

Case No. 19-56004

In the United States Court of Appeals
for the Ninth Circuit

STEVEN RUPP, et al.,
Plaintiffs-Appellants,

v.

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

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

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

C.D. Michel
Sean A. Brady
Anna M. Barvir
MICHEL & ASSOCIATES, P.C.
180 East Ocean Boulevard, Suite 200
Long Beach, CA 90802
(562) 216-4444
cmichel@michellawyers.com

Attorneys for Plaintiffs-Appellants

January 27, 2020

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

Date: January 27, 2020

MICHEL & ASSOCIATES, P.C.

s/ Sean A. Brady

Sean A. Brady

Attorneys for Plaintiffs/ Appellants

Steven Rupp, et al.

INDEX TO APPELLANTS' EXCERPTS OF RECORD**VOLUME I**

Dkt	Date	Document Description	Page
111	07.31.19	Judgment	1
108	07.22.19	Order Granting Attorney General's Motion for Summary Judgment and Denying Plaintiffs' Motion for Summary Judgment	3

VOLUME II

114	08.27.19	Plaintiffs' Notice of Appeal and Representation Statement	26
***	05.31.19	Reporter's Revised Transcript of Proceedings Re: Plaintiffs' and Defendants' Motions for Summary Judgment	30
106	05.28.19	Plaintiffs' Notice of Motion and Motion to Exclude the Testimony of Defendants' Expert Witness Michael Mersereau	56
105	05.28.19	Plaintiffs' Notice of Motion and Motion to Exclude the Testimony of Defendants' Expert Witness John J. Donohue	59
104	05.28.19	Plaintiffs' Notice of Motion and Motion to Exclude the Testimony of Defendants' Expert Witness Christopher B. Colwell, M.D.	62
103	05.28.19	Plaintiffs' Notice of Motion and Motion to Exclude the Testimony of Defendants' Expert Witness Lucy P. Allen	65
101	05.17.19	Defendants' Reply Statement of Genuine Disputes of Material Fact	68
96-1	05.03.19	Exhibit 49 of Declaration of Sean A. Brady in Support of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment	71
96-2	05.03.19	Exhibit 50 of Declaration of Sean A. Brady in Support of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment	108

96-3	05.03.19	Exhibits 51-52 of Declaration of Sean A. Brady in Support of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment	145
------	----------	--	-----

VOLUME III

96-4	05.03.19	Exhibit 53, Part 1 of 2 of Declaration of Sean A. Brady in Support of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment	212
------	----------	---	-----

VOLUME IV

96-5	05.03.19	Exhibit 53, Part 2 of 2 of Declaration of Sean A. Brady in Support of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment	362
------	----------	---	-----

VOLUME V

96-6	05.03.19	Exhibit 54 of Declaration of Sean A. Brady in Support of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment	511
------	----------	--	-----

VOLUME VI

96-7	05.03.19	Exhibit 55 of Declaration of Sean A. Brady in Support of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment	733
------	----------	--	-----

VOLUME VII

96-8	05.03.19	Exhibit 56 of Declaration of Sean A. Brady in Support of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment	833
------	----------	--	-----

VOLUME VIII

96-9	05.03.19	Exhibit 57 of Declaration of Sean A. Brady in Support of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment	1111
96-10	05.03.19	Exhibits 58-62 of Declaration of Sean A. Brady in Support of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment	1288

96-11	05.03.19	Exhibit 63 of Declaration of Sean A. Brady in Support of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment	1312
-------	----------	--	------

VOLUME IX

96-12	05.03.19	Exhibits 64-69 of Declaration of Sean A. Brady in Support of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment	1362
95	05.02.19	Declaration of Sean A. Brady in Support of Plaintiffs' Opposition to Defendants' Motion for Summary Judgment	1480
94	05.02.19	Plaintiffs' Request for Judicial Notice in Support of Plaintiffs' Opposition to Defendants' Motion for Summary Judgment	1486
93	05.02.19	Plaintiffs' Objections to Evidence Filed in Support of Defendants' Motion for Summary Judgment	1495
92-1	05.02.19	Plaintiffs' Statement of Genuine Disputes of Material Fact and Additional Uncontroverted Facts	1534
90	05.02.19	Supplemental Declaration of Peter H. Chang in Support of Defendants' Opposition to Plaintiffs' Motion for Summary Judgment	1552
90-1	05.02.19	Exhibit 46 of Supplemental Declaration of Peter H. Chang in Support of Defendants' Opposition to Plaintiffs' Motion for Summary Judgment	1555
89	05.02.19	Defendants' Statement of Genuine Disputes of Material Fact	1569
87	04.26.19	Plaintiffs' Statement of Uncontroverted Facts and Conclusions of Law in Support Motion for Summary Judgment	1593

VOLUME X

79	03.25.19	Request for Judicial Notice in Support of Plaintiffs' Motion for Summary Judgment	1607
78	03.25.19	Declaration of Sean A. Brady in Support of Plaintiffs' Motion for Summary Judgment; Exhibits 1-8	1727

VOLUME XI

78-1	03.25.19	Exhibits 9-11 of Declaration of Sean A. Brady in Support of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment	1891
78-2	03.25.19	Exhibits 12-19 of Declaration of Sean A. Brady in Support of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment	1947
78-3	03.25.19	Exhibit 20-21 of Declaration of Sean A. Brady in Support of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment	1998
78-4	03.25.19	Exhibit 22, Part 1 of 4 of Declaration of Sean A. Brady in Support of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment	2061
78-5	03.25.19	Exhibit 22, Part 2 of 4 of Declaration of Sean A. Brady in Support of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment	2106

VOLUME XII

78-6	03.25.19	Exhibit 22, Part 3 of 4 of Declaration of Sean A. Brady in Support of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment	2150
78-7	03.25.19	Exhibit 22, Part 4 of 4 of Declaration of Sean A. Brady in Support of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment	2197
78-8	03.25.19	Exhibit 23 of Declaration of Sean A. Brady in Support of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment	2244
78-9	03.25.19	Exhibit 24, Part 1 of 3 of Declaration of Sean A. Brady in Support of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment	2332

VOLUME XIII

78-10	03.25.19	Exhibit 24, Part 2 of 3 of Declaration of Sean A. Brady in Support of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment	2433
-------	----------	---	------

78-11	03.25.19	Exhibits 24, Part 3 of 3 - Exhibit 26 of Declaration of Sean A. Brady in Support of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment	2525
78-12	03.25.19	Exhibit 27 of Declaration of Sean A. Brady in Support of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment	2659

VOLUME XIV

78-13	03.25.19	Exhibits 28-44 of Declaration of Sean A. Brady in Support of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment	2689
-------	----------	--	------

VOLUME XV

78-14	03.25.19	Exhibits 45-48 of Declaration of Sean A. Brady in Support of Plaintiffs' Opposition to Defendant's Motion for Summary Judgment	2884
77-2	03.25.19	Plaintiffs' Statement of Uncontroverted Facts & Conclusions of Law in Support of Motion for Summary Judgment	2987
77-3	03.25.19	Declaration of Steven Rupp in Support of Plaintiffs' Motion for Summary Judgment	3001
77-4	03.25.19	Declaration of Steven Dember in Support of Plaintiffs' Motion for Summary Judgment	3005
77-5	03.25.19	Declaration of Cheryl Johnson in Support of Plaintiffs' Motion for Summary Judgment	3008
77-6	03.25.19	Declaration of Christopher Seifert in Support of Plaintiffs' Motion for Summary Judgment	3011
77-7	03.25.19	Declaration of Alfonso Valencia in Support of Plaintiffs' Motion for Summary Judgment	3015
77-8	03.25.19	Declaration of Troy Willis in Support of Plaintiffs' Motion for Summary Judgment	3018
77-9	03.25.19	Declaration of Michael Jones in Support of Plaintiffs' Motion for Summary Judgment	3022
77-10	03.25.19	Declaration of Dennis Martin in Support of Plaintiffs' Motion for Summary Judgment	3026

77-11	03.25.19	Declaration of Richard Travis in Support of Plaintiffs' Motion for Summary Judgment	3030
76	03.25.19	Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	3034
76-1	03.25.19	Exhibit 1 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	3039

VOLUME XVI

76-2	03.25.19	Exhibit 2 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	3157
76-3	03.25.19	Exhibit 3 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	3173
76-4	03.25.19	Exhibit 4 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	3185
76-5	03.25.19	Exhibit 5 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	3235
76-6	03.25.19	Exhibit 6 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	3275
76-7	03.25.19	Exhibit 7 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	3289
76-8	03.25.19	Exhibit 8 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	3300
76-9	03.25.19	Exhibit 9 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	3309
76-10	03.25.19	Exhibit 10 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	3337
76-11	03.25.19	Exhibit 11 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	3390

VOLUME XVII

76-12	03.25.19	Exhibit 12 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	3443
76-13	03.25.19	Exhibit 13 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	3486

76-14	03.25.19	Exhibit 14 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	3523
-------	----------	--	------

VOLUME XVIII

76-15	03.25.19	Exhibit 15 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	3636
-------	----------	--	------

VOLUME XIX

76-16	03.25.19	Exhibit 16 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	3784
76-17	03.25.19	Exhibit 17 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	3932
76-18	03.25.19	Exhibit 18 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	3944
76-19	03.25.19	Exhibit 19 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	3962
76-20	03.25.19	Exhibit 20 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	3984

VOLUME XX

76-21	03.25.19	Exhibit 21 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	4048
76-22	03.25.19	Exhibit 22 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	4102
76-23	03.25.19	Exhibit 23 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	4122
76-24	03.25.19	Exhibit 24 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	4132
76-25	03.25.19	Exhibit 25 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	4134
76-26	03.25.19	Exhibit 26 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	4137
76-27	03.25.19	Exhibit 27 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	4142

