	0
Red Lake Senior High Sc	3/21/2005	.40-caliber Glock 23, .2	unknown	0
Living Church of God - B	3/12/2005	9mm Beretta semiaut	unknown	0
Damageplan show - Colu	12/8/2004	9mm Beretta 92FS sen	unknown	0
Lockheed Martin - Meridi	7/8/2003	.45-caliber Ruger P90	unknown	0
Navistar - Melrose Park,	2/5/2001	SKS 1954R, .30-caliber	unknown	0
Edgewater Technology -	12/26/2000	.32-caliber Retolaza se	1	1
Radisson Bay Harbor Inn	12/30/1999	9mm Lorcin semiaut	unknown	0
Xerox office - Honolulu	11/2/1999	9mm Glock 17 semiaut	1	0
Wedgwood Baptist - Fort	9/15/1999	.380-caliber, 9mm Rug	1	0
Day trader spree - Atlant	7/29/1999	.45-caliber Colt 1911-A	unknown	0
Columbine High School	4/20/1999	9mm Intratec DC-9 sen	1	2
Thurston High School - S	5/21/1998	9mm Glock, .22-caliber	2	0
Westside Middle School	3/24/1998	FIE 380, .380-caliber S	1	0
Connecticut Lottery - Ne	3/6/1998	9mm semiautomatic ha	1	0
Caltrans maintenance ya	12/18/1997	7.62mm AK-47 Chinese	1	1
R.E. Phelon - Aiken, SC	9/15/1997	9mm semiautomatic ha	unknown	0
Municipal trailer - Fort L	2/9/1996	9mm Glock semiautom	unknown	0
Walter Rossler - Corpus	4/3/1995	9mm Ruger semiautom	unknown	0
Fairchild Air Force Base	6/20/1994	MAK-90 semiautomatic	1	1
Chuck E. Cheese's - Auri	12/14/1993	.25-caliber semiautom	unknown	0
Long Island Rail Road - C	12/7/1993	9mm Ruger P89 semia	1	0
Luigi's - Fayetteville, NC	8/6/1993	.22-caliber rifle; two 12-	unknown	0
101 California Street - Sa	7/1/1993	Two Intratec DC-9, .45-	3	2
County office - Watkins C	10/15/1992	9mm Llama semiautom	unknown	0
Lindhurst High School - C	5/1/1992	.22-caliber sawed-off ri	unknown	0
Royal Oak post office - W	11/14/1991	.22-caliber Ruger sawe	unknown	0
University of Iowa - Iowa	11/1/1991	.38-caliber Taurus rev	0	0
Luby's - Killeen, TX	10/16/1991	9mm Glock 17, 9mm R	2	0
GMAC - Jacksonville, FL	6/18/1990	.30-caliber Universal M	1	0
Standard Gravure - Louis	9/14/1989	Two Intratec MAC-11, f	1	3
Stockton schoolyard - St	1/17/1989	9mm Taurus semiaut	1	1
ESL - Sunnyvale, CA	2/16/1988	.380 ACP Browning, 9r	unknown	0
Shopping centers spree	4/23/1987	Sturm, Ruger Mini-14 s	1	0
Edmond post office - OK	8/20/1986	.22-caliber, two .45-cal	unknown	0
McDonald's - San Ysidro	7/18/1984	9mm Browning P85 Hi-	1	1
Dallas nightclub - TX	6/29/1984	9mm Smith & Wesson	1	0
Welding shop - Miami	8/20/1982	Mossberg 500 Persuad	0	0

Assault weapons and high-cap mags | [Weapon categories](#)

Correction: Due to a labeling mistake, the chart at the top originally showed a total of 62 weapons rather than 48.



Mark Follman

Mark Follman is the national affairs editor at Mother Jones. Contact him with tips or feedback at [mfollman@motherjones.com](mailto:mfollman@motherjones.com).

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More Than Half of Mass Shooters Used Assault Weapons and High-Capacity Magazines ... Page 4 of 4

**Jaeah Lee** 

Jaeah is a former reporter at *Mother Jones*. For more of her stories, click here.

**Gavin Aronsen** 

For more of Gavin's stories, click here.

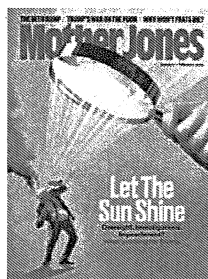
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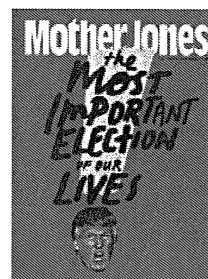
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## Exhibit 29



Date of Hearing: June 14, 2016  
Counsel: Gabriel Caswell

ASSEMBLY COMMITTEE ON PUBLIC SAFETY

Reginald Byron Jones-Sawyer, Sr., Chair

SB 880 (Hall) – As Amended May 17, 2016

**SUMMARY:** Redefines what constitutes an assault weapon in order to close the bullet button loophole. Also requires registration of weapons previously not prohibited, under the new definition. Specifically, **this bill**:

- 1) Revises the definition of “assault weapon” to mean "a semiautomatic centerfire rifle, or a semiautomatic pistol that does not have a fixed magazine but has any one of those specified attributes."
- 2) Defines “fixed magazine” to mean "an ammunition feeding device contained in, or permanently attached to, a firearm in such a manner that the device cannot be removed without disassembly of the firearm action."
- 3) Exempts a person who possessed an assault weapon prior to January 1, 2017, if specified requirements are met.
- 4) Requires that any person who, from January 1, 2001, to December 31, 2016, lawfully possessed an assault weapon that does not have a fixed magazine, as defined, register the firearm with the Department of Justice (DOJ) before January 1, 2018.
- 5) Permits the DOJ to increase the \$20 registration fee as long as it does not exceed the reasonable processing costs of the department.
- 6) Requires registrations to be submitted electronically via the Internet utilizing a public-facing application made available by the DOJ.
- 7) Requires the registration to contain specified information, including, but not limited to, a description of the firearm that identifies it uniquely and specified information about the registrant.
- 8) Permits the DOJ to charge a fee of up to \$15 per person for registration through the internet, not to exceed the reasonable processing costs of the department to be paid and deposited, as specified, for purposes of the registration program.
- 9) Requires the DOJ to adopt regulations for the purpose of implementing those provisions and would exempt those regulations from the Administrative Procedure Act.

AG00014486

**EXISTING LAW:**

- 1) Contains legislative findings and declarations that the proliferation and use of assault and .50 BMG rifles poses a threat to the health, safety, and security of all citizens of California. (Pen. Code, § 30505.)
- 2) States legislative intent to place restrictions on the use of assault weapons and .50 BMG rifles and to establish a registration and permit procedure for their lawful sale and possession. (Pen. Code, § 30505.)
- 3) Prohibits several categories of assault weapons:
  - a) Specified firearms listed by name and others listed by series (Pen. Code, § 30510);
  - b) Semiautomatic centerfire rifles or semiautomatic pistols having the capacity to accept a detachable magazine and also having one of several specified characteristics;
  - c) Semiautomatic centerfire rifles or semiautomatic pistols with a fixed magazine having the capacity to hold more than 10 rounds;
  - d) Semiautomatic centerfire rifles with an overall length of less than 30 inches;
  - e) Semiautomatic shotguns having two specified characteristics;
  - f) Semiautomatic shotguns having the capacity to accept a detachable magazine; and,
  - g) Any shotgun with a revolving cylinder. (Pen. Code, § 30515.)
- 4) Defines a "detachable magazine" as any ammunition feeding device that can be removed readily from the firearm with neither disassembly of the firearm action nor use of a tool being required. A bullet or ammunition cartridge is considered a tool. Ammunition feeding device includes any belted or linked ammunition, but does not include clips, en bloc clips, or stripper clips that load cartridges into the magazine. (11 Cal. Code Regs. Section 5469.)
- 5) Bans the manufacture, distribution, transportation, importation, sale, gift or loan of an assault weapon. (Pen. Code, § 30600, subd. (a).)
- 6) Makes the possession of an assault weapon a criminal offense, subject to certain exceptions. (Pen. Code, § 30605.)
- 7) Defines a ".50 BMG rifle" as "a center fire rifle that can fire a .50 BMG cartridge and is not already an assault weapon or a machinegun." (Pen. Code, § 30530.)
- 8) Bans the manufacture, distribution, transportation, importation, sale, gift, loan, or possession of .50 BMG rifles. (Pen. Code §§ 30600 & 30610.)
- 9) Exempts the DOJ, law enforcement agencies, military forces, and other specified agencies from the prohibition against sales to, purchase by, importation of, or possession of assault

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weapons or .50 BMG rifles. (Pen. Code, § 30625.)

- 10) Requires that any person who lawfully possesses an assault weapon prior to the date it was specified as an assault weapon to register the firearm with DOJ, as specified. (Pen. Code, § 30900 et. seq.)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

- 1) **Author's Statement:** According to the author, "bullet button-equipped semi-automatic weapons have no legitimate use for sport hunters or competitive shooters. They are designed only to facilitate the maximum destruction of human life. Such weapons have been used in a number of recent gun attacks including the recent terrorist attack in San Bernardino that left 14 Californians dead and 21 injured. Too many Californians have died at the hands of these dangerous weapons.

"SB 880 will make our communities safer and upholds our commitment to reduce gun violence in California by closing the bullet button loophole in California's Assault Weapons Ban. This bill clarifies the definition of assault weapons and provides the DOJ the authority to bring existing regulations into conformity with the original intent of California's Assault Weapon Ban. Absent this bill, the assault weapon ban is severely weakened, and these types of military-style firearms will continue to proliferate on our streets and in our neighborhoods."

- 2) **California's Assault Weapons Ban:** The origin of and subsequent modifications to the assault weapons ban in California are described by the federal Court of Appeal in the following extended excerpt from *Silveira v. Lockyer*, 312 F.3d 1052 (9th Cir. 2002) (as amend. Jan. 27, 2003).

In response to a proliferation of shootings involving semi-automatic weapons, the California Legislature passed the Roberti-Roos Assault Weapons Control Act (AWCA) in 1989. The immediate cause of the AWCA's enactment was a random shooting earlier that year at the Cleveland Elementary School in Stockton, California. An individual armed with an AK-47 semi-automatic weapon opened fire on the schoolyard, where 300 pupils were enjoying their morning recess. Five children ages six to nine were killed, and one teacher and 29 children were wounded.

The California Assembly met soon thereafter in an extraordinary session called for the purpose of enacting a response to the Stockton shooting. The legislation that followed, the AWCA, was the first legislative restriction on assault weapons in the nation, and was the model for a similar federal statute enacted in 1994. The AWCA renders it a felony offense to manufacture in California any of the semi-automatic weapons specified in the statute, or to possess, sell, transfer, or import into the state such weapons without a permit. The statute contains a grandfather clause that permits the ownership of assault weapons by individuals who lawfully purchased them before the statute's enactment, so long as the owners register the weapons with DOJ. The grandfather clause, however, imposes significant restrictions on the use of weapons that are registered pursuant to its provisions. Approximately 40 models of firearms are listed in the statute as subject to its restrictions. The specified weapons

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include “civilian” models of military weapons that feature slightly less firepower than the military-issue versions, such as the Uzi, an Israeli-made military rifle; the AR-15, a semi-automatic version of the United States military's standard-issue machine gun, the M-16; and the AK-47, a Russian-designed and Chinese-produced military rifle. The AWCA also includes a mechanism for the Attorney General to seek a judicial declaration in certain California superior courts that weapons identical to the listed firearms are also subject to the statutory restrictions.

The AWCA includes a provision that codifies the legislative findings and expresses the legislature's reasons for passing the law: “The Legislature hereby finds and declares that the proliferation and use of assault weapons poses a threat to the health, safety, and security of all citizens of this state. The Legislature has restricted the assault weapons specified in [the statute] based upon finding that each firearm has such a high rate of fire and capacity for firepower that its function as a legitimate sports or recreational firearm is substantially outweighed by the danger that it can be used to kill and injure human beings. It is the intent of the Legislature in enacting this chapter to place restrictions on the use of assault weapons and to establish a registration and permit procedure for their lawful sale and possession. It is not, however, the intent of the Legislature by this chapter to place restrictions on the use of those weapons which are primarily designed and intended for hunting, target practice, or other legitimate sports or recreational activities.”

In 1999, the Legislature amended the AWCA in order to broaden its coverage and to render it more flexible in response to technological developments in the manufacture of semiautomatic weapons. The amended AWCA retains both the original list of models of restricted weapons, and the judicial declaration procedure by which models may be added to the list. The 1999 amendments to the AWCA statute add a third method of defining the class of restricted weapons: the amendments provide that a weapon constitutes a restricted assault weapon if it possesses certain generic characteristics listed in the statute. Examples of the types of weapons restricted by the revised AWCA include a “semiautomatic, center-fire rifle that has a fixed magazine with the capacity to accept more than 10 rounds,” and a semiautomatic, centerfire rifle that has the capacity to accept a detachable magazine and also features a flash suppressor, a grenade launcher, or a flare launcher. The amended AWCA also restricts assault weapons equipped with “barrel shrouds,” which protect the user's hands from the intense heat created by the rapid firing of the weapon, as well as semiautomatic weapons equipped with silencers.

- 3) **Changes This Bill Makes to the AWCA:** As the Court explained, in 1999 the assault weapons ban was amended to expand the definition of an assault weapon to include a definition by the generic characteristics, specifically, to include a “semiautomatic, centerfire rifle that has the capacity to accept a detachable magazine” in addition to one of several specified characteristics, such as a grenade launcher or flash suppressor. [SB 23 (Perata) Statutes of 1999, Chapter 129, Section 7 et seq.] SB 23 was enacted in response to the marketing of so-called “copycat” weapons - firearms that were substantially similar to weapons on the prohibited list but differed in some insignificant way, perhaps only the name of the weapon, thereby defeating the intent of the ban.

SB 23's generic definition of an assault weapon was intended to close the loophole in the law created by its definition of assault weapons as only those specified by make and model. Regulations promulgated after the enactment of SB 23 define a detachable magazine as any



ammunition feeding device that can be removed readily from the firearm with neither disassembly of the firearm action nor use of a tool being required. A bullet or ammunition cartridge is considered a tool. In response to this definition, a new feature has been developed by firearms manufacturers to make military-style, high-powered, semi-automatic rifles "California compliant," the bullet button.

In 2012, researchers at the nonprofit Violence Policy Center in Washington, D.C. released a paper describing the phenomenon of the bullet button and its effect on California's assault weapons ban:

***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. 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. (*Bullet Buttons, The Gun Industry's Attack on California's Assault Weapons Ban*, Violence Policy Center, Washington D.C., May 2012. )

One approach to this issue, taken by SB 249 (Yee) in 2012 and SB 47 (Yee) of 2014, as well as AB 1664 (Levine) of this session, and this bill, amends the statute to replace the language regarding detachable magazines. This approach also defines a "detachable magazine" as "an ammunition feeding device that can be removed readily from the firearm without disassembly of the firearm action, including an ammunition feeding device that can be removed readily from the firearm with the use of a tool." In other words, a semiautomatic rifle could have a detachable magazine, as long as that rifle did not also have any of the six prohibited features or that rifle could have the prohibited features as long as it had a fixed

magazine.

Proponents argue the feature that makes one semi-automatic rifle capable of killing or wounding more people in a shorter amount of time than another is the capacity to rapidly reload large amounts of ammunition. For example, proponents note that, in 2011, a man opened fire on teenagers at a summer youth camp in Norway, killing 69 and wounding another 110, using a high-powered, semi-automatic rifle, the .223 caliber Ruger Mini-14. That rifle had none of the features listed in California's definition of an assault weapon and it is a perfectly legal weapon in California; supporters of this bill submit that what made that weapon such an effective tool of mass murder is the fact that the killer was able to rapidly reload one magazine after another of ammunition.

- 4) **Constitutionality:** The Constitutionality of California's assault weapons ban has been upheld by both the California Supreme Court [*Kasler v. Lockyer*, 23 Cal. 4th 472 (2000)] and the federal Court of Appeal. [*Silveira v. Lockyer*, 312 F.3d 1052 (9th Cir. 2002) (as amend. Jan. 27, 2003).] While the California Supreme Court rejected allegations that the law violated equal protection guarantees, the separation of powers, and failed to provide adequate notice of what was prohibited under the law, the Ninth Circuit Court of Appeal decision in *Silveira* was based largely on its interpretation of the Second Amendment right to keep and bear arms. The Second Amendment of the Constitution states, "A well regulated Militia, being necessary to the security of a free State, the right of the people to keep and bear Arms, shall not be infringed." (United States Const. Amend. 2.) The *Silveira* Court based its ruling on the widely held interpretation of the Second Amendment known as the "collective rights" view, that the right secured by the Second Amendment relates to firearm ownership only in the context of a "well regulated militia." [*Silveira v. Lockyer*, 312 F.3d 1052, 1086 (9th Cir. Cal. 2002).]

The *Silveira* Court's interpretation of the meaning of the Second Amendment has since been squarely rejected by the U.S. Supreme Court in *District of Columbia v. Heller*, 554 U.S. 570 (2008) and *McDonald v. City of Chicago*, 130 S. Ct. 3020 (2010). Whether the *Heller* and *McDonald* cases mean that California's assault weapons ban violates the Second Amendment and is, therefore, unconstitutional is a different matter.

In *Heller*, the Supreme Court rejected the "collective rights" view of the Second Amendment and, instead, endorsed the "individual rights" interpretation, that the Second Amendment protects the right of each citizen to firearm ownership. After adopting this reading of the Second Amendment, the Supreme Court held that federal law may not prevent citizens from owning a handgun in their home. (*District of Columbia v. Heller*, 554 U.S. 570, 683-684.) In the *McDonald* case, the Supreme Court extended this ruling to apply to laws passed by the 50 states. (*McDonald v. City of Chicago*, 130 S. Ct. 3020, 3050.)

In deciding that the Second Amendment guaranteed the right to own a handgun in the home for self-defense, the Supreme Court stated that this ruling has its limitations:

"Like most rights, the right secured by the Second Amendment is not unlimited. From Blackstone through the 19th-century cases, commentators and courts routinely explained that the right was not a right to keep and carry any weapon whatsoever in any manner whatsoever and for whatever purpose. For example, the majority of the 19th-century courts to consider the question held that prohibitions on carrying concealed weapons were lawful under the



Second Amendment or state analogues. Although we do not undertake an exhaustive historical analysis today of the full scope of the Second Amendment, nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms."

- 5) **Governor's Veto Message of 2013's SB 374 (Steinberg):** Governor Brown vetoed somewhat similar legislation (requiring a fixed magazine) in 2013 with the following veto message:

"I am returning Senate Bill 374 without my signature.

"The State of California already has some of the strictest gun laws in the country, including bans on military-style assault rifles and high-capacity ammunition magazines.

"While the author's intent is to strengthen these restrictions, this bill goes much farther by banning any semi-automatic rifle with a detachable magazine. This ban covers low-capacity rifles that are commonly used for hunting, firearms training, and marksmanship practice, as well as some historical and collectible firearms. Moreover, hundreds of thousands of current gun owners would have to register their rifles as assault weapons and would be banned from selling or transferring them in the future.

"Today I signed a number of bills that strengthen California's gun laws, including AB 48, which closes a loophole in the existing ban on dangerous high-capacity magazines. I also signed AB 1131 and SB 127, which restrict the ability of mentally unstable people to purchase or possess guns.

"I don't believe that this bill's blanket ban on semi-automatic rifles would reduce criminal activity or enhance public safety enough to warrant this infringement on gun owners' rights."

- 6) **Argument in Support:** According to the *Law Center to Prevent Gun Violence*, "The California Legislature recognized long ago—after a gunman with an assault weapon shot 34 children at Cleveland Elementary School in Stockton, California—that these military-grade weapons of war have no place in our communities. Since 1989, California has led the nation in enacting common sense gun safety laws to keep assault weapons off our streets. However, the gun industry has repeatedly skirted the limits of this law and exploited its loopholes in order to continue selling military-style weaponry within the state.

"Existing California law defines prohibited assault weapons to include firearms that have both the capacity to accept a detachable magazine and specified military-style features. The ability to accept a detachable magazine allows a shooter to quickly reload an assault weapon to continue firing and killing without interruption.

"California's assault weapons ban does not define the term 'detachable magazine,' however. Perplexingly, current DOJ regulations define 'detachable magazine' in a manner that runs counter to both the spirit and the letter of the state's assault weapons ban. Under these regulations' definition, a weapon is not considered to have a detachable magazine, and is

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therefore not a prohibited assault weapon, if a 'tool' is used to release the firearm's magazine instead of the shooter's finger alone. The regulations specifically state that "a bullet or an ammunition feeding device is considered a tool."

"The gun industry has exploited this dangerous loophole in recent years by marketing 'California compliant' assault weapons that are equipped with a 'bullet button.' These weapons are the functional equivalents of illegal assault weapons in every respect, except that the shooter uses a bullet, magnet, or other instrument, instead of his or her finger, to depress the button that releases the weapon's magazine. These weapons may be reloaded as quickly and efficiently as prohibited assault weapons, but they have been permitted to flood into this state at an alarming rate, threatening Californians' safety.

"SB 880 would further the letter and spirit of California's assault weapons law by adding a statutory definition of 'fixed magazine' to clarify that bullet button weapons are illegal assault weapons. This definition would establish that firearms like bullet button weapons, whose magazines may be removed and reloaded without disassembling the firearm action, do not have 'fixed magazines.' Individuals who lawfully obtained these weapons prior to January 1, 2017, would be required to register their weapons with DOJ.

"A December 2015 mass shooting tragedy illustrates the compelling need for this legislation. On that day, two radicalized assailants used bullet button weapons to shoot 36 people in a San Bernardino community building in the span of less than four minutes. The 'California compliant' bullet button weapons they used were designed to inflict maximal carnage on military battlefields and were nearly indistinguishable from illegal assault weapons. Any legitimate function these weapons might serve in sport or recreation is substantially outweighed by the danger that they may be used to—and in fact have been used to—quickly and efficiently take large numbers of human lives. By prohibiting all future manufacturing, possession, and sale of these weapons, SB 880 would help protect the public and law enforcement from battlefield weaponry that has no place in our civilian communities.

"This legislation is substantively similar to AB 1664 (Levine), which recently passed with strong support in this Committee and on the Assembly floor."

- 7) **Argument in Opposition:** According to the *Firearms Policy Coalition*, "On behalf of the members and supporters of Firearms Policy Coalition, I respectfully submit our opposition to Senate Bill 880 (Hall and Glazer) and respectfully request your 'NO' vote.

"SB 880 seeks to expand the ban on so-called 'assault weapon' through vague language, by re-defining the term 'detachable magazine' to mean 'an ammunition feeding device that can be removed readily from the firearm without disassembly of the firearm action, including an ammunition feeding device that can be removed readily from the firearm with the use of a tool.'

"SB 880 would ban millions of semi-automatic rifles protected by the Second Amendment to the United States Constitution and violate the civil rights of every law-abiding person in (and visitor to) California, moving the goal posts yet again for the millions of law abiding residents and visitors who have [quite reasonably, given the volume] struggled for years to keep up with the frenetic pace of California's ever-increasing and expensive firearm regulations.



"The California Department of Justice (DOJ) will have to start from scratch to create new regulations, new forms, new databases and new online interfaces. Even with modest compliance by the public, the already struggling DOJ will have to hire or re-purpose dozens of staff in order to process millions of firearms lawfully owned by hundreds of thousands of California residents.

"Law enforcement will find cause to arrest thousands of residents and visitors annually as SB 880 wraps in tens of millions of firearms owned by millions of Californians and visitors. This will burden the courts and the correctional system—with people who are otherwise law-abiding.

"To summarize;

- "SB 880's uninformed new definitions put millions of law-abiding residents and visitors in to our jails and prisons and therefore probation and parole.
- "SB 880 contains no provision for outreach to the millions of Californians who have lawfully acquired firearms that would be subject to SB 880's reach.
- "SB 880 contains no provision for educating law enforcement officers or prosecutors—the very people who will have to interpret and enforce it—which will lead to false arrests and ruined lives.

"SB 880 creates overnight felons for mere possession, transfer, transport or inheritance of common, constitutionally protected items, creating a crisis for residents and visitors who have been law abiding all their lives and could lose all they have worked for —by simply exercising a fundamental right."

**8) Related Legislation:**

- a) AB 1663 (Chiu) takes a different approach to closing the bullet button loophole. AB 1663 was held in Assembly Appropriations Committee.
- b) AB 1664 (Levine) is substantially similar to this legislation. AB 1664 is currently awaiting a hearing in Senate Public Safety.

**9) Prior Legislation:**

- a) SB 47 (Yee), of the 2013-2014 Legislative Session, would have closed the bullet button loophole by redefining an assault weapon in statute as 'a semiautomatic, centerfire rifle that does not have a fixed magazine' and has any one of several specified features. SB 47 was held on the Assembly Appropriations Committee suspense file.
- b) SB 374 (Steinberg), of the 2013-2014 Legislative Session, would have closed the bullet button loophole by redefining an assault weapon as it pertains to rifles and defines "detachable magazines" and "fixed magazines." Specifies that rifles which are not assault weapons have fixed magazines. SB 347 was vetoed by the Governor.

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- c) SB 249 (Yee), of the 2011-12 Legislative Session, would have prohibited any person from importing, making, selling, loaning, transferring or possessing any conversion kit designed to convert certain firearms with a fixed magazine into firearms with a detachable magazine. SB 249 was held on the Assembly Appropriations Committee suspense file.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

American Academy of Pediatrics  
American College of Emergency Physicians, California Chapter  
Bend the Arc  
Brady Campaign to Prevent Gun Violence, Orange County  
Brotherhood Crusade  
California Attorney General  
California Academy of Family Physicians  
California Catholic Conference  
California Chapters of the Brady Campaign  
California Communities United Institute  
California State PTA  
Charles R. Drew University of Medicine and Science  
City of Berkeley  
City of Long Beach  
City of Los Angeles  
City of Oakland  
Coalition Against Gun Violence  
Community Clinic Association  
Courage Campaign  
International Health and Epidemiology Research Center  
Law Center to Prevent Gun Violence  
Laguna Woods Democratic Club  
Nevada County Democrats  
Peace Over Violence  
Physicians for Social Responsibility, Sacramento  
Physicians for Social Responsibility, San Francisco Bay  
Rainbow Services  
Santa Clara County Board of Supervisors  
Violence Prevention Coalition  
Youth Alive

31 private individual

**Opposition**

California Rifle and Pistol Association  
California Sportsman's Lobby  
California State Sheriffs' Association  
California Waterfowl Association

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Crossroads of the West  
Gun Owners of California  
Firearms Policy Coalition  
National Rifle Association  
National Shooting Sports Foundation  
Outdoor Sportsmen's Coalition of California  
Rick Farinelli, District 3 Supervisor, Madera County  
Safari Club International  
San Bernardino Sheriff's Office

**Analysis Prepared by:** Gabriel Caswell / PUB. S. / (916) 319-3744

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<sup>i</sup> 11 CCR 5469.

## Exhibit 30



U.S. Department of Justice  
Office of Justice Programs  
National Institute of Justice



DECEMBER 2014

NATIONAL INSTITUTE OF JUSTICE

# GUIDE BODY ARMOR

Selection &  
Application Guide  
0101.06  
to Ballistic-Resistant  
Body Armor

**NIJ**

4207

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# **Selection and Application Guide to Ballistic-Resistant Body Armor**

**For Law Enforcement, Corrections and Public Safety**

NIJ Selection and Application Guide-0101.06

December 2014

NCJ 247281





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## Foreword



The U.S. Department of Justice, Office of Justice Programs, National Institute of Justice (NIJ), has developed this document, NIJ Guide-0101.06, *Selection and Application Guide to Ballistic-Resistant Body Armor for Law Enforcement, Corrections and Public Safety*, to provide guidance concerning the selection, procurement, use, care and maintenance, and other considerations related to ballistic-resistant body armor.

NIJ Guide-0101.06 is a companion document to NIJ Standard-0101.06, *Ballistic Resistance of Body Armor*. The text of NIJ Standard-0101.06 is the authority in the event of any discrepancy with this guide.

Nothing in this document should be understood to be a legal mandate or policy directive, or to represent the only course of action. This guide is not all-inclusive. Any actions that may be informed by this guide should be taken, after careful consideration, in accordance with applicable federal, state and local laws, rules, policies and regulations, as well as local conditions and circumstances. Jurisdictional, logistical or legal conditions may preclude the implementation of particular recommendations contained herein.

NIJ standards are subject to continued research, development and testing, review and modification as appropriate on an ongoing basis. Users of this guide are advised to consult the NIJ Standards and Testing Program webpage, accessed from <http://www.nij.gov/standards>, on a regular basis to determine whether this guide has been revised or superseded.

Technical comments and recommended revisions are welcome. Please send all written comments and suggestions to: Director, National Institute of Justice, Office of Justice Programs, U.S. Department of Justice, Washington, DC, 20531, ATTN: NIJ Standards and Testing Program or via email to [NIJStandards@usdoj.gov](mailto:NIJStandards@usdoj.gov).

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## Acronyms



<b>ACP</b>	Automatic Colt pistol
<b>AP</b>	Armor piercing
<b>BFS</b>	Backface signature
<b>BJA</b>	Bureau of Justice Assistance
<b>BVP</b>	Bulletproof Vest Partnership
<b>CPL</b>	Compliant Products List
<b>CTP</b>	Compliance Testing Program
<b>DHS</b>	U.S. Department of Homeland Security
<b>DOJ</b>	U.S. Department of Justice
<b>FBI</b>	Federal Bureau of Investigation
<b>IC</b>	In Conjunction
<b>JAG</b>	Edward J. Byrne Justice Assistance Grant Program
<b>LEOKA</b>	Law Enforcement Officers Killed and Assaulted

<b>LR</b>	Long rifle
<b>NATO</b>	North Atlantic Treaty Organization
<b>NIJ</b>	National Institute of Justice
<b>NILECJ</b>	National Institute of Law Enforcement and Criminal Justice
<b>NIST</b>	National Institute of Standards and Technology
<b>NLECTC</b>	National Law Enforcement and Corrections Technology Center
<b>OLES</b>	Law Enforcement Standards Office
<b>TSWG</b>	Technical Support Working Group
<b>TWG</b>	Technology Working Group
<b>UCR</b>	Uniform Crime Reporting Program
<b>U.S.</b>	United States

## Overview



The National Institute of Justice (NIJ) is pleased to release NIJ Guide-0101.06, *Selection and Application Guide to Ballistic-Resistant Body Armor for Law Enforcement, Corrections and Public Safety*. The previous guide published by NIJ on body armor, NIJ Guide 100-01, *Selection and Application Guide to Personal Body Armor*, was released in 2001. NIJ Guide-0101.06 incorporates new knowledge about ballistic-resistant armor that has been gained in the intervening 13 years as the result of both NIJ-funded research and research funded by others.

Whereas NIJ Guide 100-01 deals with both ballistic- and stab-resistant armor, this guide deals only with ballistic-resistant armor. It supersedes those portions of NIJ Guide 100-01 that deal with ballistic-resistant armor. It does not supersede those portions that deal with stab-resistant armor. A separate guide on stab-resistant armor will be published when NIJ Standard-0115.00, *Stab Resistance of Personal Body Armor*, is updated.

This guide has two principal purposes. The first is to inform law enforcement, corrections and other public safety agencies in the development of sound policies and procedures concerning body armor from its procurement to its disposal. The second is to provide officers a better understanding of the importance of wearing body armor, wearing it correctly and caring for it properly.

This guide is also intended to provide its readers a better understanding of body armor and how it works, explain NIJ Standard-0101.06 in nontechnical terms and provide an overview of the voluntary equipment compliance testing program established by NIJ to ensure the effectiveness of body armor sold to law enforcement, corrections and other public safety agencies.

The heart of the guide – how to proceed to select and purchase body armor – begins with chapter 4 and includes chapters explaining how to assess the level of protection needed, things to think about when selecting armor and ways to keep it in proper working order. An extensive collection of appendixes is available for reference.

A team of active-duty law enforcement and corrections officers, technical experts and others with relevant knowledge and experience related to ballistic-resistant body armor, compliance testing and conformity assessment developed this guide. Appendix A provides a list of contributors and their organizations.





## CHAPTER 1.

# Why Wear Body Armor?

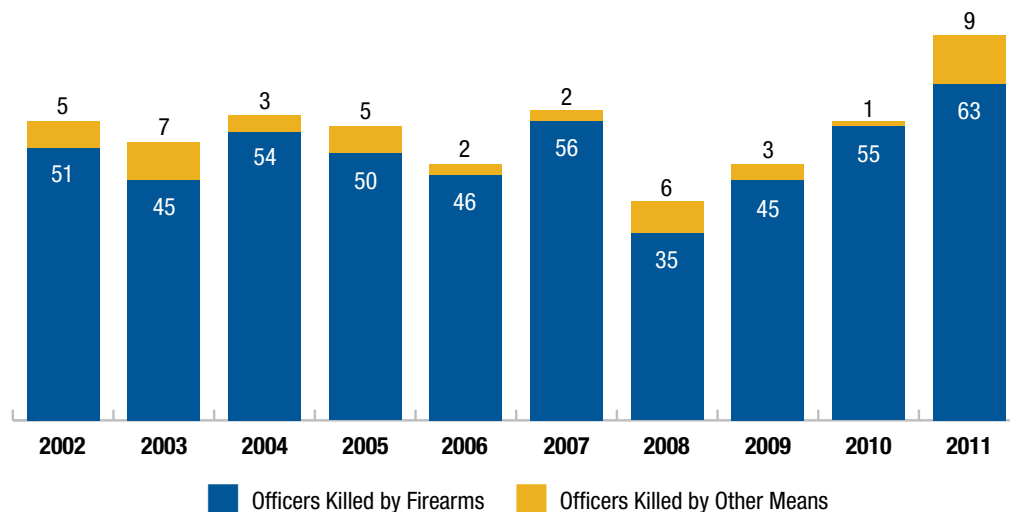
## Wearing Body Armor Saves Lives

Body armor is one of the most important pieces of safety equipment used by officers. Between 2002 and 2011, the FBI reports that between 1,800 and 2,300 officers were assaulted with firearms annually.<sup>1</sup> Of the 543 officers feloniously killed during the same period, 498 were killed with firearms.<sup>2</sup> In 2011 alone, 72 officers were feloniously killed; of those 63 were killed with firearms.<sup>3</sup>

Modern police body armor was introduced into practice in the 1970s as a result of NIJ-funded research. The International Association of Chiefs of Police (IACP)/DuPont Kevlar Survivors Club® records more than 3,100 instances of officers being saved since then because they wore body armor.<sup>4</sup>

These include instances where wearing armor saved officers from assaults with and without weapons, and even in vehicular accidents. Here are two examples from the IACP/DuPont Kevlar Survivors Club. In September 2001, Deputy Dewitt Carrithers with the Starkville (Miss.) Sheriff's Department was

### EXHIBIT 1: OFFICERS FELONIOUSLY KILLED 2002 – 2011



<sup>1</sup> FBI Uniform Crime Reports. 2011. *Law Enforcement Officers Killed and Assaulted (LEOKA)*, 2011, Table 70. Available on the web at <http://www.fbi.gov/about-us/cjis/ucr/leoka/2011/>.

<sup>2</sup> LEOKA 2011, Tables 1 and 38.

<sup>3</sup> LEOKA 2011, Table 38.

<sup>4</sup> These citations are used with the approval of the IACP/DuPont Kevlar Survivors Club® <http://www2.dupont.com/personal-protection/en-us/dpt/article/kevlar-survivors-club.html>.

assaulted with a roofer's hammer. Because he was wearing body armor, he survived and, despite suffering multiple wounds, was able to stop the assailant. In July 2004, Deputy Larry Zydek with the Maple Valley (Wash.) Sheriff's Department survived a violent car crash because the armor he was wearing protected his torso. Officer Zydek's vehicle was so badly damaged that it took emergency personnel longer than an hour to extract him from it.<sup>5</sup>

Armors only save lives when they are worn. Research published by RAND in 2010 indicates that an officer who is not wearing body armor is 3.4 times more likely to suffer a fatal injury if shot in the torso than an officer who is wearing body armor.<sup>6</sup>

<sup>5</sup> These citations are used with the approval of the IACP/DuPont Kevlar Survivors Club® <http://www2.dupont.com/personal-protection/en-us/dpt/article/kevlar-survivors-club.html>.

<sup>6</sup> LaTourrette, T. 2010. "The Life-Saving Effectiveness of Body Armor for Police Officers," *Journal of Occupational and Environmental Hygiene* 7:10, 557-562. Available on the web at <http://oeh.tandfonline.com/doi/abs/10.1080/15459624.2010.489798>.

## CHAPTER 2.

# What Is Body Armor?

The term *body armor* is usually associated with vests designed to provide ballistic protection to the vital organs in the torso. Usually, a vest contains two armor panels held in place by a carrier. One panel protects the front of the torso, the other protects the rear. To protect the sides of the torso, the vest is worn with the front panel overlapping the rear panel. These panels can typically, but not always, be removed from the carrier.

### EXHIBIT 2: BODY ARMOR WITH CARRIER



The armor panels themselves consist of a ballistic panel with an integral cover that protects the ballistic materials in the panel from the environment. Panels come in multiple sizes and can be flat or curved to accommodate the different shapes and sizes of potential wearers. Typically, neither the panel cover nor the carrier is intended to provide ballistic protection. The principal purpose of the carrier is to support and secure the panels to the wearer's body.

The term body armor may also refer to items of clothing such as jackets and coats that have armor panels inserted. In such a configuration, normal-seeming items of clothing take on the role of armor

carriers. It may also refer to accessory panels that are intended to provide ballistic protection to the groin, coccyx (aka tailbone), neck, sides and shoulders (see Exhibit 3.)

### EXHIBIT 3: VEST, SHOULDER PROTECTION, GROIN PROTECTION



There are two basic kinds of body armor: soft armor and hard armor. *Soft body armor* consists of flexible panels of ballistic materials. Soft armor is designed to offer protection against assaults with handguns. It is intended to be used for extended daily wear. It is the type of body armor that officers would typically wear while executing their daily duties. It can be worn under an officer's uniform or other clothing. It can also be worn over a uniform or clothing in an external carrier. If it is worn under a uniform, it is called *concealable armor*.

*Hard armor* consists of rigid panels, or *plates*, of ballistic-resistant materials. Hard armor is designed to offer greater protection against higher threats than soft armor. Hard armor plates are used in *tactical armor*. Tactical armor is typically a combination of a hard armor plate and soft armor panels, making it thicker and heavier than soft armor alone (see the discussion of in-conjunction armors later in this chapter). Tactical armor is not typically worn for

extended periods. It is donned for wear by officers entering high-risk situations.

It is important to note that different armor models are designed to protect against different specific types of ammunition. No body armor will stop every threat. No body armor is “bullet proof.” Agencies should purchase armor designed to protect against the threats most likely to be faced by their officers. At a minimum, agencies should consider purchasing armor that will protect their officers from assaults with their own handguns should the weapons be taken from them during a struggle.

Because the performance of an armor is so closely tied to its design, the orientation in which the panel is worn in the carrier may affect its performance. NIJ-compliant armor panels are clearly marked so that the wearer knows which way they should be inserted into the carrier. The side of the panel that faces away from the body is referred to as the *strike face* because it is the side that is intended to be struck by the bullet. The side of the panel that is worn against the body is referred to as the *wear face* or *body side*.

## Soft Armor

Soft armor panels are typically constructed of multiple layers of ballistic-resistant materials (see Exhibit 4). The number of layers within the panel and the order in which these layers are placed influence its overall performance. Additional energy is absorbed by each successive layer of material.

### EXHIBIT 4: BALLISTIC MATERIAL AND COVER



### EXHIBIT 5: HARD ARMOR PLATES



A soft armor panel works much like a baseball catcher’s mitt. When a handgun bullet strikes the panel, it is caught in a “web” of strong fibers. These fibers absorb and disperse the impact energy that is transmitted to the panel from the bullet. This process causes the bullet to deform or “mushroom.”

How well a panel absorbs and disperses the energy of the bullet is key to its ability to reduce blunt force injury to the body resulting from bullets that do not perforate an armor. As the fibers in a panel “catch” a bullet, they deform in the direction that the bullet was traveling into the body. That pushes panel material into the body of the wearer, resulting in injury to the torso. This type of nonpenetrating injury can cause severe contusions (bruises) and can cause damage to the internal structures of the body (musculature, bones, ligaments, organs, vascular system) that may result in death.

## Hard Armor

Hard armor plates (see Exhibit 5) may be constructed from ceramics, compressed laminate sheets, metallic plates or composites that incorporate more than one material.

Generally speaking, hard armor plates work in one of two ways: They can capture and deform the bullet, or they can break up the bullet. In both instances, the armor then absorbs and distributes the force of the impact.



Although some hard armor plates are designed to be used by themselves in a carrier, in most instances they are designed to be used *in conjunction (IC)* with a soft armor panel as described in the next section.

## In-Conjunction (IC) Armors

Many hard armor plates are designed to be used with a specific soft armor panel to achieve a desired level of ballistic protection. They are not designed to be used alone. Such armors are called IC armors. They are constructed by adding pockets to the front and rear of a soft armor's carrier (see Exhibit 6). The hard armor plates are inserted into these pockets over a portion of the underlying soft armor panel. Less common, but still occasionally available, is the combination of two soft armor panels as an IC armor designed to increase the level of ballistic protection.

Plates that are part of an IC armor must be used only with the designated soft armor panel. If not, the desired level of ballistic protection may not be achieved. Consequently, the hard armor plate component of the IC armor is labeled to identify the corresponding model of soft armor panel with which it is to be used.

### EXHIBIT 6: IC ARMOR



## Stab-resistant Armors

There are also armors designed to protect against edged (knives) or stabbing weapons. These are

referred to as stab-resistant armor and are typically worn by correctional officers. Such armors are addressed in NIJ Standard-0115.00, *Stab Resistance of Personal Body Armor* (<https://www.ncjrs.gov/pdffiles1/nij/183652.pdf>).

An armor designed to protect the wearer against firearms is not designed or tested to protect against edged or stabbing weapons. An armor designed to protect only against edged or stabbing weapons will not protect the wearer against firearms.

## Combination Armors

*Combination armors* are those designed to protect against both firearms and edged or stabbing weapons. In these armors, the panels contain layers of materials that are stab resistant as well as layers of materials that are ballistic resistant. Such armors may also be called *dual threat* or *multiple threat* armors. NIJ provides a list of those combination armors that have been tested and found to be compliant with both NIJ Standard-0101.06 and NIJ Standard-0115.00 on both its ballistic- and stab-resistant Compliant Products Lists (CPLs). (For more information on the CPLs, see Chapter 3.)

- Ballistic Armor Compliant Products List: [https://www.justnet.org/other/ballistic\\_cpl.html](https://www.justnet.org/other/ballistic_cpl.html)
- Stab Armor Compliant Products List: [https://www.justnet.org/other/stab\\_cpl.html](https://www.justnet.org/other/stab_cpl.html)

## Accessory Panels

*Accessory panels*, which are sometimes referred to as *ballistic accessory panels*, are typically worn with tactical armor. By convention, they are not called armor panels to differentiate them from the panels that are an integral component of a body armor.

NIJ Standard-0101.06 provides performance requirements and methods for their testing; however, accessory panels are not assessed as part of the NIJ Body Armor Compliance Test Program (CTP).

(For more information on the NIJ CTP, see Chapter 3.) Their manufacturers may have them tested at an NIJ-approved laboratory, but the test results stand on their own.

## Trauma Packs or Trauma Plates

It is important not to confuse trauma packs or plates with soft armor panels or hard armor plates (see Exhibit 7). As with armor panels and plates, these items may be either flexible or rigid. Likewise, they may be constructed from layers of ballistic-resistant fabrics, metals, laminate sheets or other materials. They are referred to as *trauma packs* or *plates* because they are intended to reduce blunt force trauma injury to the torso resulting from a bullet's striking an armor. Although using them may provide some additional ballistic protection, this is not their principal purpose. They can be distinguished from hard armor plates because they are typically smaller and thinner.

### EXHIBIT 7: TRAUMA PLATE

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Trauma plates or packs are most commonly positioned in the center of the chest in pockets in front of (or, less commonly, behind) the front soft armor panel. As is the case with armor panels, the orientation of trauma plates and packs matters. They are marked using the same convention as is used for armor panels. Some armors incorporate multiple trauma packs.

Because they are not primarily intended to provide ballistic protection, trauma packs and plates are not addressed in NIJ Standard-0101.06 and are not part of the NIJ CTP.

## CHAPTER 3.

# NIJ Ballistic-Resistant Body Armor Standards and Testing

There are two components to the National Institute of Justice (NIJ) Ballistic-Resistant Body Armor Standards and Testing Program. The first is the performance standard. The second is the accompanying Compliance Testing Program (CTP).

NIJ published the first version of the standard in 1972. It has been updated five times since then to address the evolution of body armor and test methods. In 2008, NIJ published the current version of the standard, NIJ Standard-0101.06, *Ballistic Resistance of Body Armor*.

The standard sets minimum performance requirements for body armor. It also prescribes test methods for determining if those requirements are met. The standard does not dictate how armor must be **designed**; rather, it prescribes what it must be able to **do**. This ensures that body armor meets officers' needs, yet leaves manufacturers free to innovate.

**NIJ Standard-0101.06 supersedes all prior versions.** However, its publication does not invalidate or render unsuitable any armor models previously determined to be compliant with a superseded version of the standard **and** that were purchased, or contracted for, while that standard was in effect. Body armor purchased under those conditions need not be discarded solely because a more current version of the standard is now in effect. However, armors tested to previous iterations of the NIJ standard are not compliant with NIJ Standard-0101.06 unless they have been submitted to the NIJ CTP and found to meet the 0101.06 requirements. Such armors would be listed on the current ballistic-resistant body armor Compliant Products List (CPL).

Serviceable armor should never be removed from service until and unless a replacement armor is available for immediate wear. Agencies are urged to purchase armor that is compliant with the most current version of the standard because each subsequent version incorporates new understanding of body armor performance.

Body armor is tested to the NIJ body armor standard at approved, accredited test laboratories through the NIJ CTP. The NIJ CTP was established in 1978 to facilitate the testing of body armor to the NIJ standard. The NIJ CTP covers body armor systems designed to protect against firearms as well as those designed to protect against edged (knives) or stabbing (spike) weapons. Body armor tested and found to meet the requirements of NIJ Standard-0101.06 or NIJ Standard-0115.00, and whose suppliers agree to participate in the NIJ CTP, is listed on the Ballistic-resistant Body Armor CPL or the Stab-resistant Body Armor CPL, as appropriate.

- Ballistic Armor Compliant Products List: [https://www.justnet.org/other/ballistic\\_cpl.html](https://www.justnet.org/other/ballistic_cpl.html)
- Stab Armor Compliant Products List: [https://www.justnet.org/other/stab\\_cpl.html](https://www.justnet.org/other/stab_cpl.html)

The NIJ CTP includes additional measures beyond testing that are intended to increase confidence in the armor models listed on the CPLs. One of those measures is participation in the Follow-up Inspection and Testing (FIT) program, which is discussed in detail later in this guide. If an armor supplier does not agree to these additional measures, its armor will not be listed, even if it was tested and found to meet the requirements of the standard.