76-28	03.25.19	Exhibit 28 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	4189
76-29	03.25.19	Exhibit 29 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	4194
76-30	03.25.19	Exhibit 30 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	4206

VOLUME XXI

76-31	03.25.19	Exhibit 31 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	4311
76-32	03.25.19	Exhibit 32 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	4341
76-33	03.25.19	Exhibit 33 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	4395
76-34	03.25.19	Exhibit 34 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	4414
76-35	03.25.19	Exhibit 35 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	4452
76-36	03.25.19	Exhibit 36 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	4466
76-37	03.25.19	Exhibit 37 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	4474
76-38	03.25.19	Exhibit 38 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	4479
76-39	03.25.19	Exhibit 39 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	4488
76-40	03.25.19	Exhibit 40 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	4493
76-41	03.25.19	Exhibit 41 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	4502
76-42	03.25.19	Exhibit 42 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	4506
76-43	03.25.19	Exhibit 43 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	4516

76-44	03.25.19	Exhibit 44 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	4519
76-45	03.25.19	Exhibit 45 of Declaration of Peter Chang in Support of Defendants' Motion for Summary Judgment	4526
74	03.25.19	Defendants' Statement of Uncontroverted Facts in Support of Defendants' Motion for Summary Judgment	4528
60	07.06.18	Third Amended Complaint	4536
58	07.05.18	Answer to Third Amended Complaint	4572

VOLUME XXII

1	04.24.17	Complaint for Declaratory and Injunctive Relief	4588
***	01.27.20	District Court Docket	4620

CERTIFICATE OF SERVICE

I hereby certify that on January 27, 2020, an electronic PDF of APPELLANTS' EXCERPTS OF RECORD, VOLUME XXI 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 31

Man wanted in officer's slaying dies in gunbattle

By RICH MCKAY
SENTINEL STAFF WRITER

BEVILLE'S CORNER — A man wanted in the killing of a New Jersey police officer last week was slain during a gunfight Easter morning after a chase by

and abdomen, also wounding her partner before fleeing.

Hernando deputies called for backup as they began to pursue Marti and he sped off and shot at them, Bergen County, N.J., prosecutor John L. Molinelli said.

drove northeast on State crossing from Hernando in

ment, Caruthers said. The chase covered about 20 miles, Hernando sheriff's officials said.

When the car stopped about 9:50 a.m., Marti got out with an AK-47 assault rifle and again shot at the deputies, officials said. He was shot several times by deputies, Caruthers said.

Marti was airlifted to a Lakeland hospital where he was pronounced



Violence Policy Center

"Officer Down"

Assault Weapons and the War on Law Enforcement

Rifle attack called officer's nightmare

B6 The Roanoke Times, Sunday, June 17, 2001

Suspect brandished 9 mm 'Uzi-style' weapon, authorities say

Slain officer wanted shift with most action

ACTION FROM 1 A

In his application, Cudnik said he wanted to be a police officer because it was "one of the most mentally and physically challenging and emotionally rewarding vocations that I can aspire to."

Cudnik spent his police career

wanted to work when all the action was happening."

His personnel file showed no commendations. The only reprimand occurred in February 1995 when he was suspended for 60 days for leaving the scene of a three-car accident while off-duty, then failing to report his involvement in it.

Cudnik grew up in the Garfield Heights area and graduated from Parma Senior High School in 1967. He was the divorced father of three sons: Hilary Jr., 23, a Cleveland firefighter; Michael, 21, a student at the University of Dayton; and Daniel, 20, with the Coast Guard.

Even though he worked the grueling 8 p.m. to 4 a.m. shift in one of the city's toughest neighborhoods, Cudnik was a frequent presence at the bar, which opened at 6 a.m. to serve bacon and eggs to the no-nonsense working man's crowd at the nearby LTV Steel Co. mill.

"He was always here," said

The Violence Policy Center (VPC) is a national non-profit educational organization that conducts research and public education on firearms violence and provides information and analysis to policymakers, journalists, grassroots advocates, and the general public. The Center examines the role of firearms in America, analyzes trends and patterns in firearms violence, and works to develop policies to reduce gun-related death and injury.

This report was authored by VPC Legislative Director Kristen Rand and VPC Policy Analyst Marty Langley. It was edited by VPC Publications Coordinator Aimée Stenzel and VPC Executive Director Josh Sugarmann.

This study was funded in part with the support of The David Bohnett Foundation, The California Wellness Foundation, The George Gund Foundation, The Joyce Foundation, The John D. and Catherine T. MacArthur Foundation, and The Streisand Foundation. Past studies released by the VPC include:

- *Firearms Production in America 2002 Edition—A Listing of Firearm Manufacturers in America with Production Histories Broken Out by Firearm Type and Caliber* (March 2003)
- *“Just Like Bird Hunting”—The Threat to Civil Aviation from 50 Caliber Sniper Rifles* (January 2003)
- *When Men Murder Women: An Analysis of 2000 Homicide Data* (October 2002)
- *No Deal: The Drop in Federally Licensed Firearms Dealers in America* (September 2002)
- *Sitting Ducks—The Threat to the Chemical and Refinery Industry from 50 Caliber Sniper Rifles* (August 2002)
- *License to Kill IV: More Guns, More Crime* (June 2002)
- *American Roulette: The Untold Story of Murder-Suicide in the United States* (April 2002)
- *The U.S. Gun Industry and Others Unknown—Evidence Debunking the Gun Industry’s Claim that Osama bin Laden Got His 50 Caliber Sniper Rifles from the U.S. Afghan-Aid Program* (February 2002)
- *“A .22 for Christmas”—How the Gun Industry Designs and Markets Firearms for Children and Youth* (December 2001)
- *Kids in the Line of Fire: Children, Handguns, and Homicide* (November 2001)
- *Unintended Consequences: Pro-Handgun Experts Prove That Handguns Are a Dangerous Choice For Self-Defense* (November 2001)
- *Voting from the Rooftops: How the Gun Industry Armed Osama bin Laden, Other Foreign and Domestic Terrorists, and Common Criminals with 50 Caliber Sniper Rifles* (October 2001)
- *Shot Full of Holes: Deconstructing John Ashcroft’s Second Amendment* (July 2001)
- *Hispanics and Firearms Violence* (May 2001)
- *Where’d They Get Their Guns?—An Analysis of the Firearms Used in High-Profile Shootings, 1963 to 2001* (April 2001)
- *A Deadly Myth: Women, Handguns, and Self-Defense* (January 2001)
- *Handgun Licensing and Registration: What it Can and Cannot Do* (September 2000)
- *Pocket Rockets: The Gun Industry’s Sale of Increased Killing Power* (July 2000)
- *Gunland USA: A State-by-State Ranking of Gun Shows, Gun Retailers, Machine Guns, and Gun Manufacturers* (June 2000)
- *Guns For Felons: How the NRA Works to Rearm Criminals* (March 2000)
- *One Shot, One Kill: Civilian Sales of Military Sniper Rifles* (May 1999)
- *Cease Fire: A Comprehensive Strategy to Reduce Firearms Violence* (Revised, October 1997)

Violence Policy Center
1140 19th Street, NW
Suite 600
Washington, DC 20036

202-822-8200 phone
202-822-8205 fax
www.vpc.org web

©May 2003
Violence Policy Center

Introduction

In 1994, Congress passed, and President Clinton signed, a ban on the production of certain semiautomatic assault weapons as well as high-capacity ammunition magazines that hold more than 10 rounds. The law banned specific assault weapons by name and also classified as assault weapons semiautomatic firearms that could accept a detachable ammunition magazine and had two additional assault weapon design characteristics. The law is scheduled to end on September 13, 2004.

This study reveals the gun industry's efforts to evade the 1994 ban and documents the significant threat assault weapons still pose to law enforcement. These facts make clear the need to not only renew, but also *strengthen*, the ban before it expires next year. Legislation will soon be introduced in the U.S. Congress to accomplish this goal. Without action this Congress, the 1994 law will expire in 2004.

Both President Bush and Attorney General Ashcroft have expressed support for the assault weapons ban. President Bush's support for the ban has been longstanding. In October 2000, Bush campaign spokesperson Ray Sullivan told *Salon* magazine that he would expect then-candidate Bush to reauthorize the ban.¹ That position was reiterated by Attorney General John Ashcroft during his confirmation hearings on January 17, 2001, when he stated, "It is my understanding that the president-elect of the United States has indicated his clear support for extending the assault weapon ban, and I would be pleased to move forward that position, and to support that as a policy of this president, and as a policy of the Justice Department."² Most recently, in April of this year, White House spokesperson Scott McClellan told Knight Ridder news service, "The President supports the current law, and he supports reauthorization of the current law."³

This study contains three sections. *Section One: Assault Weapons, the Gun Industry, and Law Enforcement* reveals how the firearms industry has evaded the current ban, and how assault weapons continue to pose a stark threat to America's law enforcement personnel. *Section Two: Law Enforcement Officers Killed in the Line of Duty by Assault Weapons, 1998 Through 2001* is a chart listing the known incidents of police officers killed by assault weapons, including year, state, manufacturer, model of assault weapon, and caliber. *Section Three: Selected Incidents of Law Enforcement Officers Killed in the Line of Duty by Assault Weapons, 1998 Through*

¹ Jake Tapper, "Gore Shoots Blanks on Guns," *Salon*, October 24, 2000.

² "Day 2, Morning Session of a Hearing of the Senate Judiciary Committee," *Federal News Service*, January 17, 2001.

³ Shannon McCaffrey, "In Surprise Move, Bush Backs Renewing Ban on Assault Weapons," *Knight Ridder/Tribune News Services*, April 12, 2003.