The use of NIJ Standard-0101.06 or any other NIJ standard is voluntary. Public safety agencies can choose whether to purchase body armor that is found to be compliant with the standard. Similarly, participation in the NIJ CTP on the part of body armor manufacturers is also voluntary.

Participation offers advantages to both public safety agencies and body armor manufacturers. Because the standard was developed with input from law enforcement and correctional officers, it informs manufacturers of their requirements – of what their customers need. Purchasing armor listed on the CPL provides agencies confidence that an armor will meet their needs. It also provides them a resource to allow them to see a full list of compliant models that may meet their needs. In turn, the knowledge that agencies are likely to buy armor listed on the CPL provides suppliers with an incentive to have their armors listed.

## Overview of Standard-0101.06

NIJ Standard-0101.06 not only specifies test methods to determine if the armor panels in a body armor model will stop the threats they are designed to stop, but also to measure how well they protect the wearer from blunt force injury resulting from a bullet's striking a panel.

NIJ Standard-0101.06 uses two types of ballistic tests:

1. Perforation and BackFace Signature (P-BFS).
2. Ballistic Limit (BL).

The combined results from these two tests are intended to determine if the armor model is suitable for use.

*Perforation* refers to an instance where a projectile passes through an armor. *Backface signature* refers to the indentation made by the test sample in the clay backing material that is used during testing when a projectile penetrates (enters the armor)

but does not perforate the sample. The depth of the indentation is used as a reasonable analog of the potential for the wearer to sustain significant, potentially lethal, blunt force injury. The P-BFS test is used to determine if the armor stops the test round and the deformation in the clay backing material is within the specified parameters.

NIJ Standard-0101.01, published in 1978, was the first version of the standard to incorporate a 44 mm (1.73 inch) BFS limit as the minimum performance threshold for blunt force injury. It was derived from NIJ-funded research conducted by U.S. Army researchers in the 1970s that investigated the upper tolerable limits of blunt force injury.

The *ballistic limit* is the velocity at which there is an equal chance of an armor's stopping a given bullet or of being perforated. The test method that is used to determine the BL is typically known as the "V50" test method. BL test data are used to develop a profile of the probability of an armor's being perforated over a range of velocities. Exhibit 8 presents a representative BL graph.

BL testing provides an additional level of confidence in the performance of the armor. Appendix E of the NIJ 0101.06 standard provides a detailed explanation of BL data and its meaning.

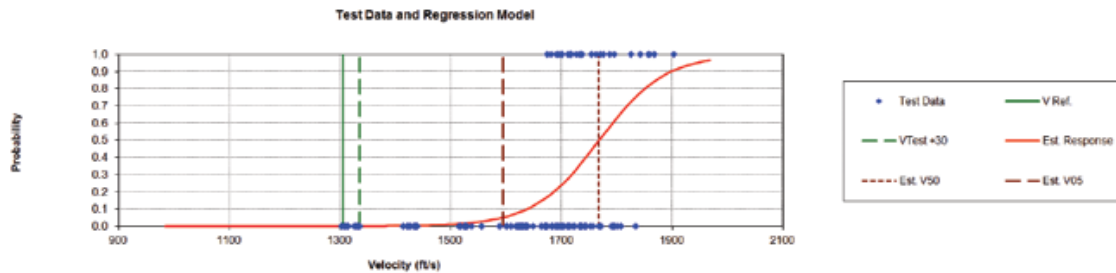
**How NIJ Standard-0101.06 Differs From Previous Versions of the Standard.** NIJ Standard-0101.06 incorporates major changes from previous versions that are intended to accomplish three major goals:

- To improve the level of protection afforded by body armor.
- To provide greater confidence in its continuing performance while in service.
- To ensure that the requirements contained in the standard are relevant to the needs of officers in the field.

Both the threats (i.e., the ammunition used to test armor samples) and test methodologies were updated. The ammunition selected was identified



## EXHIBIT 8: REPRESENTATIVE BALLISTIC LIMIT GRAPH



by the officers who were members of the technical committee that assisted in the development of the standard, and reflects the changing threats officers face.

The standard increases the number of test samples significantly for both P-BFS and BL testing. The increase in sample testing improves statistical confidence in the test results.

In part, this increase in test samples results from a second round of P-BFS and BL testing, wherein additional armor samples are tested after they are first subjected to controlled levels of heat, moisture and mechanical wear for a specified number of days. This is intended to provide some indication of the armor's ability to maintain ballistic performance in the field. This protocol will not predict the service life of the vest nor does it simulate an exact period of time in the field.

BL testing now incorporates a pass/fail criterion. Previous versions of the standard did not. The number of shots taken to generate the BL curve have been increased. This results in a more refined BL profile that is used to calculate a probability of perforation at the relevant test velocity. The armor passes if the probability of perforation is less than 5% at that velocity.

For P-BFS testing, the standard changed the shot pattern for some test samples. This includes decreasing the distance from the edge of a sample to the point where a bullet strike can be considered

a *fair hit* for testing purposes. Prior versions of the standard set 3 inches (76mm) as the minimum distance from the edge for all test samples. NIJ Standard-0101.06 has decreased that to 2 inches (51mm) for armor panels designed to defeat rifle threats and some, but not all, handgun threats. For the affected armors, this change effectively increases the area over which a body armor model is expected to protect its wearer. The new shot pattern also includes a requirement for more closely spaced shot grouping to ensure that the armor continues to perform as intended in the event of multiple rounds striking the armor.

A *fair hit* indicates that the shot hit the intended area of the armor and the velocity of the bullet was within the specified limits for that threat. The angle at which the bullet strikes the armor is also important. It is checked to ensure that the bullet did not skew during flight. To be considered a fair hit, the angle of incidence at which the bullet strikes the sample cannot be greater than  $\pm 5^\circ$  from the intended angle of incidence.

**Threats.** The degree to which a firearm poses a threat depends in large measure on the nature of the ammunition it fires. The performance of a given round depends on the velocity of the bullet and on the bullet's design characteristics. These include the size and weight of the bullet. It is typically measured in millimeters (mm) or caliber (cal). The weight of a bullet is usually measured in grains (gr) or grams (g).

Even bullets of the same caliber and weight can vary in how they penetrate a given body armor because of differences in their other design characteristics, such as the materials from which they are constructed. Bullets are usually constructed from lead, copper, brass, steel, tungsten or alloys of these materials. The harder and denser a bullet is, the less deformation is likely when striking a soft armor panel, but it would be more likely to break up on impact when striking a hard armor plate that incorporates ceramic, ceramic composite or metallic elements.

The tip of the bullet may be *round nose (RN)*, have a *hollow point (HP)* or be pointed. RN bullets tend to expand on impact. HP bullets also expand to a greater extent and “mushroom” on impact. Rifle caliber bullets with pointed tips tend to punch through soft armor panels. Hard armor plates are required to defeat them.

Bullets may beunjacketed, have a full metal jacket (FMJ) or be semi-jacketed (SMJ). Jacketing usually involves wrapping a harder metal shell, such as copper, around a softer metal core, such as lead, allowing the bullet to be launched at a faster velocity.

## EXHIBIT 9: ARMOR LEVEL AND THREAT COMPARISON

	0101.04	0101.06	0101.04	0101.06	0101.04	0101.06	0101.06 (Conditioned)
Armor Type	Test Bullet	Test Bullet	Bullet Weight (grains)	Bullet Weight (grains)	Reference Velocity (ft/s)	Reference Velocity (ft/s)	Reference Velocity (ft/s)
I	.22 caliber LR LRN	N/A	30	N/A	1080	N/A	N/A
	.380 ACP FMJ RN	N/A	95	N/A	1055	N/A	N/A
IIA	9 mm FMJ RN	9 mm FMJ RN	124	124	1120	1225	1165
	40 S&W FMJ	40 S&W FMJ	180	180	1055	1155	1065
II	9mm FMJ RN	9mm FMJ RN	124	124	1205	1305	1245
	.357 Mag JSP	.357 Mag JSP	158	158	1430	–	1340
IIIA	9 mm FMJ RN	.357 SIG FMJ FN	127	125	1430	1470	1410
	.44 Mag JHP	.44 Mag SJHP	240	240	1430	1430	1340
III	7.62 mm NATO FMJ (M80)	7.62mm NATO FMJ (M80)	148	147	2780	–	2780
IV	.30 Caliber M2 AP	.30 Caliber M2 AP	166	166	2880	–	2880
Acronyms / Abbreviations							
	AP	Armor Piercing			LR	Long Rifle	
	FMJ	Full Metal Jacket			LRN	Lead Round Nose	
	FN	Flat Nose			NATO	North Atlantic Treaty Organization	
	JHP	Jacketed Hollow Point			RN	Round Nose	
	JSP	Jacketed Soft Point			SIG	Sig Sauer	

It also inhibits deformation of the bullet on impact. A lead, round nose, semi-jacketed bullet is referred to as a *jacketed soft-point (JSP)* bullet. Modern bullets that are designed to pierce armor (AP) are usually jacketed and have dense, tough metal cores, typically constructed from tungsten or a hardened steel. Whether a bullet's core is bonded to its shell also matters. Bonding prevents – or at least retards – core and jacket separation.

NIJ Standard-0101.06 specifies five levels of ballistic performance for body armor. The first three levels – IIA, II and IIIA – are typically soft armors. The two remaining levels, III and IV, are typically hard armor designed to protect officers against rifle threats. The standard threat bullets associated with these five levels are listed below:

- Type IIA. 9mm FMJ RN; .40 Smith and Wesson (S&W) FMJ.
- Type II. 9mm FMJ RN; .357Magnum JSP.
- Type IIIA. .357 SIGFMJ FN; .44 Magnum SJHP.
- Type III. 7.62mm FMJ (M80) (Rifle).
- Type IV. .30 Cal AP (M2 AP) (Rifle).

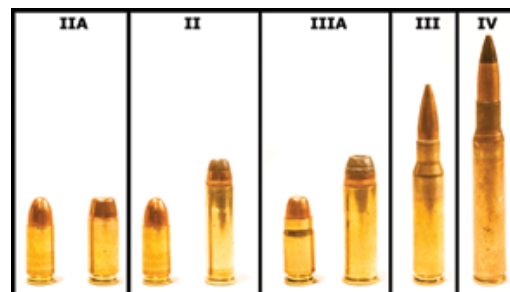
The superseded NIJ Standard-0101.04 included a sixth protection level, Type I. The threats associated with that level were .22 Cal LR (Long Rifle) and .380 Cal ACP (Automatic Colt Pistol). The addition of the .357 SIG and the elimination of the .380 ACP reflect changes in the handguns used by law enforcement officers between when NIJ Standard-0101.04 and NIJ Standard-0101.06 were published. Exhibit 9 compares the five levels and the threats against which they are tested between NIJ Standard-0101.04 and NIJ Standard-0101.06. In most instances, the reference velocities at which they are tested in NIJ Standard-0101.06 exceed those specified in NIJ Standard-0101.04 for the same round for testing conditioned (as well as nonconditioned or new) armor.

Testing, or *reference*, velocities in NIJ Standard-0101.06, both for conditioned and

unconditioned armor, are both greater than what is expected on the street. Armor is tested at these higher velocities to account for variations in bore type, barrel length, propellant loads, bullet construction and other variables seen in commercial firearms and ammunition. Testing at higher velocities is also meant to instill greater confidence levels in the ability of the armor to continue performing while in service. The standard allows a tolerance of plus or minus 9.1 meters/second (30 feet/second) from the reference velocity during ballistic testing.

The threats used in NIJ Standard-0101.06 (see Exhibit 10) are not all inclusive. The standard enables agencies to further test the performance of a body armor model against additional nonstandard threats. The same test protocols are used, only the threat is changed. Appendix B of the standard provides a table with some of the more common nonstandard threats such as the .45 ACP with recommended reference velocities for testing.

#### EXHIBIT 10: THREAT ROUNDS IN NIJ 0101.06



**Number of Samples.** The number of test samples varies. For soft armor panels, NIJ Standard-0101.06 requires 28 samples, 14 for each threat. Six of these samples will represent the smallest size the supplier proposes to produce and 22, the largest. Exhibit 11 shows how those test samples will be apportioned between P-BFS and BL testing, and how many will be tested after being subjected to environmental conditioning. Two of the larger test samples are kept as spares.

## EXHIBIT 11: ARMOR SAMPLES REQUIRED FOR EACH THREAT TEST

A Armor Template Size	Number Required	Armor Condition			Ballistic Tests		Spare
		New	Conditioned		P-BFS	BL	
Larger	11	8		New	2	5	1
			3	Cond.	1	1	1
Smaller	3	2		New	2		
			1	Cond.	1		
Total	14	10	4		6	6	2

For hard armor plates intended to provide Type III protection, nine test samples are required, four each for P-BFS testing and BL testing, with one spare sample.

The number of test samples of hard armor plates intended to provide Type IV protection depends on the construction of the panel. The supplier must provide sufficient test samples to allow a 24-shot P-BFS test and a 12-shot BL test, with at least one spare. For plates capable of withstanding only a single ballistic impact, the supplier provides 37 samples. Armors designed to stop an AP bullet tend to incorporate very hard materials that can be brittle and shatter after the first hit. For plates capable of withstanding multiple impacts, the supplier is asked to specify the number of shots to be fired at each panel. The number of test samples may be reduced accordingly, but must include one spare.

**Sample Size.** The standard requires that a supplier submit test samples that represent the smallest and largest sizes of the armor that will be produced. To provide for uniformity in testing, the standard provides five template sizes for soft armor panel samples (C1, C2, C3, C4 and C5). These templates are designed to represent 95% of officers, although they are not indicative of service armor design and are required for testing purposes only. Appendix C provides more information on these five templates.

The specified size templates are for testing purposes only and do not represent the actual shapes and sizes of production armor models. The templates that are used for testing are dependent on the range of sizes over which the armor model will be

commercially produced. For a compliant model, the minimum and maximum allowable sizes that can be produced are defined in NIJ Standard-0101.06.

Hard armor plates may be no larger than 254 mm x 305 mm (10.0 inches x 12.0 inches).

**Test Configuration.** Test samples include the armor panel and a carrier. For purposes of consistency, removable armor panels are tested with generic lightweight cotton or poly-cotton carriers to ensure the performance of the armor is not enhanced by carriers that may not always be used. The test is designed to assess the performance of the armor panel in its minimum protective configuration.

For the same reasons, test carriers do not generally have strapping, strapping attachment points, pockets for accessory ballistic panels or trauma packs/plates, or any accessory mounting points. There are three exceptions to this rule.

1. IC armor carriers will have the pockets necessary to mount the hard armor plates with which they will be tested.
2. Some armors require their own strapping for mounting and support during the tests.
3. An armor model may be tested in a carrier that is intended to provide additional ballistic protection. The carrier is then considered a component of the armor system.

**Environmental Conditioning.** Carriers for test samples that will undergo the conditioning protocol will not have strapping, strapping attachment points



or any accessory mounting points. Separate specific carriers are provided by the applicant for use in the conditioning protocol. Additional carriers with strapping are supplied for the ballistic testing of armor samples, as these require their own strapping for mounting and support during testing.

Test samples of soft armor panels are first stored at a temperature of 25°C (77° F) with a relative humidity of 20% to 50% for at least 24 hours prior to starting the armor conditioning protocol. This is done to bring all test samples to the same starting point prior to conditioning. They are then tumbled at 65°C (149°F) at 80% relative humidity for 10 days prior to testing. The conditioning chamber resembles a clothes dryer, as Exhibit 12 illustrates.

Hard armor test samples are stored at a temperature of 25°C (77° F) and relative humidity of 20% to 50% for at least 24 hours prior to starting the conditioning protocol. Then, as with soft armor panel test samples, they are stored at 65°C (149°F) at 80% relative humidity for 10 days. They then undergo a 24-hour conditioning protocol during which they are subjected to temperatures varying between -15°C (5°F) and 90°C (194°F).

Finally, they are subjected to a drop test designed to ensure that the plate can withstand low-level impacts. Some armor plates are by their very nature brittle and susceptible to fracture if dropped or mistreated.

## Ballistic Testing Requirements

Before testing, armor samples — including the carrier, cover and ballistic panel — are inspected for consistency of manufacture and various defects. In addition, after every test, each sample's ballistic components are inspected immediately to verify their construction details (layers, weave, stitching, material, etc.).

**Perforation and Backface Signature Testing Requirements.** Except for some accessory ballistic

## EXHIBIT 12: CONDITIONING CHAMBER



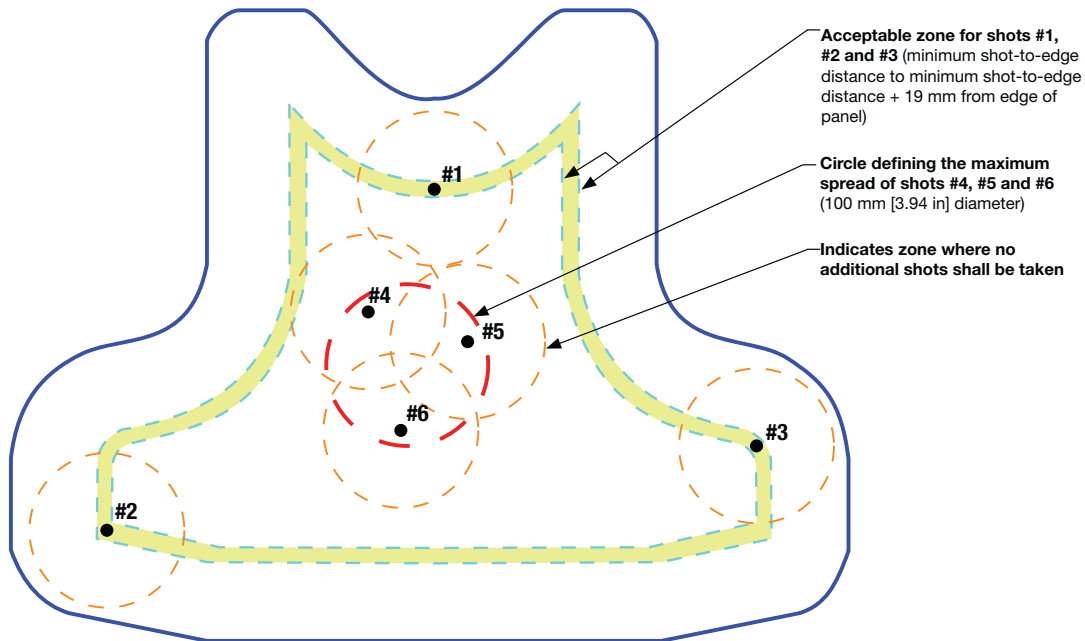
panels and panels intended to provide level IV protection, each sample will be shot six times with the first three being near the edges and the second three close together, unless the armor does not have uniform thickness. In that case, the latter three shots will be aimed at the weakest spots in the armor (see Exhibit 13).

Before the start of the ballistic portion of the test, soft armor panels that have not been conditioned are submerged in a water bath to check the integrity of the ballistic panel covers. This is done because ballistic performance may be degraded if the panel is exposed to moisture.

Removable inserts such as trauma packs and plates or armor plates are not included as part of the armor sample used for P-BFS testing of soft armor panels. For armor models containing integral inserts, manufacturers must submit a detailed diagram of the location of each insert. During the P-BFS test, the shot locations will be adjusted so that areas other than those containing these inserts are tested to ensure that the whole armor offers suitable protection in all areas, not just those reinforced by inserts.

For IC armor, the specified soft armor panel is first tested in accordance with NIJ Standard-0101.06 and found compliant as a stand-alone armor at its specified threat level. The soft armor panel and hard armor plate are then tested together as a system.

### EXHIBIT 13: SHOT PATTERN



No armor test sample — conditioned or unconditioned — can be perforated by a fair hit during testing.

Testing must provide a high degree of confidence that the armor will protect its wearer from potentially lethal blunt force injury. Testing of unconditioned test samples must provide at least 95% confidence that the depth of the indentations in the clay backing from fair hits that do not perforate the armor will be no more than 44 mm (1.73 inches). In no case may the depth of deformation exceed 50 mm (1.97 inches).

Although BFS measurements are taken for conditioned armors, there is no pass/fail criterion associated with these values. The only requirement for a conditioned armor sample is that it cannot be perforated.

**Ballistic Limit Determination.** For the armor to meet the requirements of the standard, no perforations can occur at or below the corresponding maximum P-BFS reference velocity. If there is no perforation, the BL test data must demonstrate that the probability of a perforation is less than 5% for new, unconditioned armors at the acceptable reference velocity. BL testing is performed on the largest size armor template panel that the applicant selects to submit. Research has shown that the size of the armor has only a small impact on the penetrability of the armor and that the larger armors tend to be slightly easier to perforate. Therefore, the larger armors are expected to perform slightly worse than the smaller armors.

As with P-BFS testing, removable inserts are not included as part of the armor sample used for BL determination. During the BL testing, shot locations

will be adjusted so that areas other than those with integral inserts are tested.

## NIJ Compliance Testing Program

There are four elements to the NIJ CTP. These are:

- **Type testing.** This is the initial testing of an armor model by an accredited, NIJ-approved test laboratory in accordance with the requirements of either NIJ Standard-0101.06 or NIJ Standard-0115.00.
- **Compliance decision.** Determination by NIJ that a body armor model meets the requirements of the NIJ CTP based on test data and other requirements.
- **Attestation of conformity.** Listing of the armor on the NIJ CTP.
- **Follow-up conformity assessment inspection and testing (FIT).** Periodic testing of samples of listed armor models taken from the production line.

The process of listing a body armor model on the NIJ CTP begins with the supplier's submitting an application package for that armor. That package includes its agreement to measures intended to strengthen confidence in the armors listed on the CPL. A copy of the *Body Armor Compliance Testing Program Body Armor Application Package* is provided in Appendix D.

There are three confidence-building measures of particular note:

- Applicants must establish a warranty period for the ballistic performance of listed models.
- Applicants must also agree to follow-up inspection and testing of listed models.
- Finally, applicants must agree to a specific way of labeling listed models.

On review of the application, the NIJ CTP assigns a test identification number. The applicant then submits armor for testing to an approved test laboratory. NIJ CTP laboratories are accredited through the National Voluntary Laboratory Accreditation Program (NVLAP). A list of NIJ-approved laboratories can be found at [https://www.justnet.org/body\\_armor/ballistic\\_lab.html](https://www.justnet.org/body_armor/ballistic_lab.html).

The test laboratory provides the test data to the NIJ CTP along with the test samples. NIJ evaluates the test data and examines the test samples to ensure that they meet the design specifications provided by the applicant. If a determination is made to list a model, NIJ issues a Compliance Statement Letter to that effect to the successful applicant. Both the test sample and the design specifications are retained by the NIJ CTP.

FIT is conducted for NIJ by independent inspectors. Its purpose is to ensure that recently produced examples of listed armors continue to meet the requirements of NIJ Standard-0101.06. FIT involves ballistic testing of production samples of the listed armor model as well as a physical examination to ensure that there are no significant deviations in its construction from the original design specifications. Through June 2014, inspectors had completed 180 inspections of locations in 10 countries, and FIT testing of 444 different body armor models had taken place. At present, stab-resistant armors are not included in the FIT process; the upcoming revision of the stab-resistant armor standard will address FIT testing of those armors.

Each CPL listing includes:

- **Listed Company.** The Listed Company is the name that appears above the table and is also found on the label of the ballistic panels. It is the entity listed on the CPL associated with specific listed body armor models. The Listed Company is just a brand name on the label and could be completely independent of the Applicant/Manufacturer except through an agreement to brand label armors.