2001 offers expanded narratives for 15 of the law enforcement shootings that occurred during this period. Each narrative also includes a representative illustration of the model of assault weapon used in the shooting (each weapon shown is representative of the brand or model of assault weapon and may not be identical to the specific weapon used in the shooting detailed in the narrative).

Section One: Assault Weapons, the Gun Industry, and Law Enforcement

Assault Weapons: A Clear Threat to Law Enforcement

A primary stimulus for the 1994 law was the severe threat that assault weapons pose to law enforcement officers. Police and other law enforcement personnel were some of the first victims of the assault weapon trend that emerged in the 1980s. For example, in October 1984, a San Jose, California, police officer was gunned down with an UZI carbine. In a high-profile shootout in April 1986, two agents from the Federal Bureau of Investigation (FBI) were killed by robbery suspects wielding a Ruger Mini-14 assault rifle. Five other agents were wounded in the gun battle. As high-capacity assault weapons became more commonplace, police routinely complained that they were being outgunned by suspects. As a result, major law enforcement organizations supported passage of the 1994 federal assault weapons ban.

In 1995, the first full year in which the ban was implemented, police continued to be victims of assault weapons. Approximately one in 10 of the 74 law enforcement officers killed in the line of duty in 1995 was slain with a banned assault weapon.⁴

The Gun Industry Evades the Law

Immediately after the 1994 law was enacted, the gun industry moved quickly to make slight, cosmetic design changes in their “post-ban” guns to evade the law, a tactic the industry dubbed “sporterization.” Of the nine assault weapon brand/types listed by manufacturer in the law,⁵ six of the brand/types have been re-marketed in new,

⁴ *Cop Killers: Assault Weapon Attacks on America’s Police*, Violence Policy Center, September 1995.

⁵ The law states, “The term ‘semiautomatic assault weapon’ means—(A) any of the firearms, or copies or duplicates of the firearms in any caliber, 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

“sporterized” configurations.⁶ In fact, gunmakers openly boast of their ability to circumvent the assault weapons ban. Their success is described in an August 2001 *Gun World* magazine article about the new Vepr II assault rifle, a “sporterized” version of the AK-47:

In spite of assault rifle bans, bans on high capacity magazines, the rantings of the anti-gun media and the rifle’s innate political incorrectness, the Kalashnikov [AK-47], in various forms and guises, has flourished. Today there are probably more models, accessories and parts to choose from than ever before.

Equally blunt was an article in the May 2003 issue of *Gun World* reviewing the LE Tactical Carbine, a post-ban, “sporterized” AR-15 clone:

Strange as it seems, despite the hit U.S. citizens took with the passage of the onerous crime bill of 1994 [which contained the federal assault weapons ban], ARs are far from dead. Stunned momentarily, they sprang back with a vengeance and seem better than ever. Purveyors abound producing post-ban ARs for civilians and pre-ban models for government and law enforcement agencies, and new companies are joining the fray.⁷

Just such a post-ban AR, the Bushmaster XM15 M4 A3 assault rifle, was used by the Washington, DC-area snipers to kill 10 and injure three in October 2002. The Bushmaster is the poster child for the industry’s success at evading the ban. The snipers’ Bushmaster is even marketed as a “Post-Ban Carbine.” [Please see page four for catalog copy.]

The industry’s efforts have been aided by the fact that not all assault weapons are covered by the 1994 ban. For example, assault weapons with more conventional designs, such as the Ruger Mini-14, were not covered by the 1994 law – although gun experts define them as assault weapons. Furthermore, any gun that was legally possessed as of the date the 1994 law took effect may still be legally possessed and

FNC; (vi) SWD – 10, 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....”

⁶ Assault weapons that have not been reintroduced are the Beretta AR70, Street Sweeper and Striker 12 assault shotguns (the latter two guns were re-classified by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) as subject to the strict regulations of the National Firearms Act of 1934), and Steyr AUG, although Steyr has begun marketing a new assault weapon—the Vector—that, like the AUG, is of a bullpup design.

⁷ “Rock River’s LE Tactical Carbine,” *Gun World* (May 2003), p. 50.

4 Bushmaster Rifles & Carbines Internet: www.bushmaster.com

Bushmaster XM15 M4 Type 16" Post-Ban Carbine...
M4 Profile Barrel • Mini Y Comp Muzzle Brake • Fixed length BATF Approved Tele-style Stock

A new model from Bushmaster in 2001, this XM15 E2S M4 Type Post-Ban Carbine features a lightweight 14.5" Barrel machined in the distinctive M4 profile with a permanently attached Mini Y Comp muzzle brake. This configuration yields a total barrel length of 16" to comply with Post-Ban regulations. A BATF approved fixed tele-style buttstock is added to complete the military look of this new carbine. The 14.5" barrel is chrome lined in both bore and chamber for maximum longevity and ease of maintenance. The barrel's button rifling, in a 1 x 9" right hand twist, will stabilize a wide range of currently available ammunition with bullet weights up to 69 grains. The M16A2 dual aperture, rear sight system offers both windage and elevation adjustments - elevation is calibrated from 300 to 800 meters. The two different apertures give either a short range, quick target acquisition sight picture or a smaller "peep" aperture for long distance accuracy. The tele-stock style buttstock is pinned and fixed in an "open" position and has been BATF approved for use on Post-Ban manufactured carbines.

As with all other Bushmasters, the forged 7075T6 aircraft quality aluminum receivers are finished in a non-reflective mil. spec. hard anodize for durability, and include all M16A2 design improvements such as cartridge case deflector, last round bolt hold-open and raised ridges for magazine release button protection. A mil. spec. manganese phosphate coating insures complete protection against corrosion or rust on barrel and other exposed steel parts. The M4-16" Carbine is shipped in a lockable, hard plastic case - complete with 10 round magazine, carrying sling, and Operator's Safety and Instruction Manual.

BATF Approved, Fixed Position, Tele-Style Buttstock

M4 Profile Chrome Lined Barrel & Mini Y Comp Muzzle Brake
(permanently pinned and welded in place)

SPECIFICATIONS:
XM15 M4 Type 16" Post-Ban Carbine

Caliber	.223 Rem. (5.56 mm)
Mag. Capacity	Shipped with 10 round (accepts all M16 type)
Overall Length	34.875 inches (88.6 cm)
Barrel Length	16" total w. Mini Y Comp (40.6 cm)
Rifling	R.H. twist; 1 turn in 9"
Weight w/o magazine	6.59 Lbs. (2.99 kg)
Mode of Operation	Gas Operated - Semi-Automatic

Bushmaster XM15 E2S M4 Type 16" Post-Ban Carbine
(Model Number PCWA2X 14M4MY)
Call your FFL Dealer for Price.
Shipped with 10 Round Magazine, Sling and Operator's Manual in Bushmaster's lockable rifle case.

This new carbine is also available in an "A3" type model including the Bushmaster Flat-top Upper Receiver and Removable A3 Carry Handle to offer you the ultimate in sight and scope mounting versatility.
Call your FFL dealer for pricing on... Model # PCWA3X 14M4MY

Bushmaster Value!...
All complete Bushmaster Rifles and Carbines are shipped in this foam lined, hard plastic, lockable case.
A \$14.95 Value!

ORDERS 24 hrs. 1 800 998 7928

The Bushmaster XM15 used by the Washington, DC-area snipers to kill 10 and wound three in October 2002 is the poster child for the gun industry's cynical efforts to circumvent the federal assault weapons ban. Maine-based Bushmaster even advertises the gun—based on the banned Colt AR-15 assault rifle—as a "Post-Ban Carbine."

transferred without restriction. With respect to high-capacity ammunition magazines, manufacturers stockpiled thousands, or perhaps hundreds of thousands, of magazines before the ban took effect. Those magazines—some of which can hold up to 75 rounds of ammunition—are still widely available.

Still a Threat to Police—One in Five Law Enforcement Officers Slain in the Line of Duty is Killed With an Assault Weapon

The gun industry's evasion of the 1994 ban on assault weapons and high-capacity ammunition magazines continues to put law enforcement officers at extreme risk. Using data obtained from the Federal Bureau of Investigation, the Violence Policy Center has determined that ***at least 41 of the 211 law enforcement officers slain in the line of duty between January 1, 1998, and December 31, 2001, were killed with assault weapons.***⁸ ***Using these figures, one in five law enforcement officers slain in the line of duty was killed with an assault weapon.***

While no comprehensive information is yet available for the years 2002 and 2003, it is clear that law enforcement personnel continue to be killed by assault weapons. For example, on February 20, 2003, in Alexandria, Louisiana, two police officers were killed in an ambush with an AK-47-type assault rifle. Anthony Molette, age 25, had a long criminal history, including a charge of attempted first-degree murder. The day before the murders, Molette opened fire on an officer in his patrol car. The officer was not hurt, but 18 to 20 rounds were fired into the vehicle. Molette bragged to his friends about the shooting, prompting Alexandria police to search for him. When officers arrived at Molette's residence to serve a warrant, Molette opened fire, fatally wounding Officers Charles Ezernack, age 26, and Jeremy "Jay" Carruth, age 29. Molette was shot and killed as he charged two other police officers.⁹

The fact that from 1998 through 2001 one in five law enforcement officers slain in the line of duty was killed with an assault weapon indicates that the ban in its current form is inadequate to protect police and the public from the hazards presented by assault weapons.

⁸ The Federal Bureau of Investigation data does not identify the firearm used in some instances, in those cases the type of firearm is listed as "unknown." Therefore, the number of law enforcement officers killed with assault weapons may actually be higher. (This figure does not include the 72 law enforcement deaths that resulted from the events of September 11, 2001. The foreword of the FBI's *Law Enforcement Officers Killed and Assaulted, 2001* states, "Because a catastrophe such as the September 11 attacks falls far outside the normal course of police experience, the FBI has not included those fatalities in the 2001 rate, trend, or disposition tables for to do so would skew the data and render analyses meaningless.") The year 2001 is the most recent year for which complete information is available from the FBI.

⁹ "Police Killings Baffling," *State-Times/Morning Advocate*, February 22, 2003.

According to the Urban Institute's 1997 study of the effects of the 1994 ban,¹⁰ "the relatively high use of assault weapons in murders of police suggests that police gun murders should be more sensitive to the effects of the ban than gun murders of civilians." The stark reality that murders of law enforcement personnel committed with assault weapons have not abated demonstrates the need to not only renew, but significantly strengthen, the current ban.

¹⁰ Roth and Koper, *Impact Evaluation of the Public Safety and Recreational Firearms Use Protection Act of 1994 Final Report*, Urban Institute, March 13, 1997.

Section Two: Law Enforcement Officers Killed in the Line of Duty by Assault Weapons, 1998 Through 2001

Year	State	Manufacturer	Model	Caliber
1998	Alaska	Colt	AR-15	7.62mm
	Georgia	Iver Johnson	M1 Carbine	.30
	Oregon	Norinco	SKS ¹¹	7.62mm
	New York	Unknown	MAC-11	9mm
	California	Armalite	M151A	.223
	Mississippi	Colt	AR-15	.223
	Mississippi	Colt	AR-15	.223
	Michigan	DPMS, Inc.	AR-15	.223
	Florida	Unknown	SKS	7.62mm
	Colorado	Unknown	SKS	7.62mm
	Texas	Unknown	AR-15	.223
	Texas	Unknown	AR-15	.223
	Missouri	Unknown	MAK 90	7.62mm
	California	Ruger	Mini-14	.223
	Indiana	Norinco	SKS	7.62mm
1999	California	Ferunion/Hungarian Arms	SA85	7.62mm
	Indiana	Norinco	SKS	7.62mm

¹¹ The SKS is not banned by name under the 1994 federal assault weapons ban. Only SKS rifles that were modified to be defined as an assault weapon under Section (B) of the law were affected by the ban. Section (B) defines a “semiautomatic assault weapon” as “a semiautomatic rifle that has an ability to accept a detachable ammunition 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....” Legislation to be introduced this Congress would explicitly ban any SKS able to accept a detachable ammunition magazine. Unless otherwise stated, the exact configuration of SKS weapons used in police shootings cited in this study cannot be determined.

Year	State	Manufacturer	Model	Caliber
	New Jersey	Intratec	TEC-9	9mm
	Arizona	Unknown	AK-47	7.62mm
	California	Norinco	MAK 90	7.62mm
	Oklahoma	Colt	AR-15 H-BAR	.223
	Texas	Norinco	MAK 90 Sporter	7.62mm
	Texas	Norinco	MAK 90	7.62mm
	Texas	Norinco	MAK 90	7.62mm
	Texas	Norinco	MAK 90	7.62mm
2000	North Carolina	Maadi	ARM	7.62mm
	Georgia	Ruger	AR-15 ¹²	.223
	California	Colt	CAR-15	.223
	Texas	Ruger	Mini-14	.223
	Georgia	Intratec	TEC-9	9mm
	Maryland	Unknown	M1 Carbine	.30
2001	California	Unknown	AR-15	.223
	Florida	SWD, Inc.	M-11	9mm
	Indiana	Unknown	AK-47	7.62mm
	Kentucky	Underwood	M1 Carbine	.30
	Kentucky	Underwood	M1 Carbine	.30
	Michigan	Unknown	SKS	7.62mm
	Tennessee	Maadi	MAK 90	7.62mm
	Texas	Unknown	M-11	9mm
	Texas	Norinco	SKS	7.62mm
	Utah	Norinco	SKS	7.62mm

¹² Inconsistency between manufacturer and weapon type from FBI data.

**Section Three: Selected Incidents of Law Enforcement Officers
Killed in the Line of Duty by Assault Weapons,¹³
1998 Through 2001**

¹³ Each weapon shown is representative of the brand or model of assault weapon and is not a picture of the specific weapon used in the shooting described in the narrative.

Date: January 27, 1998

Location: Portland, Oregon

Assault Weapon: Norinco SKS 7.62mm rifle

On January 27, 1998, one police officer was killed and two were wounded with a Norinco SKS 7.62mm rifle. The officers, working on a drug investigation in Portland, entered the home of Steven Douglas Dons and were met with gunfire. Colleen Waibel, a six-year veteran, was hit with multiple gunshots, becoming the first female officer killed in the line of duty in Portland. Kim Keist, a 15-year veteran, was wounded in the chest and arm despite wearing a bullet-proof vest. A third officer was treated for a gunshot wound to the hand. A neighbor reported that Dons was known to have a large arsenal of weapons and that police had been called to the house weeks before on a complaint of weapons being fired. Dons committed suicide while awaiting trial.

Lauren Dodge, "Three Portland Officers Ambushed at House; One Dead, Two Wounded," *Associated Press*, January 28, 1998; "Victim, Husband Have Mixed Feelings Over Apparent Suicide of Suspect," *The Columbian*, February 26, 1998.

AK MAGAZINE FED...SKS SPORTER RIFLE 7.62X39 CAL.

Extra 30Rd. or 5Rd. AK mags
ONLY...\$4.95 ea.

We Have The Only Ones In The U.S.!!



All standard 5Rd., 20Rd., 30Rd., and 40Rd. AK magazines do fit!! These are not conversions! These have not been modified to accept AK mags. These quality short rifles are manufactured by Norinco and feature a 16-1/2" barrel, 5Rd. detachable mag, a unique thumbhole style stock, and recoil pad.

Heat Up Your Winter Sales!!

RETAIL: \$399.95 & DEALER: \$249.50

ONLY...\$179.95 each

Date: April 25, 1998

Location: Millbrae, California

Assault Weapon: Armalite M151A .223 rifle

On April 25, 1998, one police officer was killed with an Armalite M151A .223 rifle. Officer David Chetcuti responded to another officer's call for help in a traffic stop on the Millbrae Avenue off-ramp of U.S. 101. Officer Seann Graham had pulled over Marvin Patrick Sullivan for not having a current registration sticker for his vehicle. Sullivan, who was heavily armed and had bombs strapped to his body, opened fire, wounding Officer Chetcuti. Chetcuti returned fire hitting the suspect once in the side before being killed by two shots to the head from close range. Several of the bullets penetrated Chetcuti's bullet-proof vest, and more than 40 bullet casings were recovered at the scene. Officer Graham escaped harm by diving into a drainage ditch. Sullivan was arrested after leading several police cars in a chase across the San Mateo Bridge. Sullivan has been repeatedly declared incompetent to stand trial, and sent to a California state mental hospital.

Tyche Hendricks and Jim Herron Zamora, "Cop Killing: No Fremont Tie," *San Francisco Examiner*, April 27, 1998; "Judge: Man isn't competent; Defendant Sent Back to Hospital in Millbrae Cop Slaying Case," *San Jose Mercury News*, July 23, 2002.



Date: May 29, 1998

Location: Cortez, Colorado

Assault Weapon: SKS 7.62mm rifle

On May 29, 1998, one police officer was killed and two were wounded with an SKS 7.62mm rifle. Officer Dale Claxton stopped a truck that had been reported stolen the day before. As Officer Claxton was checking the stolen truck's license plate, a passenger in the truck fired approximately 40 rounds through the front of Claxton's police cruiser. Montezuma County Sheriff's Deputy Jason Bishop responded to the radio call of an officer being shot, and was wounded as his cruiser was hit with approximately 40 more rounds from the SKS. Minutes later, Deputy Todd Martin was wounded in the left arm and right leg. The three suspects, described by authorities as "anti-government, end-of-the-world-fearing survivalists," escaped into Colorado. Two of the suspects were later found dead, while the third, Jason Wayne McVean, is still at large.

Greg Burton, "Posse Scours Badlands for 3 Cop Killers," *Salt Lake Tribune*, May 31, 1998; Julie Cart, "Answers Vanished Along With Four Corners Outlaw," *Los Angeles Times*, November 24, 1999.