- **Contact Information.** The information shown below the Listed Company name is provided by the company. It generally refers to the headquarters or sales office. The address is not necessarily the location of manufacture of the armor.
  - **Threat Level.** Prior to testing, applicants specify the threat level for which the armor is designed. All models listed on the CPL are tested to one or more of the five defined threat types.
  - **Model Designation.** The Model Designation is the name or alphanumeric code that an Applicant uses to uniquely identify a particular model. An Applicant may sometimes also use more recognizable product or marketing names to sell the armor after testing. The label should also state the NIJ Model Designation so that a user can reference back to the CPL. Ensuring the correct model designation is especially important when purchasing IC armors.
  - **Gender.** The standard does not specifically address male, female or gender-neutral armor. Instead, the standard addresses flat vs. curved panels. Male armor panels are typically considered to be flat and female armors are typically considered to be curved due to shaping to conform to the female physique. Gender-neutral armor panels are typically tested as flat armor. All hard armor plates are typically considered to be gender neutral.
  - **Opening.** Armors that are designed to be front opening, with an overlap in the center of the chest area of the armor (as opposed to the more common style two-piece armors that are designed to overlap at the sides only) must be tested separately to ensure this area fully meets the requirements of the standard.
  - **Size Range.** The sizes of the armor samples will depend on the range of the sizes over which the armor model will be produced. Sizes are determined by the total surface area of the panel. After testing, the minimum and maximum allowable sizes that can be produced are defined in NIJ Standard-0101.06, Appendix C, Tables 13 and 14. For example, a model that is tested through the NIJ CTP using C-2 as the smaller template size and C-4 as the larger one must not produce an armor below 152 square inches (Table 13) or greater than 381 square inches (Table 14). Armor tested as C-1 and C-5 is not bounded on either end by a production size limit.
  - **Warranty.** As specified by the manufacturer, this is a period of time the NIJ CTP requires a manufacturer to self-declare for the ballistic performance of its armor, which is specified on the armor label. As a minimum, the NIJ CTP requires the warranty period stated on the label to represent the length of the manufacturer's warranty period for ballistic performance of the model for the originally declared threat level. The warranty should also include workmanship and nonballistic materials. The warranty is declared and determined by the Body Armor Manufacturer (not by the Listed Company) as described above.
  - **CPL Comment.** In certain situations, the NIJ CTP may need to provide additional information regarding a model's status, such as "Active, Inactive, Withdrawn, Suspended, Under Review or Pending."
- The NIJ CTP publishes notices regarding any potential or confirmed issues regarding the performance of models listed on the CPL. These include safety notices and notification of the removal of an armor model from the CPL.
- Suppliers must label units of compliant models per specific NIJ CTP requirements. Stand-alone soft armor panels and stand-alone hard armor plates will have the NIJ Compliance Statement. Hard armor plates intended to be part of an IC armor system will include a warning label stating that the plate does



not provide protection unless used as part of the IC armor system. As an example, an IC label statement may say, "This hard armor panel only provides level III protection when used with IC body armor model XYZ123." Chapter 7 contains more information about body armor labels and the information they are required to contain.

Suppliers, officers, testing laboratories and other stakeholders may raise questions, issues or

concerns regarding the testing process. When warranted, the NIJ CTP issues administrative clarifications informing stakeholders of any changes to the requirements of the program or the standard. NIJ will consider these clarifications for inclusion in future revisions of the standard. Administrative clarifications are posted on: [https://www.justnet.org/body\\_armor/CTPAdminClarifications.html](https://www.justnet.org/body_armor/CTPAdminClarifications.html)



#### CHAPTER 4.

## Selection Considerations

There are a number of different considerations that come into play in deciding which model of body armor best fits an agency's or an officer's needs. The anticipated threats that officers are expected to face, their body shapes and their (or their agency's) preferences with regard to specific design features of a body armor are all considerations that should be taken into account. So are the services that a supplier offers as well as cost and the availability of grant funds to offset agency costs.

### Selecting the Appropriate Level of Protection

The threats that the officer is most likely to face are the most important consideration in selecting body armor. No body armor will stop every threat. Protection of 100% in all circumstances is not possible.

Body armor selection is to some extent a tradeoff between ballistic protection and wearability. The weight and bulk of body armor are generally proportional to the level of ballistic protection it provides; therefore, comfort generally decreases as the protection level increases. All agencies should strive to select body armor that their officers will wear and that is consistent with their ballistic protection requirements. Agencies should ensure that each officer knows and understands the protection that the armor affords as well as its limitations.

NIJ urges proper attention to those factors that affect the wearability of armor in order to encourage routine, full-time use by all on-duty officers. The temptation to order armor that provides more protection than realistically needed should be

resisted, because doing so may increase the likelihood that the armor will not be worn routinely.

**Law Enforcement Officers.** The operational scenario will dictate the threat(s) that an officer is most likely to encounter. For armor intended for everyday wear, agencies should, at a minimum, consider purchasing soft body armor that will protect their officers from assaults with their own handguns should they be taken from them during a struggle; Level IIA, II or IIIA as appropriate.

Hard armor – level III or IV – is more suitable for officers who are anticipated to operate in a heightened threat environment. It should be kept in mind that hard armor is typically not easily concealable. It therefore may not be suitable for all heightened threat scenarios.

**Correctional Officers.** Typically, for correctional officers wearing armor inside the secure perimeter of a correctional facility, the primary expected threat comes from improvised edged and stabbing weapons, making stab resistance a higher priority than ballistic resistance. For an officer wearing armor outside the correctional facility perimeter, the higher threat potential may come from firearms, and ballistic resistance may become the higher priority.

Combination armor is another option to consider. Such ballistic/stab-resistant armor must be tested under both NIJ standards 0101.06 and 0115.00 to be considered dual purpose. Keep in mind that by opting for dual-purpose protection, the combination armor will, with currently available materials, tend to be heavier and bulkier than a soft armor offering only ballistic or stab protection.

Note that ballistic-resistant armor is not necessarily stab-resistant and vice versa. Ballistic-resistant armor is not intended to protect the wearer from sharp-edged or pointed instruments.

## Male, Female or Gender Neutral?

The body shape of the wearer, regardless of gender, must be considered when selecting armors. There are three types of body armor models: male, female and gender-neutral. They are available in multiple sizes. There is no obvious difference in form between male and gender-neutral armors. Hard armors are typically gender neutral in design. Female soft body armors differ in that they can incorporate curved ballistic panels to accommodate the female bust. Male or gender-neutral models may be suitable for female officers with smaller busts. Depending on design and materials, they may not be suitable for those with larger busts because their busts tend to push the front armor panel forward, enlarging the underarm gap and therefore lessening the ballistic protection between the front and rear panels.

## Other Design Features

Officers or agencies may have preferences regarding design features offered with a body armor model. These include:

- **Weight.** Heavier body armor will increase the amount of fatigue an officer experiences during his/her shift.
- **Thickness.** Thickness is closely tied to the weight of a body armor. Thicker armors may trap more heat against the body and may be stiffer.
- **Covert carrier vs. overt carrier.** Some agencies prefer body armor to be worn under the duty uniform; others, over their duty uniform. The choice is a matter of agency policy.

- **Fastener type.** Determine whether zipper or hook and loop closures are preferred. There is no performance difference; however, operating environment (dust/sand can impact hook and loop), personal preference, ease of fastening and noise may all be considerations.
- **Other features.** Pockets, cargo loops, etc., that may assist an officer in the execution of his/her duties.

## Supplier Services

Differences in the services that suppliers offer to support a particular model should also be considered. These may include fitting and measurement, training, adjustments, repairs and warranties. Warranties for ballistic performance and workmanship are required of armor models listed on the NIJ Compliant Products List (CPL) for ballistic-resistant body armor. Some body armor suppliers offer a “take-back” disposal option for used body armor that may involve a nominal fee.

If the body armor is listed on the current NIJ CPL, the manufacturer is required to offer and specify the warranty for ballistic performance.

## Availability of Grant Funds

Agencies can apply for federal grant funds to purchase ballistic- and stab-resistant body armor through the Bulletproof Vest Partnership (BVP) Grant and Justice Assistance Grant programs, which are administered by the U.S. Department of Justice’s Bureau of Justice Assistance (BJA). Since 1999, the BVP program has reimbursed more than 13,000 jurisdictions a total of \$277 million in federal funds for the purchase of more than one million vests (1,084,081 as of Oct. 17, 2012). Both programs require that armor purchased with grant funds be on the most current NIJ CPL. FEMA-related grant programs require that ballistic-resistant armor purchased with grant funds meet the requirements of NIJ Standard-0101.06.



## CHAPTER 5.

# Measurement, Fit and Coverage

## Importance of Proper Measurement and Fit

The goal for any ballistic-resistant armor is to maximize ballistic protection while minimizing its impact on an officer's ability to perform normal duties. As with other protective equipment, body armor can afford an officer only a certain level of protection before it impairs mobility and physical performance. The selection process should try to achieve a balance that will maximize the armor's ballistic protection and coverage while minimizing its impact on duty performance. Proper measurement and fit are also keys to ensuring a reasonable degree of comfort.

### Proper Fit and Coverage

Ballistic-resistant armors (when worn) are key life-saving equipment. With proper fit, an armor should ensure maximum coverage without hindering an officer's mobility or ability to perform required job functions. Although comfort is a subjective term, increased comfort through proper fit is an important objective. NIJ-funded research suggests that armors that have been fitted by the manufacturer, working with agency representatives, are the ones that officers find most comfortable.

## Measurement Guidelines

Having body armor that fits well and is comfortable begins with obtaining appropriate and accurate measurements. Some, but not all, armor suppliers have trained representatives who conduct proper measurement and fitting. Officers can benefit from understanding measurement and fitting techniques as well as the area of coverage the body armor should provide.

At NIJ's request, an ASTM International committee that included law enforcement and correctional officers, developed and published ASTM E2902-12, *Standard Practice for Measurement of Body Armor Wearers*. The purpose of this document is to increase consistency in how measurements are made by specifying the process for measuring officers being fitted for new armor.

NIJ has a contract with ASTM to provide access to LE-specific standards at no cost to any verified public safety agency. For further details about access to this service, please send an email to [asknleetc@justnet.org](mailto:asknleetc@justnet.org) from a valid email address demonstrating that you are a current/active member of a federal, state or local law enforcement, corrections or forensics agency. Personal email addresses (e.g., Gmail, Yahoo, etc.) are not allowed. Once your agency email address has been confirmed, you will be given login credentials that will give you access to the ASTM site. This agreement will be good for one year, and can be renewed annually using your official agency email address.

## Fit and Coverage

**Soft armor (daily wear).** The following guidelines have been developed to help agencies determine if a soft armor fits appropriately and provides appropriate coverage. These guidelines apply both to armors worn over and under the duty uniform (additional guidance on the fit of tactical armor is addressed later in this chapter) For a pictorial representation of proper fit, see Exhibits 14a and 14b; for a graphic breakdown, see Exhibit 15.

- Prior to donning the armor, open the carrier and examine the label on each ballistic panel. Verify the label faces the correct direction. The label may say “Wear face,” “Strike face,” “This side toward body” or something similar. Many body armors are designed to work in one direction only; inserting the panels in the incorrect direction can result in the armor’s failing to perform as intended. The materials used may differ from strike face to body side and have different effects on the bullet or knife and may not work if the armor is worn backwards.
- Place the panels into the carrier and don the armor such that the front panel is over the front of the body and the back panel is over the back. The front panel can generally be identified by its having a scoop at the neckline.
- After the armor is donned, do not over tighten the straps. It is human nature to cinch the straps down as tightly as possible, and this is a common mistake. The armor should fit snugly, but not so tightly that it may affect breathing (including deep breathing, such as may occur during a foot chase). The armor should slide slightly on the body as the torso is rotated back and forth. If the armor moves with the body, it is probably too tight.
- To ensure appropriate side coverage for both over-the-uniform and under-the-uniform armors, the sides of the torso armor should always overlap by approximately two inches front to back (i.e., the front panel should lie on top of the back panel). This may prevent a bullet from a frontal shot from entering between the panels, traveling inside the back panel and entering your body. This provides additional protection against near-edge shots and also allows for expansion if an officer gains weight over time without creating a dangerous gap.
- Ballistic coverage under the arms should be as high as possible without compromising the ability to obtain a shooting position. Over-the-uniform armor may afford slightly greater protection in this area.
- The length of the panels relative to the body is very important. For concealable (under-the-uniform) soft armor, the front panel should extend from just below the jugular notch to two to three finger-widths above the top of the belt when standing. For over-the-uniform armor, the armor can be slightly longer without impeding movement or comfort. This gap may vary slightly from person to person but is normal and necessary, and prevents the panel from being pushed up into the throat when the officer is seated. Proper fit can be confirmed by sitting down with the armor on. When seated, the front panel should ride just on top of the belt but should not shift up into the throat. If it does, contact the supplier for a fit adjustment. The rear panel should extend from approximately two inches below the collar to approximately one inch above the belt.

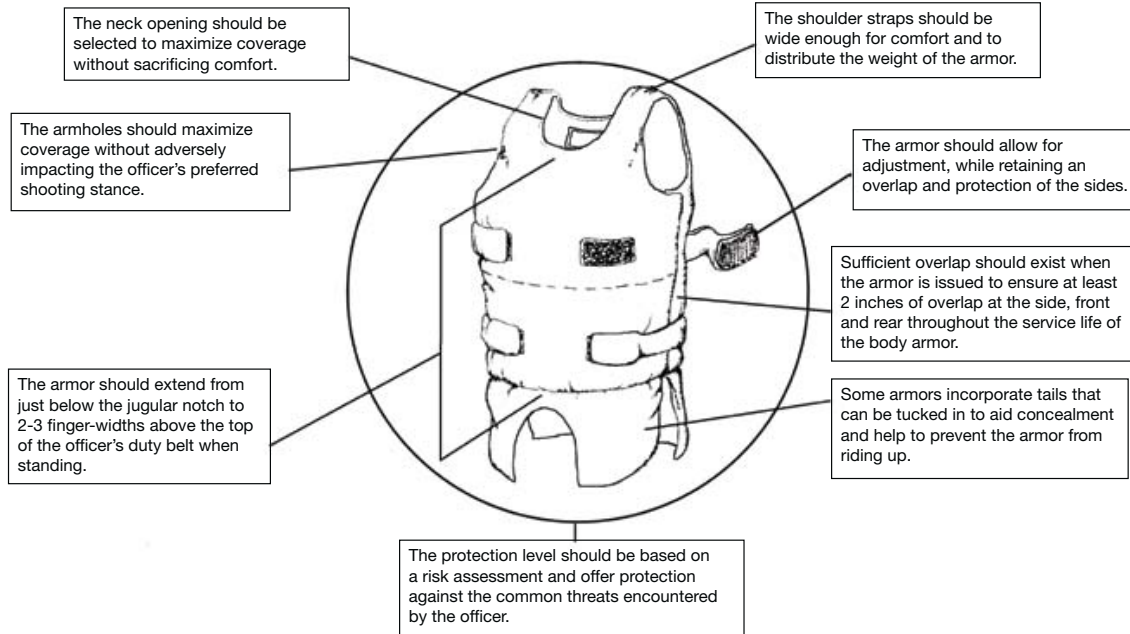
#### EXHIBIT 14A: SOFT BODY ARMOR FIT AT NECK



#### EXHIBIT 14B: SOFT BODY ARMOR FIT AT DUTY BELT



## EXHIBIT 15: SOFT BODY ARMOR FIT



At the time of purchase, check to confirm that the armor panel (not just the carrier) has at least the minimum 2-inch overlap as recommended.

**Additional Fit and Coverage Guidance for Tactical Armors.** Because tactical armors are worn externally (outside/over the uniform), fit is slightly more forgiving and coverage should be greater than that of a soft armor worn for general duty. This, along with the fact that tactical armors are not typically worn for extended duty periods, but rather in response to heightened threats, allows for slightly more coverage than over-/under-the-uniform duty armor.

Specifically, tactical body armor is longer and should end roughly at the top of the duty belt when standing. See Exhibit 16. It should not, however, overly restrict access to items on the duty belt and should never prevent drawing of a weapon. Tactical armors may have additional integral coverage extending over the shoulders. Although this provides

additional coverage and ballistic protection, officers should trial the armor prior to use to ensure that it does not inhibit necessary movements or range of motion, such as shouldering a weapon or restraining a suspect. Tactical armors may also have available accessory ballistic panels (i.e., extremity protection). Such accessories should be tried on immediately on receipt to ensure compatibility.

## EXHIBIT 16: TACTICAL ARMOR FIT AT DUTY BELT



Hard armor plates are available in multiple sizes. The most common sizes are 10-inch x 12-inch and 8-inch x 10-inch. In addition to various available sizes, hard armor is also available in various curvatures and various shapes. The front and rear plates should be positioned to provide additional protection to the aortic region. However, the coverage will not be as extensive as that of the underlying soft armor panel. Some hard armor plates are curved in only one direction while others are

curved in multiple directions, and the curvature may directly relate to the plate's ballistic performance. Some plates have rectangular perimeters whereas others are angled at the shoulders to facilitate arm movement (e.g., to allow taking a shooting stance). These shapes can vary from model to model. The purchasing agency or officer should take mobility and coverage into consideration when evaluating hard armor to purchase.



## CHAPTER 6.

# Purchasing and Procurement Considerations

## General Guidelines

Generally, armor purchases fall into one of four categories:

- Individual purchases from a distributor or retail outlet.
- Small-quantity departmental purchases.
- Large-quantity departmental purchases (e.g., several hundred units or more).
- As-needed purchases procured through an open-ended agreement (also called a *term contract*).

Purchases made through a competitive process involving several bids from different suppliers with armor models meeting an agency's requirements will tend to provide the best value. This is particularly the case in large-quantity purchases.

Obtaining objective information on body armor performance on which to base purchasing decisions can be challenging. Suppliers will naturally tend to present their models in the best possible light, which makes comparison between competing models difficult. The NIJ CPL provides a ready solution to this problem. It identifies armors that agencies can be confident will provide the appropriate level of protection, allowing comparison based on cost and other less critical considerations.

Procurement documents for equipment should always ensure that the purchase specifications are clear and not ambiguous in any way. At the same time, over-specification should be avoided; for example, identifying a specific product instead of

a level of protection. That may tend to eliminate competition and drive cost up.

Rather, agencies should consider requesting bids for armor models listed on the NIJ CPL. A typical purchase specification might include the following wording to ensure that bids involve only such armors:

*"The body armor model shall be listed on the NIJ Standard-0101.06 Compliant Products List. It shall be of Type (specify appropriate threat level and test ammunitions) as defined in NIJ Standard-0101.06 and shall afford full protection to the torso front, torso back and sides."*

Agencies should specify in their purchase agreements any additional features they have determined to be required. If soliciting bids for body armor with special ballistic protection that would require additional testing, specify the exact test rounds to be used, listing such ballistic threat characteristics as caliber (bullet size), construction (bonded, nonbonded), composition (lead, copper, brass, steel, tungsten), type (round nose, pointed, hollow-point, jacket hollow-point, full metal jacket, armor piercing), weight and impact velocity. State that NIJ Standard-0101.06 will govern in other respects if the standard is being used. When additional testing is needed, allow time for this testing to be performed and use an independent NIJ-approved test laboratory.

Rather than lowest price, agencies should consider best value purchasing. This will provide the agency the ability to buy from the supplier offering the armor that best meets its needs.

**When developing a purchase specification, avoid two potential pitfalls that may complicate the procurement process.**

**Pitfall 1**

**DO:** Request bids for armors that comply with the most current NIJ standard. For Example: "Body armor models must be listed on the NIJ Compliant Products List."

**DO NOT:** Describe a particular model in the product specification. For example, "Model XYZ produced by the ABC Body Armor Company."

**Pitfall 2**

**DO:** Use a best value clause to specify that the contract will be awarded to the supplier whose armor best meets the agency's needs and that the officers find to be the most comfortable. For example: "The agency shall be the sole judge in determining the armor that is most advantageous and suitable to its needs."

**DO NOT:** Require that the agency accept the lowest bid.

## Ensuring Compliance Status

If you plan to purchase NIJ-compliant armor, do not accept statements, written in the bid or verbally made by a salesperson, that the model shown is "just like" or "identical to" a model from the NIJ CPL or "meets the NIJ Standard." **Only armor that is listed on the current CPL is NIJ compliant. Armor that is not listed on the CPL does not qualify for BJA funding through either the BVP or JAG programs.**

Ensure that the specific designation of the armor model chosen is listed on the CPL.

Request a copy of the compliance letter issued by the NIJ CTP to the supplier for that model. If the supplier or bidder cannot provide this letter, use a different supplier and contact the NIJ CTP at (800) 248-2742 or email [bactp@justnet.org](mailto:bactp@justnet.org). Additionally, agencies should also consider requesting from the manufacturer their test data and information from the NIJ Compliance Test Reports. These reports provide

## EXHIBIT 17: IC HARD ARMOR PLATE SAMPLE LABEL

(Listed Company's) Name  
(Listed Company's) Address

Model: \_\_\_\_\_

Size: \_\_\_\_\_

Serial Number: \_\_\_\_\_

Lot Number: \_\_\_\_\_

Location of Manufacturer: \_\_\_\_\_

Date of Manufacture: \_\_\_\_\_

Date of Issue: \_\_\_\_\_

Threat Level (NIJ 0101.06): \_\_\_\_\_

Ballistic Performance Warranty Period: \_\_\_\_\_

For Warranty Information Contact: \_\_\_\_\_

This model of armor has been determined to comply with NIJ Standard-0101.06 by the NIJ Compliance Testing Program and is listed on the NIJ Compliant Products List.

**WARNING!**

**This armor provides the rated protection stated above ONLY when used in conjunction with soft armor model XYZ123.**

Care Instructions for Ballistic Panel:  
(Sample Instructions Shown)

1. Do not wash or dry clean
2. Wipe with a damp cloth

**\*\*Wear Face\*\***

This side to be worn against the body.

information relating to the performance of the armor at the time of initial NIJ CTP testing.

In conjunction with (IC) armor is a special category of armor that requires clarification. A question frequently raised is, "How do you determine if an armor model is an IC model?" NIJ requires that IC armor plates be labeled as such (see Exhibit 17).

The use of any other stand-alone soft armor panel invalidates the compliance status since those combinations have never been tested or evaluated by the NIJ CTP.

## CHAPTER 7.

# Development of Procurement Specifications

The following provides general guidelines for development of procurement specifications. An example procurement specifications section of a purchase agreement solicitation is provided in Appendix E for further clarification.

What follows assumes that a specific type of armor has been selected from a single supplier. Negotiating an open-ended agreement (term contract) for multiple models, styles and armor types from a single supplier involves a separate set of issues not addressed in this guide.

**Terms of agreement.** Whether an agency purchases armor in a single quantity (buying one unit at a time or a number of units at one time), through a blanket purchase agreement or under a term contract, the bidder should know approximately how many units will be purchased, including the number and basic sizes for officers. Under a blanket purchase agreement, an agency can purchase units “as needed” during the life of the contract. No matter which approach an agency uses, it may want to include a clause for ordering additional units, which would make future purchases simpler because new bids would not be required.

**Bidding and award process.** The procurement specifications should be self-explanatory and broad enough to encourage competition and give the agency adequate flexibility in purchasing the armor considered most appropriate for agency needs. Again, the NIJ CPL should be a starting point. In their bids, suppliers should identify the specific model(s) they propose to provide. Moreover, the final purchase agreement must specifically state the exact NIJ Compliant model that has been selected,

as alternative models may not provide the level of performance required.

When purchasing large quantities or considering a blanket purchase agreement, agencies may want to arrange a pre-bid conference with prospective bidders. Bidders and the agency can then review the solicitation together as well as the agency’s specifications so that all parties clearly understand the agency’s needs. Also, a pre-bid conference may reveal ambiguous or contradictory terms in the solicitation. If the solicitation needs to be modified, the agency can issue a modification or an addendum.