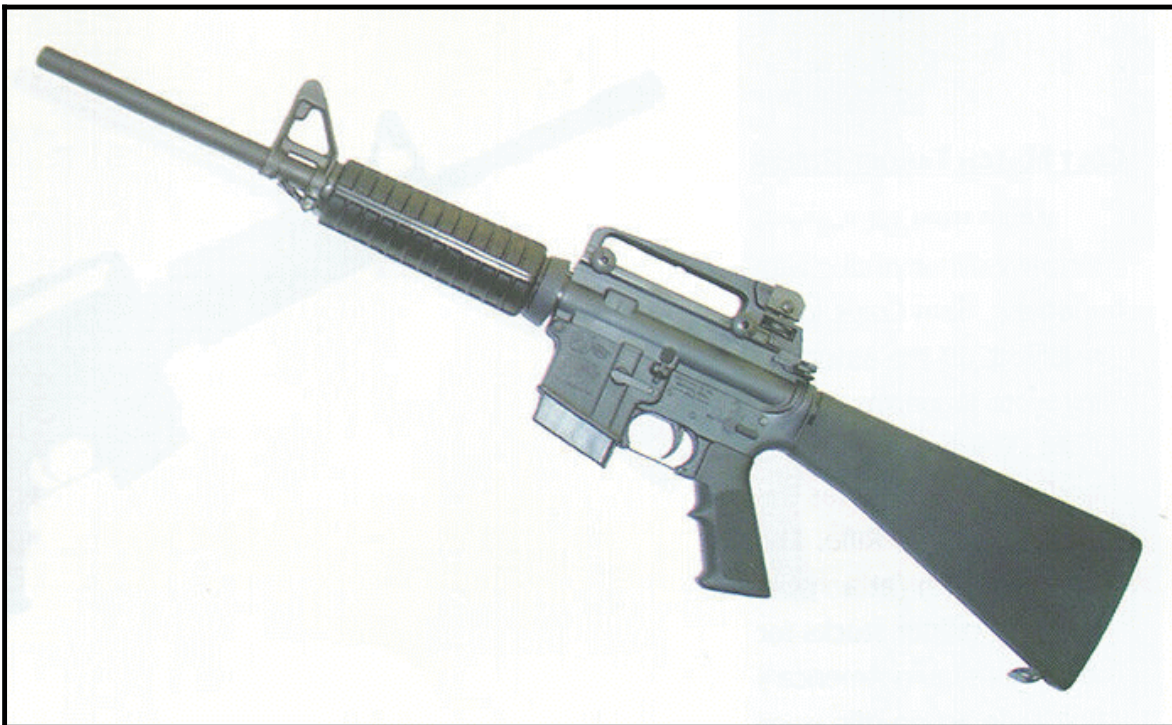
Date: July 7, 1998

Location: San Benito, Texas

Assault Weapon: AR-15 .223 rifle

On July 7, 1998, two U.S. Border Patrol agents were killed with an AR-15 .223 rifle. Ernie Moore, reportedly enraged over a broken love affair, shot and wounded Dan Morin, who had been dating Moore's former girlfriend, and killed Morin's mother and sister. Two hours later, a shootout ensued between Moore and police officers resulting in the death of two Border Patrol agents before Moore was fatally wounded. In addition to a cocaine habit, Moore had a history of emotional problems and displayed Nazi posters and photos of Adolf Hitler in his bedroom.

James Pinkerton, "Two Border Patrol Agents Are Slain During Rampage," *Houston Chronicle*, July 8, 1998; "Assault Rifle Costs Border Town \$35M," *National Law Journal*, March 4, 2002.



Date: November 29, 1998

Location: Los Angeles, California

Assault Weapon: Ruger Mini-14 .223 rifle

On November 29, 1998, Los Angeles Police Department training officer Brian Brown was killed with a Ruger Mini-14 .223 rifle. Brown and his partner witnessed a drive-by shooting in Culver City and attempted to stop the suspects. The gunmen fired multiple rounds from the Mini-14, killing Officer Brown. Police shot and killed one of the suspects near the scene while the other managed to commandeer a taxi, leading police on a five-mile chase before also being fatally wounded.

Anthony Breznican, "Three Dead, Including Police Officer, During Violent Arrest for Drive-By Shooting," *Los Angeles Times*, December 1, 1998.



Date: January 10, 1999

Location: Oakland, California

Assault Weapon: MAK-90 or SA85 7.62mm rifle

On January 10, 1999, Officer James Williams was killed with a MAK-90 or SA85 7.62mm rifle. Officer Williams was among a group of officers who were searching for a rifle that had been discarded by the occupants of a vehicle that was involved in a chase with police. While they were searching for the rifle, a gunman opened fire from a nearby overpass, killing Officer Williams. Chad Rhodes was arrested and charged with special-circumstances murder, attempted murder, three counts of firing an assault weapon, and possessing an assault weapon. Rhodes pleaded guilty to second-degree murder and was sentenced to life in prison without parole.

Henry K. Lee, "Arrest in Oakland Sniper Slaying," *San Francisco Chronicle*, January 12, 1999; Henry K. Lee, "Sniper Suspect Enters Plea of Not Guilty," *San Francisco Chronicle*, February 6, 1999; "Man Pleads Guilty in Killing of Oakland Cop," *San Francisco Chronicle*, April 9, 2003.



Date: April 8, 1999

Location: Orange, New Jersey

Assault Weapon: TEC-9 9mm pistol

On April 8, 1999, Officer Joyce Carnegie was killed with a TEC-9 9mm pistol. Condell Woodson pleaded guilty to felony murder in the death of Officer Carnegie. Woodson claimed that his gun accidentally went off, shooting Carnegie in the head and abdomen as she was attempting to arrest Woodson for armed robbery. Woodson also pleaded guilty to robbery and weapons offenses. Carnegie was the second policewoman killed in the line of duty in New Jersey history.

Amy Westfeldt, "Man Pleads Guilty to Policewoman's Murder," *Associated Press*, May 13, 1999.



Date: June 12, 1999

Location: Orange County, California

Assault Weapon: MAK-90 or SA85 7.62mm rifle

On June 12, 1999, Sheriff's Deputy Brad Riches was killed with a MAK-90 or SA85 7.62mm rifle. Deputy Riches was sitting in his patrol car outside a 7-Eleven when his police cruiser was riddled with assault weapon fire. The 7-Eleven clerk said that a customer told him he was carrying an AK-47-style assault rifle to shoot a police officer. Maurice Steksal was convicted on November 19, 2002 of the first-degree murder of Deputy Riches.

Jack Leonard, "Thousands Pay Last Respects to Slain Deputy," *Los Angeles Times*, June 17, 1999; Greg Hardesty, "Laborer Guilty of Deputy's Murder," *Orange County Register*, November 20, 2002.



Date: January 27, 2000

Location: Lexington, North Carolina

Assault Weapon: Maadi 7.62mm rifle

On January 27, 2000, Sheriff's Deputy Todd Cook was killed with a Maadi 7.62mm rifle. Deputy Cook was serving a warrant at the home of Christopher Lee Cooper who had been accused of trespassing and was also wanted by Lexington police for questioning about a statutory rape. Deputy Cook was shot at least five times from behind. After the shooting, Cooper led police on a car chase that ended when he crashed through a roadblock. Officers found Cooper dead in the car from a self-inflicted gunshot wound.

"Piedmont Community Mourns Loss of Slain Deputy," *Associated Press*, January 29, 2000.



Date: August 3, 2000

Location: San Marcos, Texas

Assault Weapon: Ruger Mini-14 .223 rifle

On August 3, 2000, State Trooper Randall Vetter was killed with a Ruger Mini-14 .223 rifle. Trooper Vetter stopped 72-year-old Melvin Hale for not wearing his seat belt. Hale got out of his car and aimed his rifle at Vetter because he believed the traffic stop violated his constitutional rights. Vetter raised his pistol and ordered him to put down his gun. Hale fired at least twice, hitting Vetter in the head as he sat in his patrol car. Six months earlier, another San Marcos trooper had written a letter warning Hays County law enforcement officers to exercise caution around Hale. The trooper said Hale had threatened him with a rifle when he stopped at Hale's ranch to ask about deer hunting on the 125-acre property. Hale pleaded guilty to the shooting and was sentenced to life in prison.

Jason Spencer, "A Somber Salute for a Fallen Officer," *Austin American-Statesman*, August 9, 2000; "Trooper's Shooter Gets Life Sentence; 74-year-old Accepted Surprise Plea Agreement as Jury Selection Began," *Austin American-Statesman*, January 24, 2002.



Date: March 29, 2001

Location: San Antonio, Texas

Assault Weapon: M-11 assault pistol

On March 29, 2001, San Antonio Police Officer Hector Garza, age 48, was shot and killed while responding to a domestic disturbance report. Jessica Garcia, age 21, had called police to ask for an officer's protection while she moved out of her home. When Garcia's husband, Frank, learned of her plans, he drove home and killed both Jessica and Officer Garza—a 25-year police veteran—by shooting them both in the head with an M-11 assault pistol. Frank Garcia, 28, was arrested at the scene and charged with two counts of capital murder and three counts of attempted murder. Garcia was convicted of the murders in February 2002.

Bill Hendricks, "Cop's Slaying Stuns City," *San Antonio Express-News*, March 30, 2001; "Garcia Gets Death Penalty; Cop Killer Sentenced," *San Antonio Express-News*, February 12, 2002.



Date: April 4, 2001

Location: Detroit, Michigan

Assault Weapon: SKS assault rifle

On April 4, 2001, Detroit Police Officer Neil Wells, age 41, was fatally shot during a drug raid at an abandoned apartment house. While on patrol, Wells and his partner received a complaint of drug sales at the building. When the officers arrived, the gunman was waiting in ambush behind a door. Wells was shot twice at close range with an SKS assault rifle. Lamont Smith, age 21, was charged with murder and felony firearm violations. Smith was convicted of second degree murder and sentenced to 60 to 90 years in prison.

Norman Sinclair, "Gun Owner Sought in Cop's Killing," *The Detroit News*, April 8, 2001; "Man Given 60-90 Years in Cop Killing," *Detroit Free Press*, January 16, 2002.



Date: September 6, 2001

Location: Hamilton County, Tennessee

Assault Weapon: MAK 90 assault rifle

On September 6, 2001, Hamilton County Sheriff's Deputy Donald Bond, age 35, was shot and killed when he stopped at a fruit and vegetable stand to check on a suspicious vehicle. When Deputy Bond did not respond to a 2:18 AM call from his dispatcher, an alert was sent out to locate him. A fellow deputy found Bond dead beside his patrol car, shot multiple times with an MAK 90 assault rifle. Later that morning, acting on a tip, a SWAT team evacuated the suspect's street and waited for a chance to make an arrest. After observing Marlon Duane Kiser, age 31, throw out a front panel of body armor and Deputy Bond's service weapon, police arrested Kiser and charged him with first-degree murder. Kiser is awaiting trial in the case.

Mike O'Neal and Gary Tanner, "Suspect Held in Deputy's Death," *Chattanooga Times Free Press*, September 7, 2001; "Law Enforcement Officers Killed and Assaulted, 2001," Federal Bureau of Investigation; "Courts News Digest," *Chattanooga Times Free Press*, February 18, 2003.



Date: September 17, 2001

Location: Indianapolis, Indiana

Assault Weapon: AK-47 assault rifle

On September 17, 2001, Marion County Sheriff's Deputy Jason Baker, age 24, was killed during a car chase and gun battle. On his way to a report of a domestic dispute, Deputy Baker tried to make a traffic stop. The driver refused to stop and a chase ensued. Allen Dumperth, a convicted felon, and Michael Shannon, both age 20, fired at Baker from their fleeing car. When Baker's fellow officers found him, he was dead from a gunshot wound to the head. The front and rear windows of his patrol car were shot out. After crashing his car, Dumperth was shot and killed by members of the police SWAT team. Shannon later pleaded guilty in court to shooting Deputy Baker.

Vic Ryckaert, "Role in Deputy Death Brings 40 Years; 21-Year-Old Bought the Assault Rifles Used by 2 Men Accused in Slaying of Jason Baker," *Indianapolis Star*, April 11, 2002.



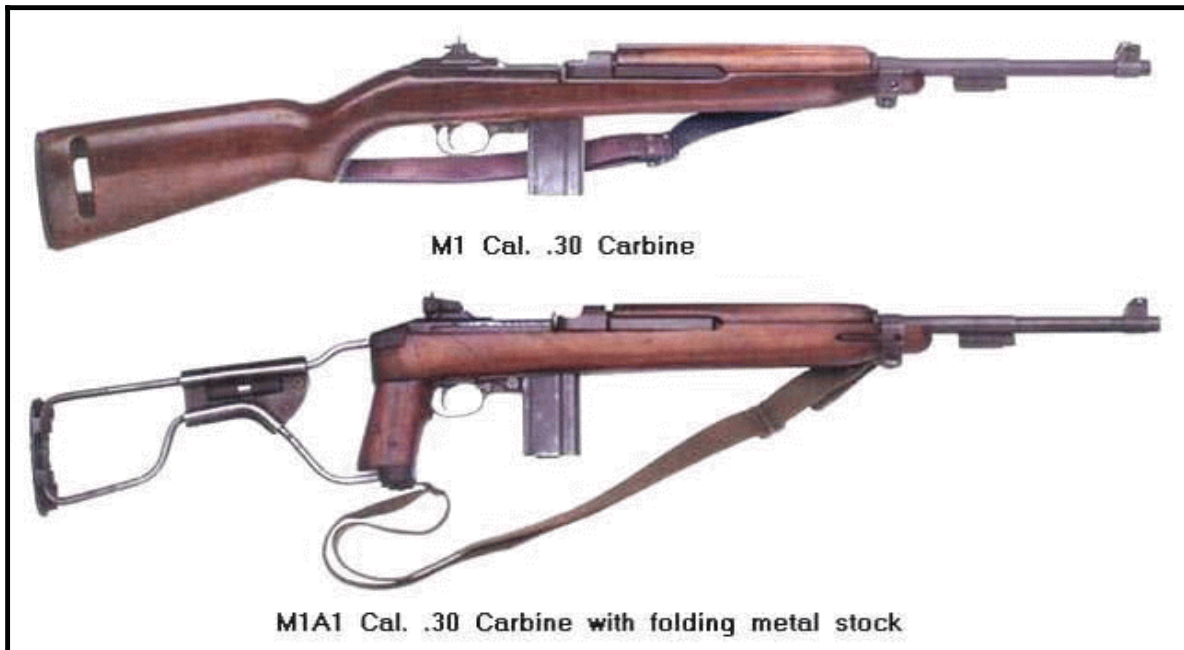
Date: November 13, 2001

Location: Nicholasville, Kentucky

Assault Weapon: M1 Carbine

Jessamine County Sheriff's Deputies Billy Ray Walls, age 28, and Chuck Morgan, age 51, were shot and killed, and another deputy was wounded, when they tried to serve a warrant for misdemeanor terroristic-threatening to Phillip Walker, age 75, on his drydocked houseboat. Walker had threatened to kill a family member with a gun. While in the houseboat with the deputies, Walker fired 11 shots from a 30-caliber M1 Carbine, killing Deputy Walls and fatally injuring Deputy Morgan. Walker was killed in the gun battle.

Greg Kocher, "Man Who Killed Deputy Fired 11 Times Police Say," *Lexington Herald Leader*, November 15, 2001.



About the Violence Policy Center

The Violence Policy Center (VPC) is a national nonprofit educational organization working to reduce death and injury from firearms. As America's premier think tank on gun policy, the VPC studies current firearms issues and provides information to policymakers, journalists, public health professionals, and grassroots activists.

The virtually unrestricted distribution of firearms is more than a crime problem, it is a national health crisis. Unlike every other consumer product, firearms are exempt from federal health and safety laws. Guns—especially handguns and assault weapons—are inherently dangerous products, and the failure to regulate them like all other products costs thousands of lives and billions of dollars every year. By conducting research on key issues in firearms policy, the VPC counters the gun lobby's distortions and brings hard facts to the debate over firearms death and injury.



Violence Policy Center

www.vpc.org

Exhibit 32

JUNE 2011



Violence Policy Center

The background of the cover is a photograph of a soldier wearing a combat helmet with a night vision device mounted on it. The image is tinted with a dark red color. The soldier's face is partially visible through the night vision device's lens.

The Militarization of the U.S. Civilian Firearms Market

WWW.VPC.ORG

4342

COPYRIGHT

Copyright © June 2011 Violence Policy Center

The Violence Policy Center (VPC) is a national nonprofit educational organization that conducts research and public education on violence in America and provides information and analysis to policymakers, journalists, advocates, and the general public.

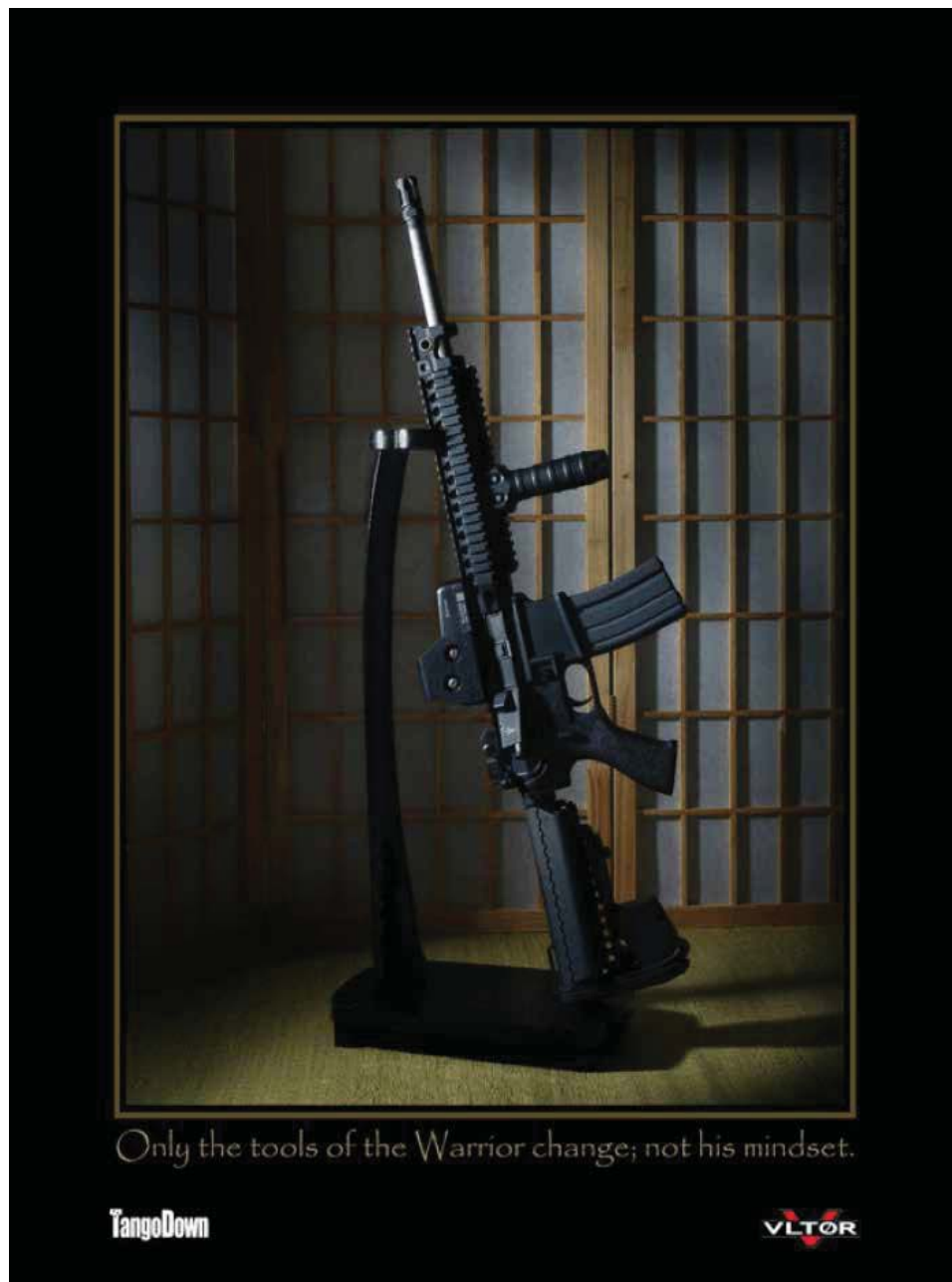
This study was funded in part with the support of the David Bohnett Foundation and The Joyce Foundation.

For a complete list of VPC publications with document links, please visit <http://www.vpc.org/publications/>.

To learn more about the Violence Policy Center, or to make a tax-deductible contribution to help support our work, please visit www.vpc.org.