**Invoicing and delivery.** This portion of the bid package should propose a detailed delivery schedule and should specify departmental invoicing and payment requirements and procedures. Invoices should, at minimum, include for each armor: CPL model designation, serial number, catalog number, size and date of manufacture. If possible, always document the name of the officer to whom it will be issued.

**Warranty and insurance.** Consider the warranty on the body armor system, including terms (e.g., length of warranty and what is or is not covered by that warranty). All models on the NIJ CPL must have warranty for ballistic performance. The supplier should provide a warranty explanation specific to the carriers as well as the panels. The agency should also determine the amount of general and excess product liability insurance required based on its needs and compare standard limits offered by each supplier. Product excess liability insurance can be expensive and the agency should consult with legal counsel about the benefits of requiring additional

liability insurance before specifying insurance minimums.

**Armor specifications.** This section is the focal point of a procurement document. Here, the agency specifies the design and/or performance requirements expected, as well as agency preferences about configuration features. The following items should be included:

■ **Compliance With NIJ Standard-0101.06.**

The specification should require that the armor model be listed on the CPL and cite the ballistic performance required by specifying the appropriate armor type as defined by the standard. This information ensures that the armor ordered provides a known performance level.

■ **Labeling.** State that the NIJ CTP requirements for production armor panel labels must be met. A sample label is included in Exhibit 18. This will ensure that the following information is included on the label:

- Supplier or listed company name.
- Model designation as named in the NIJ Notice of Compliance.
- Size (if custom fitted, provision must be made for the name of the individual for whom it is made).
- Serial number.
- Lot number.
- Location of manufacture.
- Date of manufacture.
- Date of issue (to be filled in when issued to the end user).
- Declared warranty period for ballistic performance of the model.

## EXHIBIT 18: ARMOR PANEL LABEL

(Listed Company's) Name  
(Listed Company's) Address

Model: \_\_\_\_\_

Size: \_\_\_\_\_

Serial Number: \_\_\_\_\_

Lot Number: \_\_\_\_\_

Location of Manufacturer: \_\_\_\_\_

Date of Manufacture: \_\_\_\_\_

Date of Issue: \_\_\_\_\_

Threat Level (NIJ 0101.06): \_\_\_\_\_

Ballistic Performance Warranty Period: \_\_\_\_\_

For Warranty Information Contact: \_\_\_\_\_

\_\_\_\_\_

This model of armor has been determined to comply with NIJ Standard-0101.06 by the NIJ Compliance Testing Program and is listed on the NIJ Compliant Products List.

**WARNING!**

This garment is rated **ONLY** for the ballistic threat level stated above. It is **NOT** intended to protect against rifle fire or sharp-edged or pointed instruments.

Care Instructions for Ballistic Panel:  
(Sample Instructions Shown)

1. Do not wash or dry clean
2. Wipe with a damp cloth

\*\*Wear Face\*\*

This side to be worn against the body.

- Rated level of protection and reference to this edition of the standard (e.g., Type II in accordance with NIJ Standard-0101.06).
- Proper orientation of the ballistic panel in the carrier clearly identified to indicate strike face or body side/wear face.
- Recommended care instructions for ballistic panel(s) or plate(s).
- For Levels IIA, II and IIIA armor, a warning in type at least twice the size of the rest of the type on the label, exclusive of the font size of the listed company name, stating that the armor is not intended to protect the wearer from rifle fire and, if applicable, that the armor is not intended to protect the wearer from sharp-edged or pointed instruments. (Note: Printing color changes are acceptable but cannot be substituted for the type size requirement).

In addition to the model designation listed on the CPL, a supplier or distributor may use catalog numbers or similar designations to further identify the product. The catalog number must be separately identifiable from the model designation.

- **Adjustment options.** This clause identifies design features such as adjustable fasteners or straps that will make the armor more comfortable for the wearer.
- **Color.** The carrier color for concealable armor should be chosen such that it will not be easily visible through the wearer's uniform.
- **Quality and workmanship.** This clause specifies the expectation that a supplier will produce armor using suitable materials and high workmanship quality, ensuring that the armor is fit for purpose over the entire period of the specified warranty.
- **Custom fitting.** The specifications section should include a clause related to custom fitting, stating how and where fittings will take place and who will perform the measuring. Measurements should be performed as per ASTM-E2902-12.

**Termination of agreement.** The agency should include a clause that specifies the conditions under which the agency can terminate the agreement in any procurement documents. If the agency is purchasing through a blanket agreement or term agreement, it may want to include a "Termination for cause" or "Termination for the convenience of the agency" 30-day written notice clause allowing the agency to cancel the agreement if officers find the armor received to be unacceptable, or if the supplier is noncompliant with agreement terms, even though the armor itself may be fully compliant with the procurement specifications. Additionally, include revocation of an armor's compliance status (i.e., removal of the model from the CPL) as justifiable cause for termination of agreement.

If the armor is not delivered in a reasonable timeframe according to a predetermined shipping schedule, this is another justifiable reason for terminating an agreement. Receiving a substandard product should also justify canceling an agreement. When posting product specifications, an agency must be sure to define potential reasons why a product may be rejected or an agreement may be terminated. For instance, poor workmanship or chronic delivery delays are legitimate causes for termination, but may be difficult to support unless previously noted.





## CHAPTER 8.

# Inspection and Care

One of the most frequently asked questions about body armor is: “How long does body armor last?” This question has no easy or definitive answer. All body armor models on the NIJ CPL are warranted for their ballistic performance. However, the actual performance of an individual body armor may vary based on how it has been stored and maintained, environmental exposure and differences in use. Every piece of armor will eventually have to be replaced for one or more of several potential reasons, such as change in officer weight and shape, change in service weapons or ammunition threat, being struck by a bullet or edged weapon, or simply from normal wear and tear over time.

Frequent inspections and proper care of body armor help maintain the integrity of the ballistic panels and the carrier. Every model of body armor that complies with NIJ Standard-0101.06 is required to have supplier-recommended care instructions on the label. An example of this can be seen on the sample panel label at Exhibit 18. Follow the supplier-recommended care instructions, making certain that anyone else who cares for the armor is also aware of these instructions.

## Inspection

Visually inspect ballistic panel covers frequently. Check for cuts, tears, stitching separation, sealing problems and excessive wear, all of which could expose the ballistic materials to moisture and other potentially degrading factors. Carriers that rub the panel covers as a result of normal flexing can wear through the cover and expose the armor to moisture penetration. Visually inspect hard armor plates before each use to ensure that no surface cracks or other signs of damage are present that

could degrade ballistic performance. Although an appearance of good condition does not necessarily imply good performance, damage is a clear indicator that the armor panel or plate should be replaced.

Periodically, also inspect the condition of the label on the armor panel. Once the label becomes illegible or shows signs of excessive wear, it should be replaced. It is important to be able to identify the model and protection level of an armor. The model identification is important in the event of a safety recall.

When checking the label, note the issue date and compare it to the manufacturer’s ballistic warranty also found on the label. If the armor has been in service beyond its declared warranty period, report that to the agency representative. The agency’s representative may be the quartermaster, body armor procurement officer or any other person who is directly responsible for interacting with body armor suppliers. Serviceable armor should never be removed from service until a replacement armor is available for immediate wear. An officer with no armor is at greater risk than an officer wearing older or worn/damaged armor.

**Note that the covers of the armor panels should not be opened for any reason.** If the integrity of the panel cover is compromised in any way, contact the agency representative immediately for referral back to the armor supplier.

Consider replacing, or returning to the manufacturer for repair, any armor panel or label showing damage or excessive wear as soon as possible. Never attempt to repair armor panels under any circumstances; rather, report these findings to the agency representative. The representative

should contact the supplier for guidance on how to proceed.

Agencies should consider supervisory involvement in the inspection of body armor.

## Handling

Ensure that armor panels fit properly into carriers with the strike face and wear face correctly oriented. Confirm the correct orientation by referring to the panel label, which will indicate whether the labeled side is the strike face or wear face.

Do not needlessly flex, bend, compress or crease soft armor panels when handling them, as this may contribute to degradation of the ballistic materials over time.

Handle hard armor plates, particularly those incorporating ceramic materials, carefully because they may be fragile. Ceramic materials are extremely brittle and such armor should not be dropped on hard surfaces, as this can cause breaks or cracks that can have an adverse effect on performance.

## Cleaning

Improper cleaning can damage an armor panel or a carrier. Damaged panels can cause the body armor to fail when struck by a projectile. Armor panels are not to be dry-cleaned, machine-washed or machine-dried, either in the home or commercially. Detergents, dry-cleaning solvents and laundry equipment can damage or degrade panels.

The general industry procedure for cleaning armor panels is as follows:

- Remove the panels from the carrier.

- Wipe the outer panel cover using a damp sponge or soft cloth and cold water.
- Air-dry the panels flat, avoiding folding or creasing the armor while it dries.
- Insert the dry panels back into the carrier with each panel strike or wear face correctly oriented.
- No chemicals, other than those specified by the manufacturer, should be used when cleaning the panels. Bleach or starch, even when highly diluted, may reduce the protection level.
- Refrain from rinsing, soaking, submerging or spraying the armor panels. Any superficial smudges, marks or soiling remaining on the outer covering should not harm the armor panel integrity.
- Never dry soft armor panels outside, even in the shade, as exposure to ultraviolet light is known to cause degradation of certain types of ballistic materials.

The general industry procedure for cleaning carriers is as follows:

- Remove detachable straps and fasteners from the carrier. If straps and fasteners are not detachable, place them in their secured position.
- Unless the supplier specifically advocates machine washing, hand wash the carrier in cold water with a mild detergent for delicate fabrics.
- Rinse the carrier thoroughly and hang up indoors to air dry.
- Some suppliers preshrink carriers and advocate machine drying, but unless specifically stated by the supplier, do not use a dryer. Air drying will have less impact on the integrity of the carrier.

## Storage

Body armor should be stored as recommended by the supplier. General guidelines include the following:

- Armor should be stored flat at room temperature in a dry, shaded place that minimizes exposure to direct light.
- Armor may be hung from a specially designed robust hanger made for body armor (see Exhibit 19). Wire or some wooden hangers will break or buckle under the weight of the armor. Do not hang armor by the carrier straps, as this may cause the straps to stretch and lose their original shape and fit.
- Turn the body armor inside out or open and lay flat to allow moisture to evaporate.
- Air dry damp armor prior to storage.

- Armor should not be stored in a low airflow environment, such as the bottom of a locker, nor in a potentially extreme hot/cold environment, such as the trunk of a vehicle.

### EXHIBIT 19: BODY ARMOR HANGER



Maintaining and storing body armor in accordance with the manufacturer's instructions is key to its continued performance.





## CHAPTER 9.

# Training and Administration

## Training

Officers should be trained in the proper use and care of their armors and educated on the benefits of routine wear. To assist agencies in educating officers on the importance of wearing body armor, NIJ has produced an educational video titled “Body Armor: Survive in the Line of Fire” that is publicly available through the following link: <http://youtu.be/R85mWoCBR50>

When an agency issues an armor, the administrator should ensure that each officer knows the level of protection provided by the armor relative to various threats. Officers also must know that ballistic-resistant body armor may not be effective against attack by a knife or other sharp instrument, such as an ice pick. The level of protection offered by an armor should be clearly explained to each officer.

Make an effort to inform officers of the importance of wearing an armor system in its entirety, which includes, at a minimum, the front and back ballistic panels. Officers should be required to read the FBI’s annual reports on *Law Enforcement Officers Killed and Assaulted*; the incidents described each year reinforce the importance of routine use of armors to protect against unexpected assaults. The report encourages officers to recognize that seemingly routine assignments can sometimes end in armed confrontation.

Some agencies have found that they can increase acceptance of the routine use of body armor by taking advantage of the controlled setting of the police academy. These agencies issue armors to all recruits when they report to the academy and require their wear throughout the training period.

Another approach is to obtain an officer’s commitment to wear the armor routinely for a period of at least one month. Generally, the officer realizes that the body armor is not as uncomfortable as expected and continues to wear it thereafter.

## Administrative Considerations

**Issuance.** When issuing a body armor, the agency’s first obligation is to ensure that the vest properly fits the officer to whom it is issued. Fit influences whether the armor will be comfortable and therefore, whether the officer will consistently wear it.

When an armor is issued, **enter the issue date on the label with a permanent marking pen or stamp.** This will facilitate determining whether a particular in-service armor is within its ballistic warranty period.

Maintain accurate property records for all armor in inventory. At any time, an agency should be able to determine which armor was issued to a given officer and the issue date, supplier name, model designation, armor type and production lot number. The NIJ CTP requires that body armor suppliers maintain records for tracking lot numbers, serial numbers and purchasing agencies. The NIJ CTP also requires that body armor panel/plate labels include a blank line for the date of issue.

Proper records are invaluable if a production lot is found to be defective after issuance. If one body armor is found to be flawed, immediately inspect all armor from the same supplier and production lot. Agencies can record officer and armor information to track replacements and to plan purchases of new armor.

**Wear.** Some agencies enforce a mandatory wear policy. When these policies are properly enforced, wear rates are higher. Both the BVP and JAG grant programs require that such policies be in place in order for an agency to receive funds.

**Disposal.** When body armor is no longer serviceable, the agency must dispose of it in a responsible manner that should also prevent illicit use. If armor is disposed of in a landfill, unauthorized parties may obtain the armors; also, materials may not be biodegradable. Many materials used in manufacturing body armor are either fire retardant or inherently fireproof, so they cannot be incinerated.

Certain material suppliers have ongoing recycling programs for out-of-service armor. Some body armor companies offer a “take-back” disposal. The agency should contact its armor supplier/manufacturer to see if quotes are provided for such services.

You may also contact the NIJ CTP regarding possibly donating the armor for research purposes. Refer to the resource list in Appendix B for NIJ CTP contact information.

When an agency disposes of unserviceable armors, it should require and obtain a record of disposition from the organization used to dispose of the armor. At a minimum, the disposition should list the armor by serial number, disposal method and disposal date. This chain of custody document should be retained by both the agency and the disposing company as a formal record of disposition.

**Replacement.** Evaluate any armor that has been damaged for replacement. This damage can be from events such as shooting, stabbing, slashing or impact from a vehicle accident. Any damage to the ballistic panel cover may compromise the armor’s integrity and may void the supplier warranty. Armors that show damage should be replaced.

## CHAPTER 10.

# What To Do When an Officer Wearing Body Armor Is Shot

An officer shot when wearing body armor should always receive medical attention.

Any officer shot while wearing body armor should receive a prompt medical evaluation. Even though the officer may only exhibit soreness and bruising, there may be more serious internal injuries that have not yet manifested themselves.

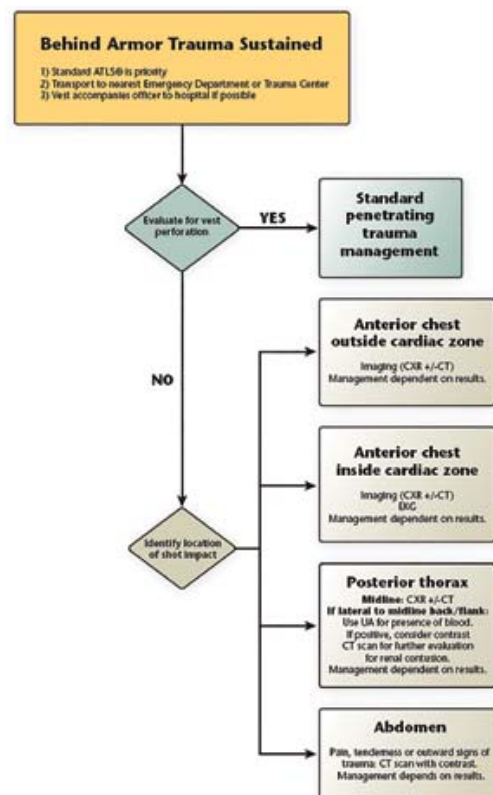
NIJ provides a suggested course for the initial medical evaluation of an officer who has been shot. See Exhibit 20. When an officer is wounded in the line of duty, there are practical and psychological issues that must be dealt with in the immediate term and in the long term. The International Association of Chiefs of Police (IACP) has published a set of guidelines for agencies to follow to prepare for this possibility and to address if it occurs in their agency. See *Officer Involved-Shooting Guidelines* (<http://www.theiacp.org/portals/0/documents/pdfs/Psych-OfficerInvolvedShooting.pdf>.)

Before the officer returns to duty, the damaged armor that saved a life needs to be replaced with a new one.

Agencies are encouraged to contact the NIJ CTP and the IACP/DuPont Kevlar Survivors' Club® in the event of an incident involving body armor. Agencies are also encouraged to submit a report to the FBI's Uniform Crime Reports (UCR) Program, which records instances of *Law Enforcement Officers Killed and Assaulted* in an annual publication that provides data on feloniously or accidentally killed officers and

officers who were assaulted while performing their duties. By sharing this information, other officers will be made aware of the benefits of wearing body armor on a routine basis and further lives may be saved.

## EXHIBIT 20: MEDICAL EVALUATION FLOW CHART



Source: <http://nij.gov/topics/technology/body-armor/pages/medical-management-guidelines.aspx>



## Definitions



The definitions provided in this section are specific to this guide. Some of the terms were previously defined in NIJ Standard-0101.06, and other terms are new to this guide and added for the reader's increased understanding.

**Accessory ballistic panels:** Armor components that are detachable or removable from the body armor and intended to provide comparable ballistic protection. NIJ Standard-0101.06 states that examples of accessory panels include shoulders, neck, groin, coccyx and side protection panels, which are attached to, or inserted into, the external armor carrier but are not integral to the armor panels or armor sample.

**Ammunition:** A bullet encased together with its propellant and a primer.

**Armor** (see Body armor).

**Armor carrier or carrier:** A component of the body armor system with a primary purpose of retaining the ballistic panel(s) and providing a means of supporting and securing the armor to the wearer. The carrier alone is not intended to provide any ballistic protection.

**Armor conditioning:** Environmental and mechanical conditioning of a body armor model prior to ballistic testing, which consists of exposure to specified conditions of temperature, humidity and bending/folding.

**Armor panel:** The protective component of a body armor system. An armor panel typically consists of a ballistic panel enclosed in a nonremovable environmental cover. The cover offers no ballistic protection. It is solely intended to prevent the ballistic panel from being exposed to the environment.

**Backface Signature (BFS):** The greatest depth of indentation in the backing material caused by a nonpenetrating bullet impact on the armor panel or plate during testing.

**Ballistic limit:** A material characteristic of an armor model that is tested by the laboratory to help determine its protective capability. For a given bullet type, the velocity at which the bullet is expected to perforate the armor 50% of the time. The ballistic limit is typically denoted as the V<sub>50</sub> or V<sub>50</sub> value.

**Ballistic panel:** (see Armor panel) The protective component of an armor panel. It typically consists of flexible or rigid ballistic-resistant materials. The word *panel*, if not preceded by the word *ballistic*, refers to an *armor panel* in this guide.

**Ballistic performance:** (see Defeat).

**Blunt trauma injury:** Injury caused to the wearer when a bullet is stopped by the armor panel, but the armor materials are driven into the body as a result of the impact.

**Body armor:** An item of personal protective equipment that provides protection against specific ballistic or stab threats within its coverage area.

**Body armor system or armor system:** Consists of the carrier and soft armor panels and/or hard armor plates.

**Body side:** The side of the armor that is worn against the body.

**Bullet:** The projectile fired from a firearm.

**Combination armor:** Designed to be both stab resistant and ballistic resistant, it is intended to provide simultaneous protection against stab and



ballistic threats. Combination armor may also be referred to as dual-threat or multiple-threat armor.

**Complete penetration:** See Perforation.

**Compliance Testing Program (CTP):** Designed to identify items that meet a defined set of standards. In the context of this guide, CTP refers to the program NIJ established in 1978 to identify body armor models that meet the requirements of the most current version of NIJ's ballistic-resistant body armor standard.

**Compliant Product List (CPL):** A list of product models that have been found to be compliant with an applicable standard.

**Component:** Any material, part or subassembly used in construction of the armor system or armor system element.

**Concealable armor:** Body armor intended to be worn under clothing such as a duty uniform.

**Defeat:** When an armor panel stops the threat it was designed to protect against, with acceptable backface deformation.

**Follow-up Inspection and Testing (FIT):** Testing that is administered by the Compliance Testing Program after armor models have completed initial type testing. FIT testing is principally intended to ensure quality control to make sure that there are no significant design deviations from the model that was tested and found to be compliant with the NIJ ballistic-resistant body armor standard.

**Hard armor:** (see Exhibit 5) Rigid plates or inserts that may be constructed from ceramics, compressed laminate sheets, metallic plates or composites that incorporate more than one material.

**In-conjunction (IC) armor:** A combination of either two soft armor panels or a soft panel with a hard armor insert, designed to provide increased ballistic protection.

**Insert:** A removable or integral armor panel (flexible or rigid) or trauma pack/plate that can enhance the ballistic performance of the armor panel in a localized area.

**Label:** Permanently attached piece of cloth or similar material affixed to an armor panel displaying, among other information: the manufacturer, a unique model designator, the level of protection and the date of manufacture.

**Manufacturer:** A commercial entity engaged in the fabrication of a product.

**Model:** One of a class of things, such as body armor, with a unique, specific design.

**Partial penetration:** A threat bullet that enters a body armor panel or test sample but does not completely pass through it.

**Perforation:** A threat bullet passing completely through a body armor panel or test sample.

**Round (ballistic):** A single unit of ammunition.

**Sample:** A single item with design specifications representative of a class of things; in the case of this guide, of a model of body armor.

**Service life:** An armor's anticipated period of ballistic performance as specified by the manufacturer.

**Soft armor:** (see Exhibit 4) Constructed of pliable/flexible ballistic-resistant materials.

**Strike face:** Surface of an armor sample or panel designated by the manufacturer as the surface that must be worn away from the wearer's body. (See Wear face) The strike face is designed to be the surface that the bullet strikes when the armor is protecting an officer.

**Supplier:** The party responsible for ensuring that products meet and, if applicable, continue to meet, the requirements on which the certification is based, as per ISO/IEC Guide 65.3.1.

**Tactical armor:** Tactical armor is typically a combination of hard armor plate and soft armor panels, making it thicker and heavier than soft armor alone (see discussion of in-conjunction armors on page 7.). Tactical armor is not typically worn for extended periods. It is donned for wear by officers entering high-risk situations.

**Threat/Threat round:** The ammunition that is used to assess the ballistic performance of a body armor.

**Trauma pack:** Also referred to as a *trauma plate*, this type of body armor insert is primarily intended to provide increased protection against blunt force injury.

**Vest:** Synonymous with body armor.

**Warranty:** A manufacturer-specified period of time that identifies the length of time the manufacturer supports the ballistic performance of a specific body armor model against a specified threat level. This information is identified on the ballistic panel label. Often ballistic performance warranties are confused with workmanship warranties, which do not address ballistic performance.

**Wear face:** The side of the armor worn against the body.



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National Institute of Justice. 2009. *NIJ Compliance Testing Program Ballistic Body Armor Applicant Instructions*. Washington, DC: U.S. Department of Justice, Office of Justice Programs, National Institute of Justice. Available on the web at <https://www.justnet.org/pdf/Applicant%20Package%2002-17-2009%20rev13.pdf>.





APPENDIX A.