TABLE OF CONTENTS

Key Findings	1
“Militarization”—What is It?	2
Why Has the Gun Industry Militarized Its Market?	7
Gun Industry Problem: Long-Term Decline	7
Gun Industry Solution: Generating Demand with New and More Lethal Designs	9
Appealing to the Soldier Within	11
How Has the Gun Industry Militarized Its Market?	14
High-Capacity Handguns	14
Handgun Militarization—High-Capacity Semiautomatic Pistols	15
Handgun Militarization—High-Capacity “Anti-Terrorist” Vest-Busting Pistols	18
Assault Rifles and Assault Pistols	21
Imports—AK-47 Variants	23
Domestic Production—AR-15 Variants of the M-16	25
The 1994 Assault Weapons “Ban” and the Rise of Bushmaster	27
Assault Pistols—UZI, Ingram, Intratec, and More	28
The Assault Weapons Hype Market	29
The 1980s Explosion	29
The Y2K Exploitation	30
Continuing Incitement	32
The National Shooting Sports Foundation’s Rebranding Campaign	34
50 Caliber Anti-Armor Sniper Rifles	36
Taxpayers Subsidize the Gun Industry	38
The Result: Militarized Firearms Define the U.S. Civilian Firearms Market	40
The Consequences of Militarization	41
Increasing Attacks on Law Enforcement with Assault Weapons	41
Trafficking of Military-Style Weapons from the United States	42
What Can Be Done?	43
Endnotes	44



Firearms accessories manufacturer TangoDown claims on its website that it "...exists for one reason. To design, develop and manufacture the highest quality products for the warriors of the United States Armed Forces." However, many of its products—like the poster reproduced above—and its advertising are aimed at the militarized civilian market.

www.tangodown.com/td_pages/p_about.html



Sgt. Brandon Paudert (left) and Officer Bill Evans (right) of the West Memphis (Arkansas) Police Department were shot to death May 20, 2010, following a traffic stop. The shooter, 16-year-old Joseph Kane, was armed with an AK-47 semiautomatic assault rifle. Kane and his father, Jerry, were killed in a gunfight with police in a nearby Walmart parking lot. The Kanes were reportedly members of the anti-government Sovereign Citizens Movement.

"Brandon and Bill had no chance against an AK-47," [West Memphis Police Chief Bob] Paudert said. "They were completely outgunned. We are dealing with people who rant and rave about killing. They want government officials dead. We had a 16-year-old better armed than the police."

"West Memphis police chief says officers' pistols were no match for heavily armed teenager,"
The Commercial Appeal (Memphis, TN), May 25, 2010

"Sovereign Citizens Movement members leave two police officers dead in shootout,"
NBC News Transcripts, July 5, 2010

KEY FINDINGS

The civilian firearms industry in the United States has been in decline for several decades. Although the industry has enjoyed periods of temporary resurgence, usually primed by “fear marketing”—encouraging people to buy guns by stoking fear of crime, terrorism, violent immigrants, or government control, for example—the long-term trend for the manufacturers of guns for civilians has been one of steady decline.

Selling militarized firearms to civilians—i.e., weapons in the military inventory or weapons based on military designs—has been at the point of the industry’s civilian design and marketing strategy since the 1980s. Today, militarized weapons—semiautomatic assault rifles, 50 caliber anti-armor sniper rifles, and armor-piercing handguns—define the U.S. civilian gun market and are far and away the “weapons of choice” of the traffickers supplying violent drug organizations in Mexico.

The flood of militarized weapons exemplifies the firearms industry’s strategy of marketing enhanced lethality, or killing power, to stimulate sales. The resulting widespread increase in killing power is reflected in the toll of gun death and injury in the United States—a relentless count that every year takes 10 times the number of lives as the terrorist attacks of September 11, 2001.¹

Militarization has baleful consequences beyond the “routine” toll of murders, suicides, and unintentional deaths. Military-style weapons are a favored tool of organized criminals such as gangs and drug traffickers, and violent extremists. Semiautomatic assault weapons—especially inexpensive AK-47 type imports—are increasingly used in attacks against law enforcement officers in the United States.

The pernicious effects of the militarized U.S. civilian gun market extend well beyond the borders of the United States. Lax regulation and easy access to these relatively inexpensive military-style weapons has resulted in their being smuggled on a large scale from the U.S. to criminals throughout the Western Hemisphere—including Mexico, Canada, Central America, the Caribbean, and parts of South America—as well as to points as far away as Afghanistan, the Balkans, and Africa.

This study surveys the rise of the militarized civilian gun market, examines its impact on public health, safety, and crime in the United States and the world, and refutes the gun lobby’s recent attempt to “rebrand” semiautomatic assault weapons as “modern sporting rifles.”

1 | VIOLENCE POLICY CENTER THE MILITARIZATION OF THE U.S. CIVILIAN FIREARMS MARKET

"MILITARIZATION" — WHAT IS IT?

The verb "militarize" means "to give a military character to" something.² The gun industry has given a "military character" to guns in the U.S. civilian market by—

- **Selling on the civilian market guns that are identical to guns used by the armed forces of the United States and other countries.** These firearms include such sophisticated weapons as the Barrett 50 caliber anti-armor sniper rifle and the FN Herstal Five-seveN 5.7mm pistol.



The Barrett Firearms 50 caliber anti-armor sniper rifle used in combat (above) is sold without meaningful regulation in the U.S. civilian gun market.



**BUY ANY
FN FIVE-SEVEN
AND YOUR FIRST
200 SHOTS ARE
FREE!**

Purchase any new
FN Five-seveN pistol before
March 31, 2008 and receive
200 rounds of FN 5.7x28mm
SS197SR ammunition
(a \$90.00 value)
ABSOLUTELY FREE!

Visit www.fnusa.com
for complete details on
this limited time offer!

FN M240 7.62x51MM NATO MEDIUM MACHINE GUN

BUILT FOR THEM.

The FN Five-seveN USG pistol offers carbine ballistic performance in a handgun. Today FN provides 70% of the small arms used by U.S. Military Forces around the globe. FN is the name you can trust. **JUST LIKE THEY DO.**

REAL WORLD PRODUCTS.
REAL WORLD PERFORMANCE.
FNH USA
WWW.FNHUSA.COM

BUILT FOR YOU.

THE FN FIVE-SEVEN USG IS AVAILABLE IN 5.7X28MM
- FN Five-seveN USG AUTOLOADING HANDGUN SHOWN -

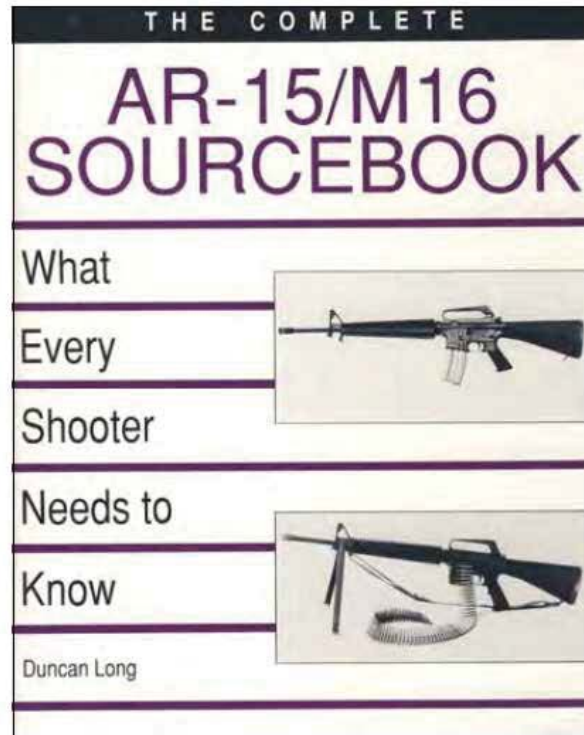
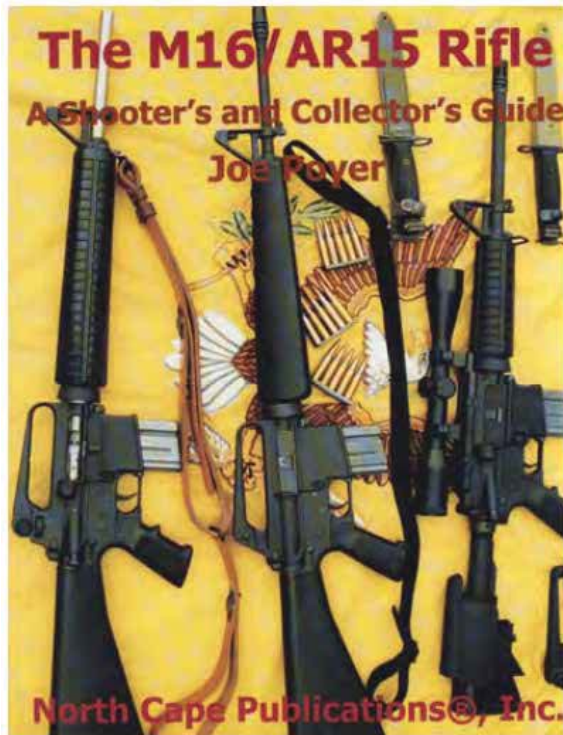
Every FN Five-seveN features:

- Hammer-forged chrome-lined barrel
- Polymer frame and slide cover
- Integrated accessory rail
- Ambidextrous safety levers
- Three 20-round polymer magazines and a hard case
(Limited-capacity magazines supplied when required by law)

FNH USA • P.O. BOX 697 • McLEAN, VA 22101 USA • (703) 288-1292 • © FNH USA, LLC, a subsidiary of FN Herstal, S.A. 2007.

This ad from *Guns & Ammo* (March 2008) explicitly plays on the military's use of FN's Five-seveN 5.7mm armor-piercing handgun.