# Contributors



Contributor	Organization
John Abraham	Seattle Police Department
David Bak	U.S. Department of Homeland Security, Customs and Border Protection
Steven Berens	Orange County (Fla.) Sheriff's Office
Daniel Callahan	Arlington County (Va.) Sheriff's Office
Heath Clevenger	York County (S.C.) Sheriff's Office
John Ely	U.S. Department of Justice, Federal Bureau of Prisons
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Brian Fenley	U.S. Department of Homeland Security, Customs and Border Protection
Cindy Fredriksen	Colorado Department of Public Safety
Deborah Garde	Illinois State Police
Gordon Gillerman	U.S. Department of Commerce, National Institute of Standards and Technology
Wayne Hemphill	Florida Department of Corrections
Jeffrey Horlick	U.S. Department of Commerce, National Institute of Standards and Technology
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Richard Kehr	Los Angeles Police Department
Rob Kinsler	U.S. Army Research Laboratory
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Vito Perilli	New York City Police Department
Michael Riley	U.S. Department of Commerce, National Institute of Standards and Technology
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John Seto	Ann Arbor (Mich.) Police Department
Debra Stoe	U.S. Department of Justice, National Institute of Justice
Alex Sundstrom	National Law Enforcement and Corrections Technology Center-National
Michael Thompson	U.S. Department of Justice, Federal Bureau of Investigation
Amanda Toman	Technical Support Working Group
Janet Ward	U.S. Army Natick Soldier Research, Development and Engineering Center
Jeffrey Wylde	Colorado Department of Personnel and Administration



## APPENDIX B.

# Resources



### *Individual Resources*

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#### **NIJ Compliance Testing Program**

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Daniel Longhurst, NLECTC-National, Senior Engineer

Office: (202) 616-3857

Email: daniel.a.longhurst@usdoj.gov

### *Online Resources*

NIJ: <http://www.nij.gov>

NLECTC and NIJ CTP Resources: <http://www.justnet.org>

ASTM: <http://www.astm.org>

FBI Uniform Crime Reports: <http://www.fbi.gov/ucr/ucr.htm>

International Association of Chiefs of Police/DuPont Kevlar Survivors' Club®: [http://www2.dupont.com/Kevlar/en\\_US/uses\\_apps/law\\_enforcement/survivors\\_club.html](http://www2.dupont.com/Kevlar/en_US/uses_apps/law_enforcement/survivors_club.html)

### *Procurement Resources*

Bureau of Justice Administration (BJA): <https://www.bja.gov>

BJA Byrne Justice Assistance Grants (JAG): [https://www.bja.gov/ProgramDetails.aspx?Program\\_ID=59](https://www.bja.gov/ProgramDetails.aspx?Program_ID=59)

BJA Bulletproof Vest Partnership: <http://www.ojp.usdoj.gov/bvpbasi/>

U.S. Department of Homeland Security: <http://www.dhs.gov/dhs-financial-assistance>

Responder Knowledge Base (RKB): <https://www.llis.dhs.gov/knowledgebase>

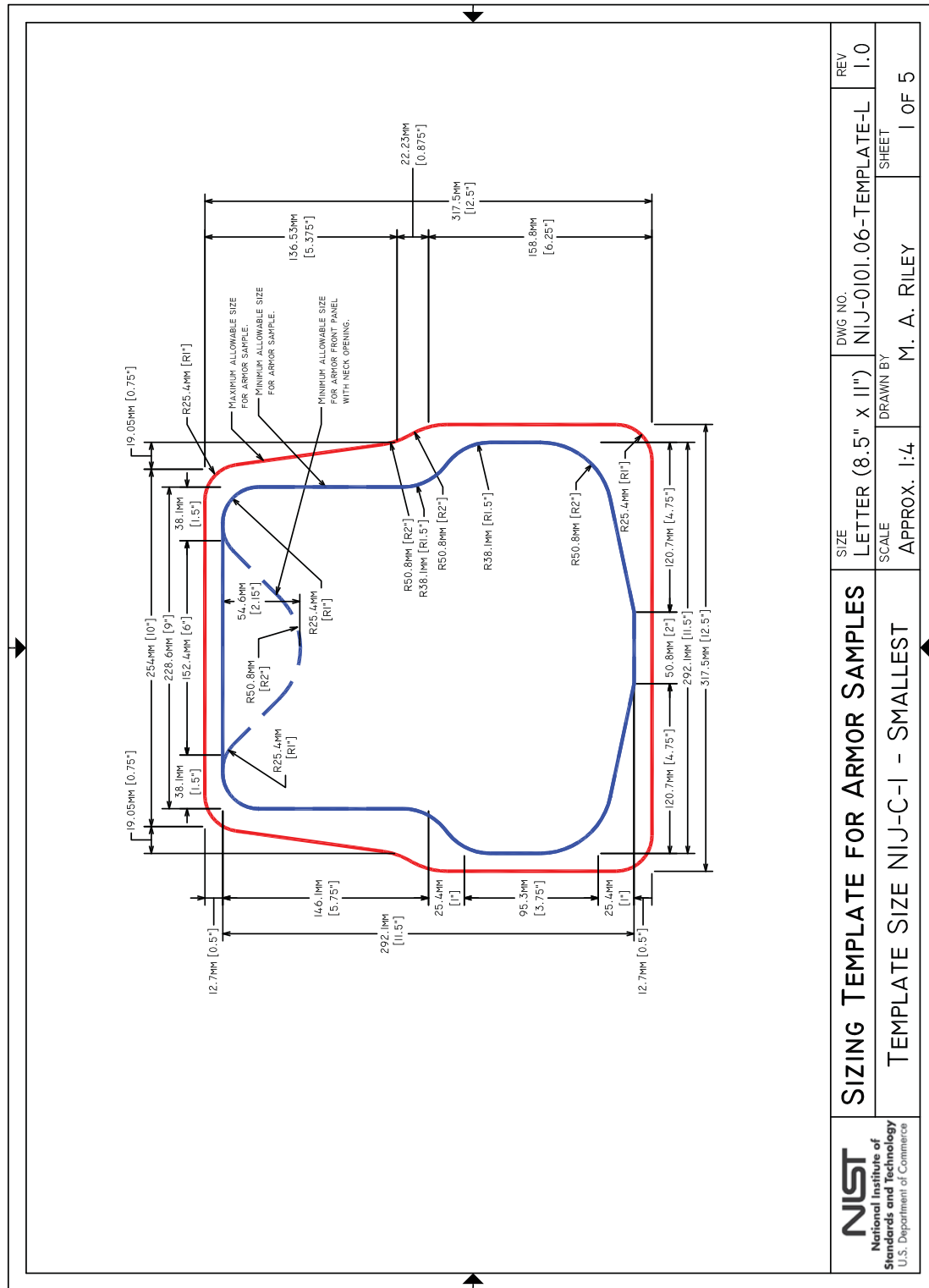


APPENDIX C.

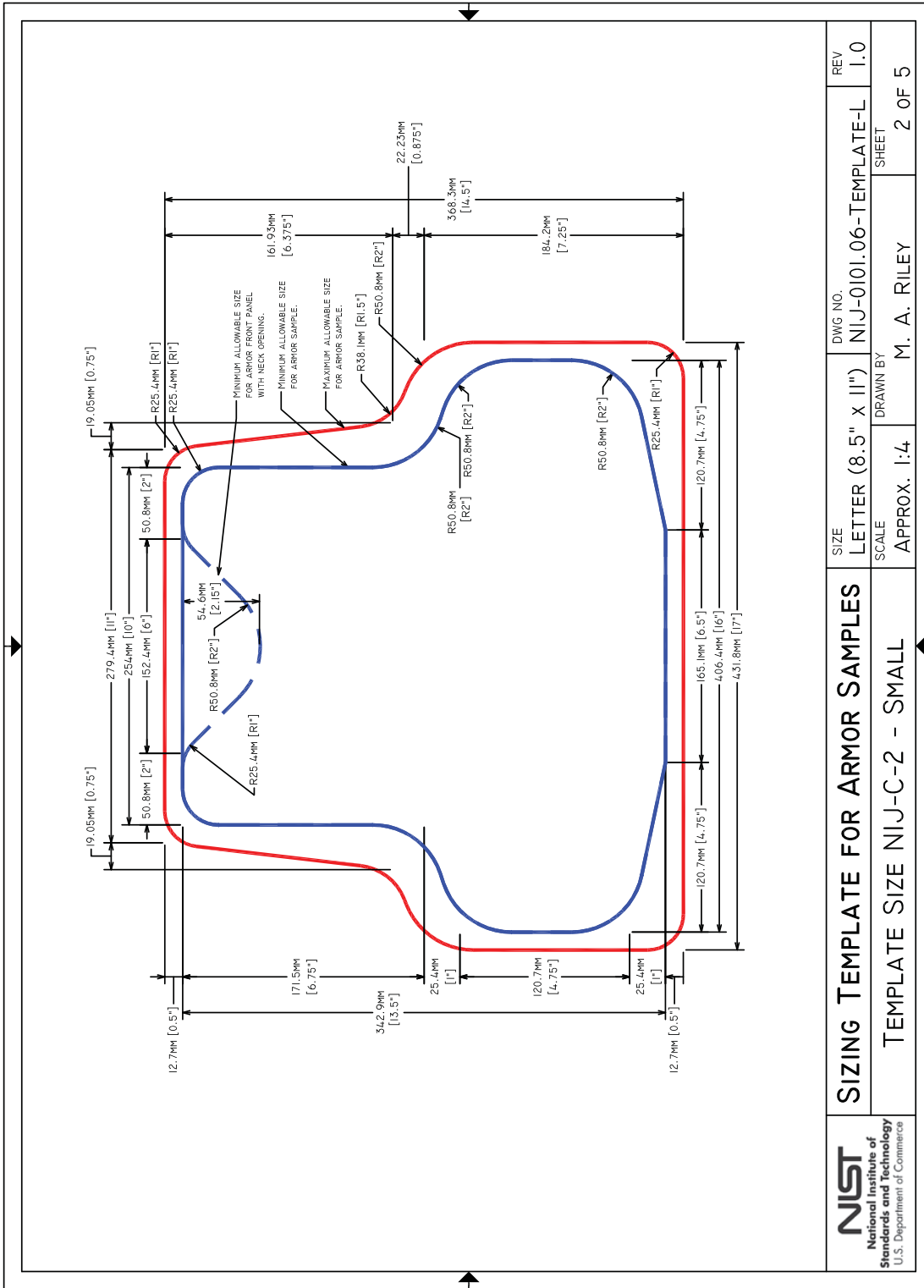
## Armor Sizing Templates

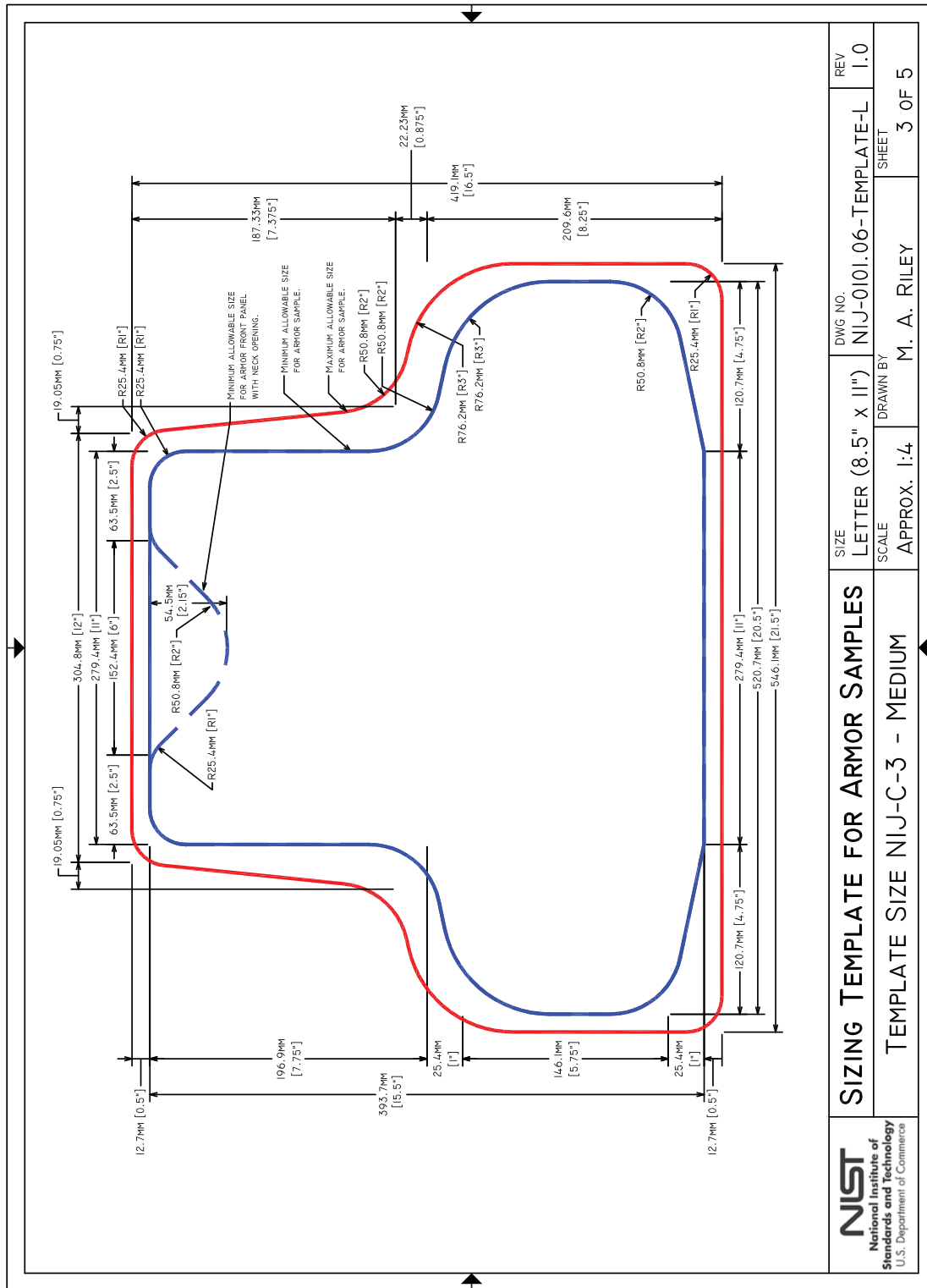


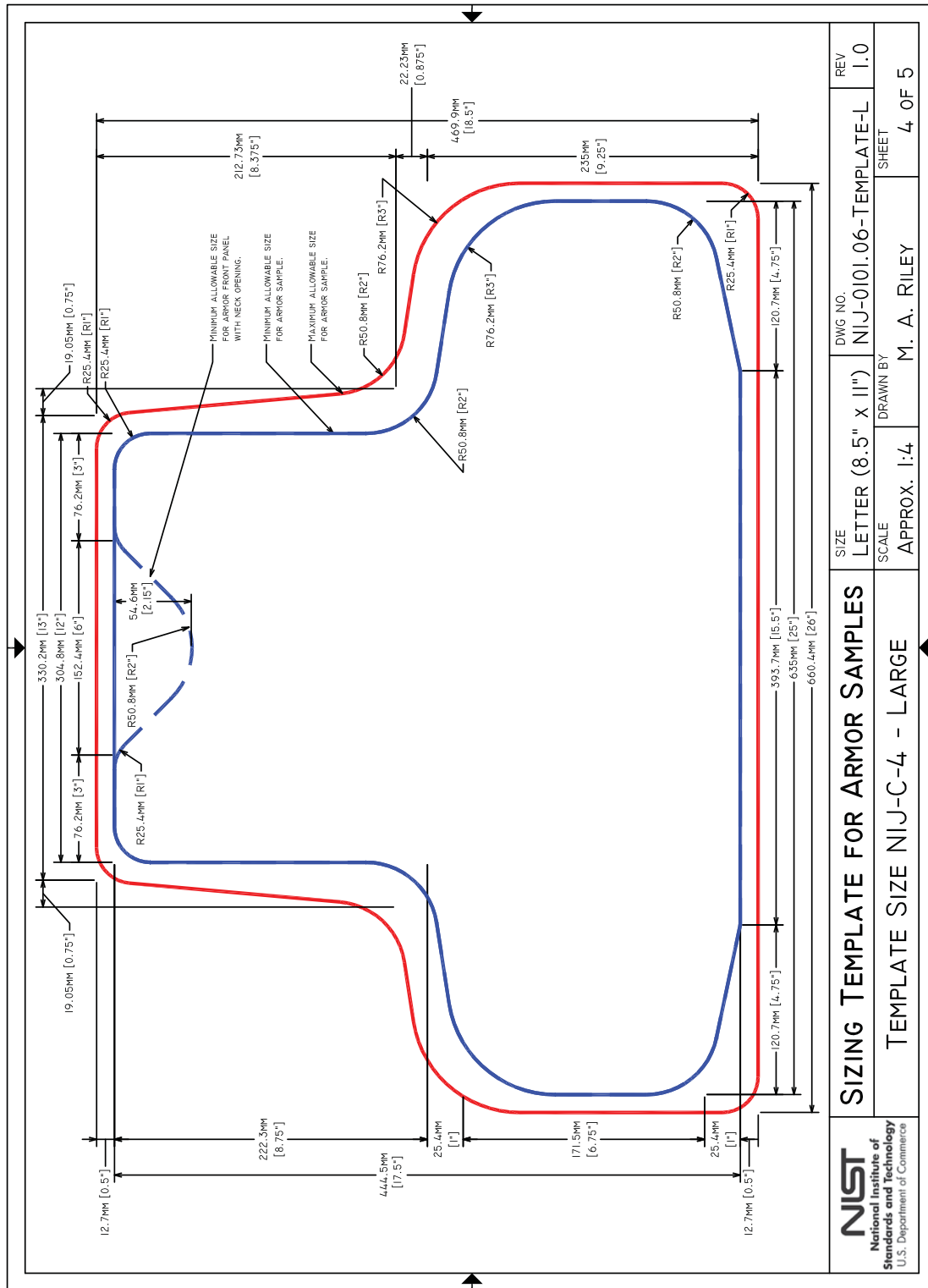




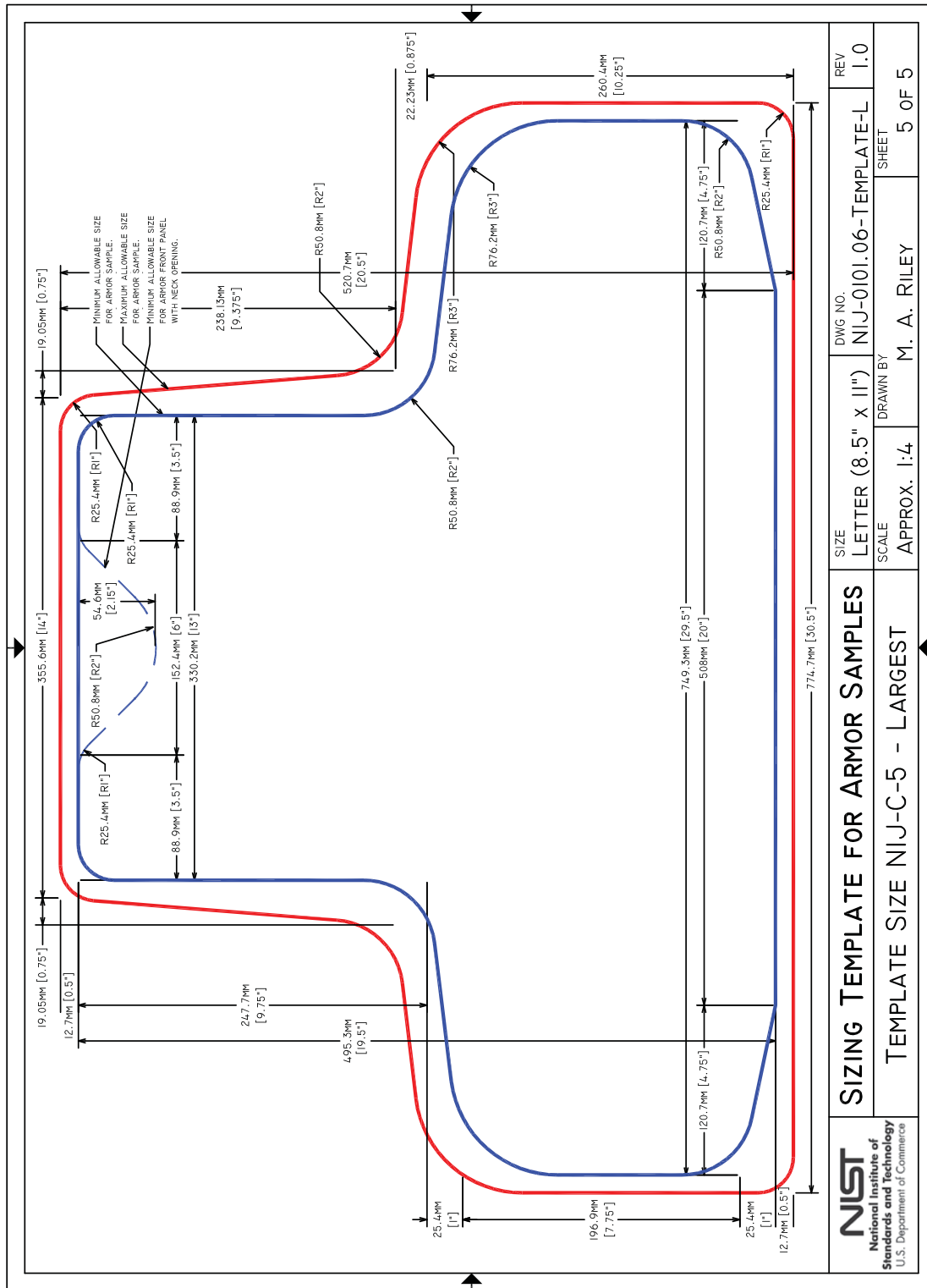
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	TEMPLATE SIZE NIJ-C-1 - SMALLEST			SCALE APPROX. 1:4	DRAWN BY M. A. RILEY	SHEET 1 OF 5













APPENDIX D.

# Body Armor Compliance Testing Program Body Armor Applicant Package



Document Name: NIJ CTP Applicant Agreement	Approval Date: 31 Mar 2013
Revision: 14 Jun 2013	Implementation Date: 14 Jun 2013
OMB Number: 1121-0321	Expires: 31 Mar 2016

## National Institute of Justice Compliance Testing Program Applicant Agreement

In accordance with the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number. The OMB number for this collection is 1121-0321. Public reporting burden for this collection of information is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information.

This information is being requested pursuant to 6 U.S.C. 162(b)(4) and 6 U.S.C. 162(b)(6)(B). The disclosure is voluntary. The information provided on this form will be used by the National Institute of Justice to administer a product conformity assessment program for products used by law enforcement and correctional officers. This information and the associated products are voluntarily submitted under the Compliance Testing Program.

**PRIVACY ACT NOTICE:** See Clause 6 of this document for nature and extent of confidentiality.

This National Institute of Justice Compliance Testing Program Applicant Agreement pertains to all applicants seeking to voluntarily participate in the National Institute of Justice Compliance Testing Program (hereafter, the NIJ CTP). Any reference to the NIJ CTP as an organization includes elements of both National Institute of Justice (NIJ) and the National Law Enforcement and Corrections Technology Center - National (NLECTC-National).

This NIJ CTP Applicant Agreement shall constitute the entire agreement that governs the NIJ CTP's actions pertaining to the Applicant and shall supersede all other agreements between the NIJ CTP and the Applicant.

Please provide business headquarters information below.

Applicant Name: \_\_\_\_\_

Applicant Address: \_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_

The Applicant hereby expressly acknowledges and agrees as follows:



Document Name: NIJ CTP Applicant Agreement	Approval Date: 31 Mar 2013
Revision: 14 Jun 2013	Implementation Date: 14 Jun 2013
OMB Number: 1121-0321	Expires: 31 Mar 2016

## Part I Application and Evaluation

### 1. Scope of NIJ CTP Actions

Participation in the NIJ CTP is voluntary. The NIJ CTP is an organization whose primary function is, on Applicant request, to perform conformity assessment on a product.

The Applicant acknowledges and agrees that the NIJ CTP is not a designer, manufacturer, marketer, supplier, endorser, guarantor or insurer of any product. The NIJ CTP is not assuming any obligation toward the Applicant or toward any third party in any way related to this agreement. The Applicant acknowledges and agrees that the Applicant is solely responsible for research, development testing, manufacture, marketing and sale of any product(s) submitted to the NIJ CTP for conformity assessment. Furthermore, the Applicant expressly acknowledges and agrees that (a) NIJ CTP activities are not intended to supplant the Applicant's examination and testing of such product(s), (b) by its performance of NIJ CTP activities, the NIJ CTP is not assuming any duty that the Applicant might otherwise have to examine and/or test the design of such product(s) or system(s), either before or after manufacture or sale, (c) the NIJ CTP is not in any way endorsing or warranting the safety or performance of such product(s) or system(s) and (d) the NIJ CTP does not intend to supply, and is not supplying, information for the guidance of the Applicant in the conduct of its business.

### 2. Terms and Conditions

The NIJ CTP performs conformity assessment at the request of Applicants. Conformity assessment entails determining that specified requirements relating to a product are fulfilled; these may include testing, inspection and certification. The Terms and Conditions pertaining to a specific product are supplemented in a separate NIJ CTP Manufacturing Locations and Model Application document. The Applicant acknowledges and agrees that the supplemental terms and conditions are expressly incorporated by reference herein and are an integral part hereof.

### 3. Payment Terms

#### a. Conformity Assessment

There shall be no fees paid by the Applicant to the NIJ CTP. This is not to imply that participation in the NIJ CTP is without cost. For each product submitted to the NIJ CTP, the Applicant is responsible for all expenses related to shipping, testing and inspections required to demonstrate initial and continued compliance with the NIJ CTP.

#### b. Type Testing

The Applicant shall use an NIJ Approved test laboratory and shall be responsible for all expenses related to shipping and testing.

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c. Surveillance

The Applicant is responsible for all costs associated with surveillance including onsite inspection, testing, shipping and any associated administrative fees.

**4. Applicant Information**

The Applicant represents and warrants that all information and/or data provided to the NIJ CTP by the Applicant, or on the Applicant's behalf, are complete and accurate and that the NIJ CTP may rely thereon when performing conformity assessment of a related product. If any information and/or data provided to the NIJ CTP by the Applicant or on the Applicant's behalf are either incomplete or inaccurate, the NIJ CTP shall not be liable in any manner for any performance or alleged non-performance of conformity assessment under this Agreement. The Applicant agrees and consents to the NIJ CTP's sharing the information and data provided by the Applicant with technical experts and staff in order for the NIJ CTP to: (i) perform the conformity assessment or (ii) act in the interest of officer safety. The Applicant further represents and warrants that all information and data provided to the NIJ CTP by the Applicant are properly owned or licensed by the Applicant and do not infringe on the intellectual property rights of any third party, and that the Applicant is allowed to provide such information to the NIJ CTP without restriction.

**5. Ownership of Work Product**

The NIJ CTP shall retain all rights, title and interest in, and to, the evaluation package and any other documents in any form whatsoever conceived, prepared or used by the NIJ CTP in the performance of its conformity assessment.

**6. Confidentiality**

The NIJ CTP shall use reasonable efforts to maintain confidential all information identified as "Confidential Commercial Information" that it obtains from the Applicant. Confidential Commercial Information shall not include information that is (a) publicly available; (b) subsequently acquired by the NIJ CTP from other sources in a manner that does not constitute a breach of this Agreement; (c) disclosed by the NIJ CTP when deemed, at its sole discretion, to be necessary to the NIJ CTP's performance of the requested conformity assessment; (d) required to be produced pursuant to an order or command of any judicial or regulatory authority; (e) required by any common law or statutory duty; or (f) disclosed in the interest of officer safety.

The NIJ CTP shall take reasonable steps to safeguard Applicant data within the NIJ CTP systems prior to external transmission and may transmit the Applicant's

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Confidential Commercial Information and data to the Applicant through the Internet or any public network, unless otherwise directed in writing by the Applicant.

## 7. Samples

At the applicant's expense, samples shall be provided for initial type testing as required by the specific product certification scheme.

The shipping of samples shall be at the Applicant's expense.

At the discretion of the NIJ CTP, samples may be returned to the Applicant at the Applicant's expense or held indefinitely.

## 8. Export Control

The Applicant represents and warrants that it: (a) will not cause the NIJ CTP to violate any export, trade or other economic sanction law; and (b) will promptly advise the NIJ CTP in writing if a project involves technology that is subject to any government controls, including U.S. export controls, and will promptly supply all information needed to comply with those controls.

## 9. No Assignment

The Applicant acknowledges and agrees that neither the Applicant nor the NIJ CTP may assign any of its rights or obligations under this agreement in whole or in part to any other person without the other party's express written consent.

## 10. No Third Party Beneficiaries

The Parties intend that no provisions of this Agreement shall in any way benefit any third party, and that no third party shall have any rights or cause of action under this Agreement. Neither Party is an agent for an undisclosed principal. The Parties acknowledge and agree that any such undisclosed principal would have no rights or causes of action against the NIJ CTP for any conformity assessment requested by, or provided to, the Applicant under this Agreement.

## 11. Waiver

Any failure by the NIJ CTP or the Applicant to insist on the performance of any provision of this Agreement shall not constitute a waiver of any rights under the Agreement or a waiver of any right to future performance of that provision. For any waiver of any provision of this Agreement to be effective, it must be set forth in writing and executed by authorized agents for both Parties.

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## 12. Limitation of Remedies Available to Applicant

The NIJ CTP will perform conformity assessment hereunder in accordance with professional standards of conduct generally applicable to conformity assessment service organizations. The NIJ CTP makes no other representation or warranty of any kind whatsoever, whether express or implied, with respect to its provision of conformity assessment hereunder.

## 13. Release and Waiver

In consideration of the NIJ CTP's agreement to perform conformity assessment for the Applicant hereunder, the applicant hereby expressly waives, releases and exempts the NIJ CTP and its managers, employees, technical experts and subcontractors from any and all liability, claims, demands, actions or causes of action whatsoever for any alleged loss, damage or injury. This express release and waiver is intended to, and does cover, all claims arising in tort (including, but not limited to, negligence, product liability, strict liability, negligent misrepresentation, intentional misrepresentation, tortious breach of contract, unfair competition, defamation, tortious interference with an actual or prospective contract, business relationship or economic advantage) as well as those arising under any state or federal statute, that in any way arise out of, or relate to, the NIJ CTP's conformity assessment or to the NIJ CTP's performance and/or alleged non-performance under this agreement.

## 14. Indemnification As to Third Party Claims

The Applicant acknowledges and agrees to hold the NIJ CTP, NLECTC-National and its officers, directors, staff, technical experts and subcontractors harmless and indemnify them from any and all loss or expense (including reasonable attorney fees) arising from any and all claims with respect to the Applicant's listed products, to the NIJ CTP, to the NIJ compliance statement and/or violation of the terms and conditions of this agreement.

## 15. Representations and Modifications

The Applicant acknowledges and agrees to name at least one authorized legal representative who is qualified and authorized to respond on the Applicant's behalf to questions from the NIJ CTP relating to product(s) submitted for conformity assessment. The Applicant agrees to notify the NIJ CTP in writing by executing a current Applicant Agreement with updated information.

This Agreement, its explicitly incorporated Terms and Conditions, and any and all related documents, constitute the entire, complete and fully integrated agreement between the parties. This Agreement may be modified only in writing and only if such writing is duly executed by authorized representatives for the NIJ CTP and the Applicant.

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## 16. Termination

This Agreement will continue in effect until terminated by either the NIJ CTP or the Applicant, with or without cause, on 30 days' prior written notice to the other ("Termination Notice"). In the event of any breach of this Agreement, either Party may terminate this Agreement, effective immediately on the other party's receipt of the Termination Notice.

The Applicant acknowledges and agrees that failure to comply with the provisions or terms of this agreement immediately on such request by the NIJ CTP, its agents and/or designees constitutes grounds for suspension or revocation of NIJ compliance status and/or removing the Applicant from the program.

## 17. Notice

Notice under this Agreement must be made by hand delivery, courier service, mail, facsimile or e-mail transmission at the Applicant's designated place of business. Notice shall be effective on confirmed receipt or five business days after the notice is deposited by certified mail.

The NIJ CTP's contact information is provided below:

E-mail: [bactp@justnet.org](mailto:bactp@justnet.org)  
 Address: 700 N. Frederick Ave., Bldg. 181, Room 1L30  
 Gaithersburg, MD 20879  
 Phone: (800) 248-2742  
 Website: [www.justnet.org/CTP](http://www.justnet.org/CTP)

## 18. Severability

If any provision of this Agreement is held invalid, void or unenforceable for any reason, all other provisions of this Agreement shall remain valid to the extent permissible under law.

## 19. Complaint Resolution and Appeals Process.

Any complaints expressed by the Applicant in writing to the NIJ CTP will be investigated, and action will be taken by the NIJ CTP to respond. If resolution to a complaint is not satisfactory to the Applicant, the Applicant may request an appeal. The request for appeal shall be in writing, signed and addressed to the NIJ CTP with any evidence the Applicant feels should be considered. The NIJ CTP will arrange for an independent Special Review Committee of technical experts and practitioners to be



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convened to evaluate the appeal. The committee will review the matter and make a recommendation for resolution to NIJ, and NIJ shall make a final decision.

## 20. Governing Law/Jurisdiction

This Agreement shall be governed by the laws of the state of Maryland, United States of America, without reference to Maryland's choice of law principles. The Parties consent to the sole and exclusive jurisdiction in the state courts and federal courts that have jurisdiction over Maryland, for any claims.

## 21. English Language

The Parties hereby acknowledge that they have mutually required that this Agreement, and all documentation, notices, judicial proceedings and dispute resolution and arbitration entered into, given, instituted pursuant to or relating to, this Agreement be drawn up in the English language. Any translations of documents provided to the Applicant are done solely for convenience, and, in all cases, the English language version of such documents shall govern.

## 22. Force Majeure

Neither Party shall be liable for any failure or delay in the performance of its obligations due to elements of nature, acts of war, terrorism, riots, civil disorder, rebellions or other similar cause beyond the reasonable control of the Party affected, provided such default or delay could not have been prevented by reasonable precautions and cannot reasonably be circumvented and provided further that the Party hindered or delayed immediately notifies the other Party describing the circumstances causing delay.

## 23. Independence

The Parties are, and intend to be, independent with respect to the conformity assessment described herein. Neither Party shall act as an agent of the other, nor shall it be entitled to enter into any agreements or incur any obligations on behalf of the other Party. No form of joint employer, joint venture, partnership or similar relationship between the Parties is intended or created hereby. As an independent organization, the NIJ CTP shall be solely responsible for determining the means and methods for performing the conformity assessment.

## Part II Certification

### 24. Attestation of Compliance and Compliant Product List

The NIJ CTP may issue an attestation of compliance and post the model to the Compliant Product List (CPL) if:

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- The NIJ CTP's evaluation determines that evidence demonstrates a product complies with the applicable requirements, and
- the product does not contain any features unanticipated by the applicable requirements such that the NIJ CTP determines that an unacceptable risk is present, and
- the applicant fully complies with and participates in the applicable Surveillance Program.

Compliance status of a model is granted and maintained at the discretion of NIJ. The decision as to whether or not to grant compliance status for a product shall be made by NIJ on the basis of the information gathered during the evaluation process and any other relevant information. No party has a legal right to compliance status. NIJ grants or suspends compliance status with the primary purpose of ensuring that law enforcement and corrections officers have the best information available about the performance of equipment tested by the CTP. NIJ reserves the right to decline to issue compliance status for any equipment model that successfully completes the compliance testing process when it is determined by NIJ to be in the best interests of the law enforcement and corrections communities. In these cases, NIJ notifies the applicant in writing that compliance status for the model is denied and provides the reason(s) for the denial. Appeals shall be made in accordance with the established procedures.

## 25. Revocation

Revocation of the Attestation of Compliance may occur if at any time the NIJ CTP determines that any aspect required for the issuance of the Attestation of Compliance (including compliance with this document) is no longer true.

The Applicant agrees that in the event the NIJ CTP revokes an Attestation of Compliance, the Applicant shall immediately cease and desist any and all advertising or statements claiming the compliance status of the affected product(s).

## Part III Surveillance

### 26. Description

Once the armor model is listed on the NIJ Compliant Products List, ongoing compliance will be monitored via a conformity assessment surveillance process that may involve any or all of the following: periodic sampling, testing and/or inspection of production products.

### 27. Participation

Satisfactory participation in the Surveillance Program is required:

- To prevent revocation of the Attestation of Compliance.
- To continue listing on the CPL.

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- In order to include the NIJ statement of compliance on a product.

Failure to satisfactorily participate in the Surveillance Program is grounds for removal of any or all of the Applicant's products from the CPL and/or revocation of the associated Attestation of Compliance(s).

## 28. NIJ Compliance Status

a. The Applicant acknowledges and agrees that the NIJ is the sole and exclusive owner of all rights, title and interest in and to the NIJ name and compliance statements referencing NIJ. Except for the Applicant's right to use NIJ compliance statements as specifically granted in this Agreement, the Applicant has no rights or interest in or to such statements.

b. The Applicant acknowledges and agrees to not use any product's compliance status in a way that, in the opinion of NIJ:

- Is inconsistent with the scope of the model's compliance status.
- Brings the credibility of NIJ, its agents or designees or the NIJ CTP into question.
- Is misleading or inaccurate.

c. The Applicant acknowledges and agrees on expiration, withdrawal, suspension or revocation of compliance status to immediately cease and desist any and all advertising or statements claiming the compliance status of the affected product(s).

d. The Applicant acknowledges and agrees to use the compliance status only in the manner for which it was issued and reference only the requirements of the specific standard to which the product was found to be compliant.

e. The Applicant acknowledges and agrees not to create or otherwise publish in any form (written, electronic or via the Internet) any document, advertisement, product literature or brochure that references the NIJ in a manner that is not consistent with this agreement.

h. The Applicant acknowledges and agrees to use the compliance status only in reference to the model identification provided to NIJ.

i. A list shall be maintained of products that NIJ has determined as having demonstrated compliance with the current applicable requirements of the conformity assessment program.

j. It is the responsibility of the Applicant to identify any possible errors on the CPL and notify the NIJ CTP that these errors exist.

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**Applicant Signatory**

(an officer or representative of the Applicant who has the authority to bind it)

(Name/Title): \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
E-mail: \_\_\_\_\_

The Applicant agrees to the terms of this agreement and warrants that it has made no alterations to its text. The undersigned represents and warrants that he/she is authorized to execute this agreement on behalf of the Applicant.

\_\_\_\_\_  
Applicant Signatory Date

NLECTC-National Representative Acknowledgement:

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Name (Please print/type)

Document Name: NIJ CTP Authorized Representative	Approval Date: 31 Mar 2013
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## National Institute of Justice Compliance Testing Program Authorized Representative Notification

In accordance with the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number. The OMB number for this collection is 1121-0321. Public reporting burden for this collection of information is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information.

This information is being requested pursuant to 6 U.S.C. 162(b)(4) and 6 U.S.C. 162(b)(6)(B). The disclosure is voluntary. The information provided on this form will be used by the National Institute of Justice to administer a product conformity assessment program for products used by law enforcement and correctional officers. This information and the associated products are voluntarily submitted under the Compliance Testing Program.

**PRIVACY ACT NOTICE:** The information provided in this document is not considered Confidential Commercial Information and may be released without limitations or restrictions.

This National Institute of Justice Compliance Testing Program Authorized Representatives Notification pertains to all applicants seeking to voluntarily participate in the National Institute of Justice Compliance Testing Program (hereafter, the NIJ CTP). Any reference to the NIJ CTP as an organization includes elements of both National Institute of Justice (NIJ) and the National Law Enforcement and Corrections Technology Center-National (NLECTC-National).

This agreement shall supersede all previous National Institute of Justice Compliance Testing Program Authorized Representative Notifications.

Please provide business headquarters information below.

Applicant Name: \_\_\_\_\_

Applicant Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_



Document Name: NIJ CTP Authorized Representative	Approval Date: 31 Mar 2013
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The Applicant hereby expressly acknowledges and agrees that the following **Authorized Representatives** are authorized to supply information concerning product submittals and surveillance on which the NIJ CTP may act:

#### Authorized Representatives

#1 (Name/Title): \_\_\_\_\_

#1 Telephone Number: \_\_\_\_\_

#1 E-mail: \_\_\_\_\_

#2 (Name/Title): \_\_\_\_\_

#2 Telephone Number: \_\_\_\_\_

#2 E-mail: \_\_\_\_\_

#3 (Name/Title): \_\_\_\_\_

#3 Telephone Number: \_\_\_\_\_

#3 E-mail: \_\_\_\_\_

#4 (Name/Title): \_\_\_\_\_

#4 Telephone Number: \_\_\_\_\_

#4 E-mail: \_\_\_\_\_

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**Applicant Signatory**

(an officer or representative of the Applicant who has the authority to bind it)

(Name/Title): \_\_\_\_\_  
Telephone Number: \_\_\_\_\_  
E-mail: \_\_\_\_\_

The Applicant agrees to the terms of this agreement and warrants that it has made no alterations to its text. The undersigned represents and warrants that he/she is authorized to execute this agreement on behalf of the Applicant.

\_\_\_\_\_  
Applicant Signatory Date

NLECTC-National Representative Acknowledgement:

\_\_\_\_\_  
Signature Date

\_\_\_\_\_  
Name (Please print/type)

Document Name: NIJ CTP Body Armor Build Sheet	Approval Date: 31 Mar 2013
Revision: 14 Jun 2013	Implementation Date: 14 Jun 2013
OMB Number: 1121-0321	Expires: 31 Mar 2016

## National Institute of Justice Compliance Testing Program Body Armor Build Sheet

In accordance with the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number. The OMB number for this collection is 1121-0321. Public reporting burden for this collection of information is estimated to average one hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information.

This information is being requested pursuant to 6 U.S.C. 162(b)(4) and 6 U.S.C. 162(b)(6)(B). The disclosure is voluntary. The information provided on this form will be used by the National Institute of Justice (NIJ) to administer a product conformity assessment program for products used by law enforcement and correctional officers. This information and the associated products are voluntarily submitted under the Compliance Testing Program.

### PRIVACY ACT NOTICE:

This document contains **Confidential Commercial Information**.

The National Institute of Justice Compliance Testing Program (hereafter, the NIJ CTP) shall use reasonable efforts to maintain confidential all information identified as "Confidential Commercial Information" that it obtains from the Applicant. Confidential Commercial Information shall not include information that is (a) publicly available; (b) subsequently acquired by the NIJ CTP from other sources in a manner that does not constitute a breach of this Agreement; (c) disclosed by the NIJ CTP when deemed, at its sole discretion, to be necessary to the NIJ CTP's performance of the requested conformity assessment; (d) required to be produced pursuant to an order or command of any judicial or regulatory authority; (e) required by any common law or statutory duty; or (f) disclosed in the interest of officer safety.

<b>TEST ID:</b>	Test ID is issued after the NIJ CTP has reviewed this documentation for completeness. An additional review, for accuracy, shall be performed after testing is completed and samples are received by the NIJ CTP.
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APPLICANT (COMPANY) NAME AS SHOWN ON THE PREVIOUSLY SUBMITTED APPLICANT AGREEMENT:

### SECTION 1: TESTING INFORMATION

Proposed Model Designation:	Declared Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Neutral	Structure Tested: <input type="checkbox"/> Planar <input type="checkbox"/> Non-Planar <input type="checkbox"/> Flexible <input type="checkbox"/> Hard <input type="checkbox"/> ICW <input type="checkbox"/> Front Opening									
<input type="checkbox"/> Ballistic Resistance of Body Armor, <b>NIJ Standard-0101.06</b> <b>Type:</b> <input type="checkbox"/> IIA <input type="checkbox"/> II <input type="checkbox"/> IIIA <input type="checkbox"/> III <input type="checkbox"/> IV <b>Shot to Edge Distance:</b> Threat 1: <input type="checkbox"/> 1" <input type="checkbox"/> 2" <input type="checkbox"/> Other _____ Threat 2: <input type="checkbox"/> N/A <input type="checkbox"/> 1" <input type="checkbox"/> 2" <input type="checkbox"/> 3" <input type="checkbox"/> Other _____ <b>Size Tested:</b> <input type="checkbox"/> C1 <input type="checkbox"/> C2 <input type="checkbox"/> C3 <input type="checkbox"/> C4 <input type="checkbox"/> C5 <input type="checkbox"/> Other (Hard) _____		<input type="checkbox"/> Stab Resistance of Personal Body Armor, <b>NIJ Standard-0115.00</b> <b>Protection Level:</b> <input type="checkbox"/> Edge Blade <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> Spike <input type="checkbox"/> 1 <input type="checkbox"/> 2 <input type="checkbox"/> 3 <b>Size Tested:</b> <input type="checkbox"/> Male <input type="checkbox"/> Female									
<table style="width: 100%;"> <tr> <td style="width: 33%;">Hard Ballistic Armor:</td> <td style="width: 33%;">P-BFS Test</td> <td style="width: 34%;">Ballistic Limit Test</td> </tr> <tr> <td>Curve: _____</td> <td>Shots per panel: _____</td> <td>Shots per panel: _____</td> </tr> <tr> <td></td> <td>Number of panels: _____</td> <td>Number of panels: _____</td> </tr> </table>			Hard Ballistic Armor:	P-BFS Test	Ballistic Limit Test	Curve: _____	Shots per panel: _____	Shots per panel: _____		Number of panels: _____	Number of panels: _____
Hard Ballistic Armor:	P-BFS Test	Ballistic Limit Test									
Curve: _____	Shots per panel: _____	Shots per panel: _____									
	Number of panels: _____	Number of panels: _____									

### SECTION 2: EXTERNAL CARRIER

- ☐ Ballistic carriers are cotton or polycotton with an areal density of not more than 250 g/m<sup>2</sup> (7.37 oz/yd<sup>2</sup>) ☐ N/A (Hard Armor Plates and Stab models)
- ☐ Ballistic carriers meet an exception noted in Section 4.1.6. The material information is noted here:

### SECTION 3: PANEL COVERING

MATERIAL TYPE	FINAL SUPPLIER	PRODUCT NAME OR CODE	METHOD OF CLOSURE

MATERIAL TYPE	FINAL SUPPLIER	PRODUCT NAME OR CODE	PRODUCT CHARACTERISTICS	LAYER ROTATION OR ORIENTATION	LAYERS IN GROUP
TOTAL:					

[illegible]

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All body armor samples provided for initial type testing (in association with the Test ID above) are identically constructed.

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## National Institute of Justice Compliance Testing Program Ballistic Body Armor Agreement

In accordance with the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number. The OMB number for this collection is 1121-0321. Public reporting burden for this collection of information is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information.

This information is being requested pursuant to 6 U.S.C. 162(b)(4) and 6 U.S.C. 162(b)(6)(B). The disclosure is voluntary. The information provided on this form will be used by the National Institute of Justice to administer a product conformity assessment program for products used by law enforcement and correctional officers. This information and the associated products are voluntarily submitted under the Compliance Testing Program.

### PRIVACY ACT NOTICE:

This document contains **Confidential Commercial Information**.

The National Institute of Justice Compliance Testing Program (hereafter, the NIJ CTP) shall use reasonable efforts to maintain confidential all information identified as "Confidential Commercial Information" that it obtains from the Applicant. Confidential Commercial Information shall not include information that is (a) publicly available; (b) subsequently acquired by the NIJ CTP from other sources in a manner that does not constitute a breach of this Agreement; (c) disclosed by the NIJ CTP when deemed, at its sole discretion, to be necessary to the NIJ CTP's performance of the requested conformity assessment; (d) required to be produced pursuant to an order or command of any judicial or regulatory authority; (e) required by any common law or statutory duty; or (f) disclosed in the interest of officer safety.

The NIJ CTP shall take reasonable steps to safeguard Applicant data within the NIJ CTP systems prior to external transmission and may transmit Applicant's Confidential Information and data to Applicant through the Internet or any public network, unless otherwise directed in writing by Applicant.

Test ID: \_\_\_\_\_

Final Model Designation: \_\_\_\_\_

Applicant Name: \_\_\_\_\_

Applicant Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Telephone: \_\_\_\_\_



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**The Applicant hereby expressly acknowledges and agrees as follows:**

1. Failure to comply with all provisions of this agreement constitutes grounds for suspension or revocation of NIJ compliance status of both the model in question and any other models the applicant also has listed.
2. **Materials of Construction and Evidence of Acceptable Ongoing Ballistic Performance:** The Applicant shall initial one of the following options as applicable to the model identified above:  
 \_\_\_\_ Option 1 - The model described herein contains no material named in any NIJ Advisory Notice in effect at the time of submission of this model for NIJ Compliance testing.  
 \_\_\_\_ Option 2 – The model described herein contains material named in any NIJ Advisory Notice in effect at the time of submission of this model for NIJ Compliance testing. Applicant has included with this application evidence (e.g., design drawings and specifications, lists of materials of construction of each component of the model, research, ballistic testing, descriptions of performance characteristics of critical components or materials) that demonstrates to the satisfaction of NIJ that the model will maintain ballistic performance (consistent with its originally declared threat level) over its declared warranty period (Note: Manufacturers should anticipate that NIJ's review of the evidence may take a substantial amount of time to complete).
3. Effective the date that the model is listed on the NIJ Compliant Products List, the applicant hereby agrees to label all subsequent production units of the model listed in this document in accordance with the labeling requirements of Ballistic Armor Labeling Guidance of the *CTP Applicant Package*.
4. The manufacture of all production units marked with the Model Designation provided above shall be identical in all respects to the samples previously supplied and tested under the Test ID provided above. This includes the ballistic materials (i.e., material type, style, weave, water-repellant treatment, ballistic panel covers), number and sequence of layers, stitching and permanent or non-removable covering (to include waterproofing). Any changes or modifications to the previously approved construction details may constitute a design change and therefore must be submitted to the NIJ CTP for evaluation prior to implementing any changes.
5. A system of traceability shall be maintained between each listed armor produced (based on a unique model designation/serial number/lot number combination) and both the materials used to construct the armor and the purchaser.
6. All records associated with this model shall be preserved for at least one year beyond the service life of this model i.e., one year beyond the last date of production plus the length of warranty.

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7. Satisfactory participation in the NIJ Ballistic Body Armor Compliance Testing Program requires satisfactory participation in the associated surveillance (Follow-up Inspection and Testing, or FIT) program at each manufacturing facility where the model is produced.
8. Surveillance consists of an onsite inspection of manufacturing records and the selection of samples for destructive testing and inspection. Additional details concerning the surveillance process is available on request and may be periodically revised as NIJ sees fit.
9. Prior to beginning production at a new manufacturing location, the applicant shall notify NLECTC-National by completing an NIJ CTP Manufacturing Location Notification. The notification shall be made sufficiently in advance of production in order to schedule an inspection.
10. Following NIJ's issuance of a letter of attestation, each manufacturing location at which a model is produced shall have a surveillance inspection prior to shipping any production from that facility. The first surveillance inspection for a new model/location is referred to as an Initial Product Inspection (IPI).
11. Following the IPI, models will typically be inspected at least once every 10 months.
12. The applicant is responsible for all fees and costs incurred during the surveillance (Follow-up Inspection and Testing, or FIT) program process.
13. If the ballistic body armor model is manufactured under an NIJ CTP approved body armor quality management system (BA-QMS), the frequency of that model/location may be reduced to once every 20 months.
14. The inspection frequency may be increased based on poor performance during any of the previous inspections of that facility.

**Applicant Signatory or Representative**

(an officer or representative of the Applicant who has the authority to bind it)

(Name/Title): \_\_\_\_\_  
 Telephone Number: \_\_\_\_\_  
 E-mail: \_\_\_\_\_

The Applicant agrees to the terms of this agreement and warrants that it has made no alterations to its text. The undersigned represents and warrants that he/she is authorized to execute this agreement on behalf of the Applicant.

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Date

Document Name: NIJ CTP Manufacturing Location	Approval Date: 31 Mar 2013
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## National Institute of Justice Compliance Testing Program Manufacturing Location Notification

In accordance with the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number. The OMB number for this collection is 1121-0321. Public reporting burden for this collection of information is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information.

This information is being requested pursuant to 6 U.S.C. 162(b)(4) and 6 U.S.C. 162(b)(6)(B). The disclosure is voluntary. The information provided on this form will be used by the National Institute of Justice to administer a product conformity assessment program for products used by law enforcement and correctional officers. This information and the associated products are voluntarily submitted under the Compliance Testing Program.

**PRIVACY ACT NOTICE:** The information provided in this document is not considered Confidential Commercial Information and may be released without limitations or restrictions.

This National Institute of Justice Compliance Testing Program Manufacturing Location Notification pertains to all applicants seeking to voluntarily participate in the National Institute of Justice Compliance Testing Program (hereafter, the NIJ CTP). Any reference to the NIJ CTP as an organization includes elements of both National Institute of Justice (NIJ) and the National Law Enforcement and Corrections Technology Center-National (NLECTC-National).

This agreement shall supersede all previous National Institute of Justice Compliance Testing Program Manufacturing Location Notifications for this model.

Model Designation: \_\_\_\_\_

Test ID: \_\_\_\_\_

Date of Notification: \_\_\_\_\_

Please provide business headquarters information below.

Applicant Name: \_\_\_\_\_

Applicant Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Document Name: NIJ CTP Manufacturing Location	Approval Date: 31 Mar 2013
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Model Designation: \_\_\_\_\_

Test ID: \_\_\_\_\_

The Applicant hereby expressly acknowledges and agrees as follows:

**1. General**

This document must be completed and received by the NIJ CTP at least five business days prior to beginning production at any location. Notifications shorter than two weeks may incur additional costs for the mandatory initial product inspections.

Any other changes to manufacturing locations (Production Stop) shall be communicated to the NIJ CTP as soon as possible.

Notification that production at a specific location has stopped may take up to 30 days for the NIJ CTP to process and stop surveillance activities.

The body armor model identified above shall be manufactured only at the locations identified here.

This agreement does not authorize any changes except the manufacturing location and the associated information appearing on the label.

Failure of the Applicant to provide current and accurate information concerning manufacturing locations could result in unnecessary costs to the applicant in the form of unnecessary surveillance (Follow-up Inspection and Testing, or FIT) charges.

Failure of the Applicant, additional Listee(s) or locations to abide by the requirements of the NIJ CTP could have a negative impact on the Applicant's continued participation in the NIJ CTP, up to and including the removal of all Applicant models from the compliant product list under any brand or trademark.

The point of contact (or alternate) for each location should be available on site and prepared to escort the inspection representative.

**2. Manufacturing (Including Subcontracted Manufacturing)**

The NIJ CTP shall hold the applicant fully responsible for production of all products identified by this model or Test ID at all locations. This includes responsibility for all locations':

- a. adherence to the applicable construction and assembly described in current documents provided to the NIJ CTP by the Applicant; and
- b. the compliance of this model with program requirements; and
- c. following the manufacturing processes used for samples provided for initial determination testing (this includes quality assurance and applicable verification of purchased materials); and
- d. maintaining records associated with quality and tracking of individual armors; and
- e. notifications of end users; and
- f. recalls when necessary.

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### **3. Access to Manufacturing Locations for Surveillance Activities (Follow-up Inspection and Testing)**

The Applicant expressly acknowledges and agrees that full, safe and secure access shall be provided to NIJ CTP staff, representatives, their agents or designees, either announced or unannounced, for all manufacturing facilities and/or storage facilities, records and personnel used in the manufacture of models of equipment identified in this document. This includes the selection and removal of production samples from manufacturing facilities at the Applicant's expense for the purposes of surveillance (FIT).

Applicant is free to verify NIJ CTP staff, representatives, their agents or designees meet any U.S. Persons requirements (citizenship, Green Card Status) applied to its own employees prior to their entry. It is the applicant's responsibility to communicate the manufacturing locations requirements to the NIJ CTP prior to the first inspection in order to avoid unnecessary costs to the applicant in the form of an incomplete or canceled inspection

### **4. Subcontracting Surveillance Activities**

The Applicant agrees that the NIJ CTP may subcontract surveillance activities to third parties. The Applicant authorizes the NIJ CTP to disclose to the subcontractor any information necessary for such performance of the inspection by the subcontractor. The NIJ CTP shall provide as a term of any such subcontract that the subcontractor shall meet the NIJ CTP's current qualification requirements for accreditation, conflicts of interest and ethical standards.

The relationship between an NIJ CTP designated subcontractor and the Applicant may be governed by a separate agreement. Failure to execute an agreement required by an NIJ CTP-designated subcontractor shall be viewed as a failure of the Applicant to satisfactorily participate in the NIJ CTP and could result in the removal of the Applicant from the program.

It is the applicant's responsibility to ensure that any direct interaction with subcontractors is addressed with acceptable agreements.



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Model Designation: \_\_\_\_\_

Test ID: \_\_\_\_\_

**Manufacturing Location # 1:**

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Point of Contact:

Alternate Point of Contact:

Name \_\_\_\_\_

Title \_\_\_\_\_

Phone \_\_\_\_\_

E-mail \_\_\_\_\_

☐ Current

☐ New (Beginning)

☐ Production Stop (Last)

Beginning/Last Date: \_\_\_\_\_

Beginning/Last Serial Number: \_\_\_\_\_

Beginning/Last Lot Number: \_\_\_\_\_

**Manufacturing Location # 2:**

Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Point of Contact:

Alternate Point of Contact:

Name \_\_\_\_\_

Title \_\_\_\_\_

Phone \_\_\_\_\_

E-mail \_\_\_\_\_

☐ Current

☐ New (Beginning)

☐ Production Stop (Last)

Beginning/Last Date: \_\_\_\_\_

Beginning/Last Serial Number: \_\_\_\_\_

Beginning/Last Lot Number: \_\_\_\_\_

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Model Designation: \_\_\_\_\_

Test ID: \_\_\_\_\_

**Applicant Signatory**

(an officer or representative of the Applicant who has the authority to bind it)

(Name/Title): \_\_\_\_\_

Telephone Number: \_\_\_\_\_

E-mail: \_\_\_\_\_

☐ \_\_\_\_ additional pages have been attached (each page initialed and dated) to indicate additional manufacturing locations.

The Applicant agrees to the terms of this agreement and warrants that it has made no alterations to its text. The undersigned represents and warrants that he/she is authorized to execute this agreement on behalf of the Applicant.

\_\_\_\_\_  
Applicant Signatory

\_\_\_\_\_  
Date

NLECTC-National Representative Acknowledgement:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (Please print/type)

Document Name: NIJ CTP Listee Notification	Approval Date: 31 Mar 2013
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OMB Number: 1121-0321	Expires: 31 Mar 2016

## National Institute of Justice Compliance Testing Program Listee Notification

In accordance with the Paperwork Reduction Act of 1995, no person is required to respond to a collection of information unless it displays a valid OMB control number. The OMB number for this collection is 1121-0321. Public reporting burden for this collection of information is estimated to average 20 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the information.

This information is being requested pursuant to 6 U.S.C. 162(b)(4) and 6 U.S.C. 162(b)(6)(B). The disclosure is voluntary. The information provided on this form will be used by the National Institute of Justice to administer a product conformity assessment program for products used by law enforcement and correctional officers. This information and the associated products are voluntarily submitted under the Compliance Testing Program.

**PRIVACY ACT NOTICE:** The information provided in this document is not considered Confidential Commercial Information and may be released without limitations or restrictions.

This National Institute of Justice Compliance Testing Program Authorized Representatives Notification pertains to all applicants seeking to voluntarily participate in the National Institute of Justice Compliance Testing Program (hereafter, the NIJ CTP). Any reference to the NIJ CTP as an organization includes elements of both National Institute of Justice (NIJ) and the National Law Enforcement and Corrections Technology Center-National (NLECTC-National).

This agreement shall supersede all previous National Institute of Justice Compliance Testing Program Listee Notifications for this model.

Test ID: \_\_\_\_\_

Model Designation: \_\_\_\_\_

Date of Notification: \_\_\_\_\_

Please provide business headquarters information below.

Applicant Name: \_\_\_\_\_

Applicant Address: \_\_\_\_\_

Telephone: \_\_\_\_\_

Document Name: NIJ CTP Listee Notification	Approval Date: 31 Mar 2013
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Test ID: \_\_\_\_\_

Model Designation: \_\_\_\_\_

The Applicant hereby expressly acknowledges and agrees as follows:

Although it is not required that the Applicant has ownership of all brands or trademarks identified here, the Applicant warrants that it has permission from the owner (Listee) to engage in brand labeling of the product model identified above.

The NIJ CTP maintains a Compliant Products List (CPL) identifying models compliant with program requirements. Product listing includes model designation and Listee/Brand.

Other than the Listee information provided here and included on the label, no other changes are permitted by this agreement.

Use of this form to identify multiple Listee status does not authorize additional or alternative manufacturing locations.

The NIJ CTP shall hold the applicant responsible for actions they or the Multiple Listee(s) may take in regards to this model. Failure of the Applicant or additional Listee(s) to abide by the requirements of the NIJ CTP could have a negative impact on the Applicant's continued participation in the NIJ CTP, up to and including the removal of all Applicant models from the CPL under any brand or trademark.

Final labeling shall be both controlled by and the responsibility of the Applicant.

**Listee # 1:**

Company:

Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Point of Contact:

Name \_\_\_\_\_

Title \_\_\_\_\_

Phone \_\_\_\_\_

E-mail \_\_\_\_\_

Trade Name/Brand \_\_\_\_\_

Document Name: NIJ CTP Listee Notification	Approval Date: 31 Mar 2013
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Test ID: \_\_\_\_\_

Model Designation: \_\_\_\_\_

**Listee # 2:**

Company:

Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Point of Contact:

Name \_\_\_\_\_

Title \_\_\_\_\_

Phone \_\_\_\_\_

E-mail \_\_\_\_\_

Trade Name/Brand \_\_\_\_\_

**Listee # 3:**

Company:

Name \_\_\_\_\_

Address \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Point of Contact:

Name \_\_\_\_\_

Title \_\_\_\_\_

Phone \_\_\_\_\_

E-mail \_\_\_\_\_

Trade Name/Brand \_\_\_\_\_



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Test ID: \_\_\_\_\_

Model Designation: \_\_\_\_\_

**Applicant Signatory**

(an officer or representative of the Applicant who has the authority to bind it)

(Name/Title): \_\_\_\_\_

Telephone Number: \_\_\_\_\_

E-mail: \_\_\_\_\_

☐ \_\_\_\_ additional pages have been attached (each page initialed and dated) to indicate additional manufacturing locations.

The Applicant agrees to the terms of this agreement and warrants that it has made no alterations to its text. The undersigned represents and warrants that he/she is authorized to execute this agreement on behalf of the Applicant and the Multiple Listees referenced here.

\_\_\_\_\_  
Applicant Signatory

\_\_\_\_\_  
Date

NLECTC-National Representative Acknowledgement:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name (Please print/type)



APPENDIX E.

## Example Procurement Specifications

### Option 1) Specific Quantity

The (jurisdiction) intends to purchase a total of (number spelled out) (number) units of body armor contingent on funding being made available for that purpose.

Of this total, approximately (number spelled out) (number) shall be specifically constructed for issue to female officers. The successful bidder further agrees to supply the same model of armor at the bid unit price offered up to the above quantity of units for an additional period of (select appropriate period of time) months for issue to new officers or for replacement purposes.

### Option 2) Open-Ended Purchase Agreement (Term Contract)

The (jurisdiction) anticipates the purchase of up to a total of (number spelled out) (number) units of body armor during a (appropriate period of time)-month period beginning on or about (date). During this period, purchase orders will be issued for armor as needed at the bid price offered. It is estimated that approximately (number) % of the armor purchased will be specifically designated for issue to female officers. The term of this agreement shall be (appropriate period of time) months; however, the (jurisdiction) does not guarantee the purchase of any specific or minimum quantity of armor during the term of this agreement. The (jurisdiction) may, at its option and subject to agreement by the contractor, extend the term of this agreement at the same contract unit price for an additional period of (appropriate period of time) months.

### Bidding and award

Bids shall be submitted (specify standard departmental regulations; e.g., departmental form, letter quotation).

Bids shall be accepted only for armor listed on the Compliant Products List for NIJ Standard-0101.06.

The (jurisdiction) reserves the right to reject or award any or all bids in whole or in part as deemed to be in the best interest of the department.

In determining the most advantageous bid, the (jurisdiction) reserves the right to consider quality, workmanship, service and dependability of the product and supplier, independent of price.

The successful bidder agrees to provide a product label meeting the NIJ Compliance Testing Program (CTP) requirements on the label of each unit of armor.

### Pre-bid conference

Specify date, time and location. If attendance is a condition of bid acceptance, this must be noted.

### Invoicing and delivery

Specify consistent with the normal procurement practices of the jurisdiction.

### Warranty and insurance

Each unit of armor provided under this contract shall be warranted for a minimum of (number spelled out) (number) years to be free from all defects in materials and workmanship.

Each unit of armor provided under this contract shall be warranted for a minimum of (number spelled out) (number) years to meet the ballistic performance requirements of NIJ Standard-0101.06.

Suppliers shall have a product liability performance insurance policy in a minimum amount of (specify per incident, total liability limits and period of coverage as appropriate, based on recommendations of department's legal counsel and insurance commission). All insurance policies shall conform to the rules and regulations of (appropriate jurisdiction).

#### *Armor specifications*

Each unit of armor shall be new, unused and constructed of quality materials and shall:

A) Be constructed identically to the original model tested by the NIJ CTP and found to comply with the minimum performance requirements for Type (appropriate level) armor as specified in NIJ Standard-0101.06.

B) Be labeled in accordance with the requirements of NIJ Standard-0101.06, clearly identifying the exact supplier model and, if appropriate, style specified in the contract document.

The supplier may, at its option, include a catalog number for supplier or distributor convenience, provided that such number is properly identified and totally separate from the model designation line. Labels shall remain readable throughout the warranty period.

C) Be designed to be concealable under the standard (jurisdiction) uniform shirt. Provide full torso coverage with front-to-back side overlap of ballistic panels. (Alternately, state other side protection requirements or other intended manner of use; e.g., specific type of outerwear, tactical armor.)

D) Provide adjustment for the chest, waist and shoulders with the minimum relief under arms, neck and shoulder necessary to ensure adequate coverage.

E) Be designed in such a manner as to prevent the armor from "riding up" on the wearer during normal duty activities.

F) Not include closure, fastening or accessory attachment devices made of materials that present a "secondary projectile" or "ricochet" hazard if struck by a bullet.

G) Incorporate a carrier for the ballistic panel that is (appropriate choice) in color. Coloring shall be permanent and not bleed onto other garments.

H) Be free from any defects affecting durability, serviceability, appearance or user safety. Workmanship and construction details, cutting, stitching and finishing shall be in all cases in accordance with commercial textile standard practices for the intended purpose.

I) Be custom fitted. Custom fitting will take place at (location). (Person) will perform the measuring. Measurements shall be performed as per ASTM-E2902-12.

#### *Termination*

The (jurisdiction) may terminate the agreement for cause or for the convenience of the agency upon 30-day written notice. The (jurisdiction) may cancel the agreement if officers find the armor received to be unacceptable, or if the supplier is noncompliant with agreement terms, even though the armor itself may be fully compliant with the procurement specifications. Additionally, revocation of an armor's compliance status (i.e., removal of the model from the CPL) is justifiable cause for termination of the agreement. The (jurisdiction) may also terminate the agreement if the armor is not delivered in a reasonable timeframe according to the predetermined shipping schedule. Receipt of a substandard product is also cause for termination.

#### *Items to be submitted with bid*

A) Example of armor model being bid, labeled in accordance with the requirements above (item B, armor specifications).

Note: The example provided by the successful bidder will become the property of (jurisdiction) and be retained in archives for comparison with armor delivered under the resulting contract.

B) Copy of the NIJ Compliance Letter for the specific model.

C) Proof of liability insurance.





## About the Law Enforcement and Corrections Standards and Testing Program

The National Institute of Justice (NIJ) Standards and Testing Program is sponsored by the NIJ Office of Science and Technology within the U.S. Department of Justice, Office of Justice Programs. The program responds to provisions in the Homeland Security Act of 2002 that authorize the NIJ Office of Science and Technology to establish and maintain performance standards (in accordance with the National Technology Transfer and Advancement Act of 1995) for law enforcement technologies that may be used by federal, state and local law enforcement agencies, and to test and evaluate those technologies. The Homeland Security Act of 2002 also authorizes the NIJ Office of Science and Technology to establish and maintain a program to certify, validate and mark or otherwise recognize law enforcement technology products that conform to the standards mentioned above.

The NIJ Standards and Testing Program works to identify the needs of state and local criminal justice system practitioners for equipment standards and test protocols, develops voluntary performance standards for specific criminal justice tools and technologies, establishes conformity assessment requirements for demonstrating that commercially available equipment conforms to those standards, and publishes listings of product models that have been tested through one or more specified organizations and found to comply with the standards. The standards development process begins with the operational needs and requirements of practitioners in the field being defined, and, based on those needs, the standards are developed principally by a special technical committee led by criminal justice practitioners and including testing and conformity assessment experts, other technical experts, federal partners and members from practitioner stakeholder organizations. Manufacturers, vendors and other interested parties are provided with an opportunity to review and comment on draft standards prior to their publication.

As indicated above, all NIJ standards developed through the Standards and Testing Program are voluntary standards. There is no requirement or obligation for manufacturers, law enforcement agencies or others to follow or adopt these voluntary law enforcement technology equipment standards. The primary intent of these standards is to provide the end user of a model of equipment found to be compliant with a particular standard with performance information on key equipment characteristics, provide a level of confidence in that particular model's fitness for use in specified circumstances and allow comparison of product models based on standardized testing methods and performance requirements. These standards do not specify a particular solution but rather define what a potential solution must accomplish. The ultimate goal is to help ensure to the degree possible that law enforcement technology equipment is safe, reliable and effective.

Publications related to the Standards and Testing Program, including the voluntary standards and associated documents, are available at no charge through the National Law Enforcement and Corrections Technology Center-National (NLECTC-National) and also are available online at <http://www.nij.gov/standards> and <http://www.justnet.org>. To request a document or additional information, please call (800) 248-2742 or send an e-mail to [asknlectc@justnet.org](mailto:asknlectc@justnet.org).

Users of NIJ standards are advised to check with <http://www.nij.gov/standards> on a regular basis to determine whether a particular law enforcement technology equipment standard has been revised or superseded, or the compliance status of a particular model has changed.

This document is not intended to create, does not create, and may not be relied upon to create any rights, substantive or procedural, enforceable at law by any party in any matter civil or criminal.

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The National Institute of Justice is a component of the Office of Justice Programs, which also includes the Bureau of Justice Assistance; the Bureau of Justice Statistics; the Office for Victims of Crime; the Office of Juvenile Justice and Delinquency Prevention; and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking.

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