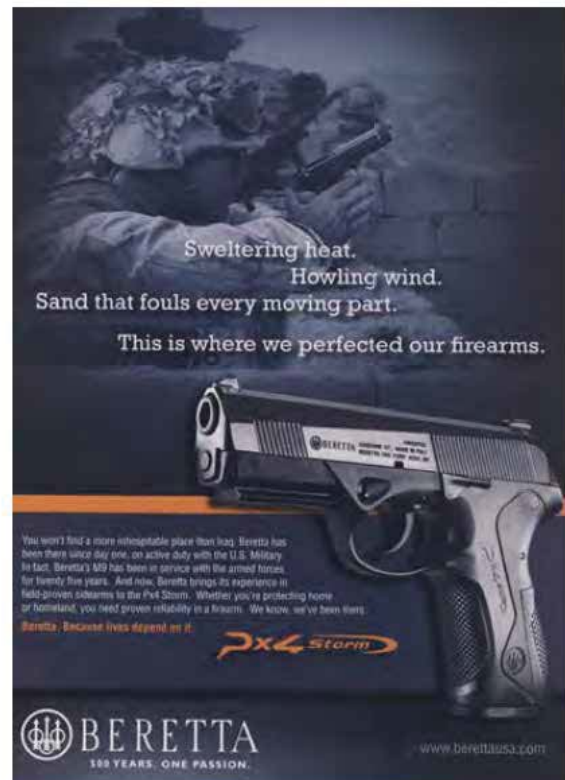
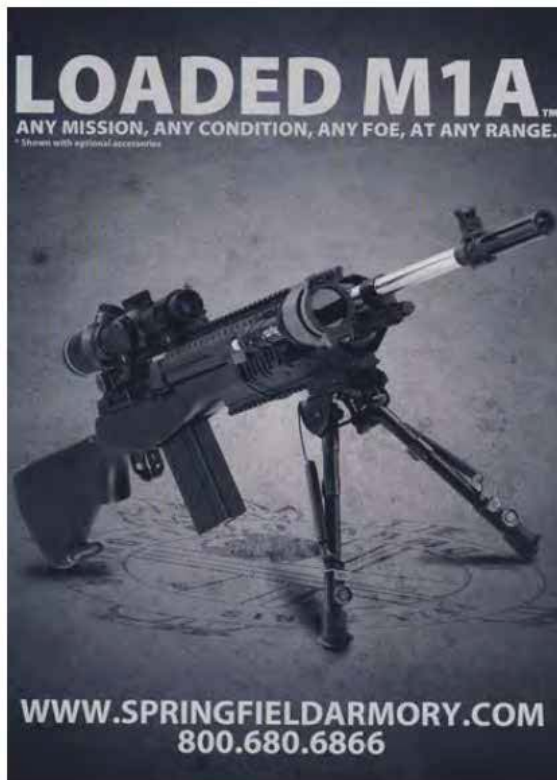
- **Designing and manufacturing, or importing, civilian variants of military firearms that would otherwise be illegal to sell on the civilian market.** These are principally semiautomatic versions of military assault weapons. (Military assault rifles are capable of fully automatic fire. They are thus barred, as “machine guns,” from sale to civilians in the United States.) They include many variants of the AR-15 (the civilian version of the U.S. military M-16 assault rifle) and numerous semiautomatic versions of the Kalashnikov assault rifle, popularly known as the AK-47.



The covers of these books, the left published in 2000, the right in 1992, graphically illustrate the equivalence gun enthusiasts see between the military M-16 and the civilian AR-15.

- **Heavily promoting military-style products through images, slogans, print, video, and other electronic media that link the features, capabilities, and uses of military weapons with firearms available on the civilian market.** In addition to this direct product promotion, the industry relies heavily on suggestive “patriotic” and “heroic” imagery—both historic and contemporary—to identify ownership of military-style weapons with grand themes of “patriotism” and “homeland defense.”

In short, the gun industry designs, manufactures, imports, and sells firearms in the civilian market that are to all intents and purposes the same as military arms. It then bombards its target market with the message that civilian consumers—just like real soldiers—can easily and legally own the firepower of militarized weapons.



These ads from the NRA's *American Rifleman* magazine (May 2010) are typical of how the gun industry implicitly evokes militaristic themes in its marketing.



Colt's Manufacturing's 2010 catalog (cover at top) *American Legends* touches all the bases. Internal pages, clockwise from upper left, glorify: Teddy Roosevelt and his Rough Riders; World War I hero Sgt. Alvin York; Colt's CEO Marine Lt. Gen. William M. Keys; and, U.S. Navy deserter and 1930s bank robber John Dillinger. The brochure's mawkish tone is typical of gun industry advertising and gun lobby propaganda.

WHY HAS THE GUN INDUSTRY MILITARIZED ITS MARKET?

In spite of the gauzy imagery of its advertising, the gun industry's militarization is simply a business strategy aimed at survival: boosting sales and improving the bottom line. The hard commercial fact is that military-style weapons sell in an increasingly narrowly focused civilian gun market. True sporting guns do not.

Here, for example, is an informed industry assessment of the importance of assault (often euphemistically called "tactical") weapons to the gun industry from October 2008:

If there is an area of good news, it's still the tactical segment. In the past week, storefront owners and catalog retailers are unequivocally saying that, with the exception of the tactical categories—from AR-style rifles to the polymer pistols increasingly found in the holsters of law enforcement across the country, sales are slow.³

Here is another from an article titled, "Industry Hanging Onto [sic] A Single Category"—

The net of all the numbers is that if you're a company with a strong line of high-capacity pistols and AR-style rifles, you're doing land office business. If you're heavily dependent on hunting, you are hurting.⁴

Gun Industry Problem: Long-Term Decline. The civilian firearms industry in the United States has been in decline for several decades. Although it has from time to time enjoyed brief peaks in sales, it has been essentially stagnant. For example, demand for firearms apparently increased beginning in 2008 because of fears that "high unemployment would lead to an increase in crime" and the Obama administration would "clamp down" on gun ownership by regulating assault weapons. But demand fell back as these fears waned.⁵ A writer for the online industry publication *Shooting Wire* noted in September 2009:

...research tells me what everyone already knows: gun sales are slowing again. It seems the "Barack Boom" has started to go bust. No real reason, other than maybe the fact that everyone already has all the AR-style rifles they can shoot, store or afford, but there is an undeniable slowdown....⁶

In spite of such occasional anomalies, fundamental long-term trends have worked against the gun industry. The nation's largest firearms manufacturer, Freedom Group, Inc., included the following candid disclosure in a document filed recently with the U.S. Securities and Exchange Commission (SEC):

We believe that a number of trends that currently exist may affect the hunting and shooting sports market:

- the development of rural property in many locations has curtailed or eliminated access to private and public lands previously available for hunting;
- environmental issues, such as concern about lead in the environment; and
- decreases in consumer confidence and levels of consumer discretionary spending.

These trends may have a material adverse effect on our business by impairing industry sales of firearms, ammunition and other shooting-related products.⁷

Other trends include aging consumers—the percent of the U.S. population aged 65 and older has grown from 4.1 percent in 1900 to 12.4 percent in 2000.⁸ Gun owners are older and young people are less likely to buy firearms. *The Christian Science Monitor* reported in 2002 that some in the gun industry itself explained that the “fact that the average age of gun owners continues to increase is...more than a statistical quirk tied to aging baby boomers. Rather it’s a sign that younger generations see guns differently.”⁹ The growing proportion of immigrants in U.S. society also has an impact: “America’s increasing immigrant population has less of a tradition with firearms....”¹⁰



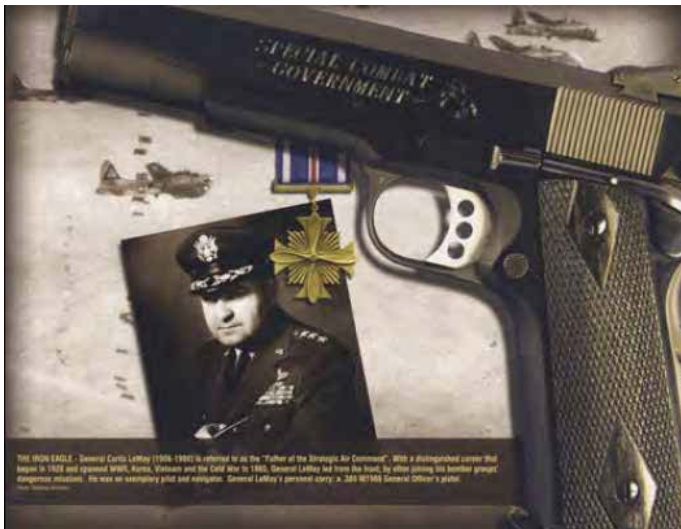
Electronic entertainment like Nintendo’s Super Mario series of video games threatens the gun industry’s crucial “youth market.”

Recent studies have shown that alternative recreation has drastically affected so-called “nature recreation”—camping, hunting, fishing, and park visitation—by all Americans. According to these studies, “Most reliable long-term per capita visitation measures of nature recreation peaked between 1981 and 1991. They’ve declined about 1.2 percent per year since then, and have declined a total of between 18 percent and 25 percent.”¹¹ The authors state the cause is “a social change of values characterized by our increasing pursuit of electronic media entertainment.”¹² According to the Entertainment Software Association, U.S. sales of computer and video games grew from \$2.6 billion in 1996 to “well over \$7.0 billion” in 2007.¹³

As a result, the gun industry has failed to keep up with population growth. Between 1980 and 2000 the U.S. population grew from 226,545,805 to 281,421,906—a 24 percent increase.¹⁴ Over the same period, total domestic small arms production fell from 5,645,117 to 3,763,345—a 33 percent decrease.¹⁵ As America has gotten bigger, the gun industry has gotten smaller.

Gun Industry Solution: Generating Demand with New and More Lethal Designs. In order to entice new gun owners into its shrinking pool of customers—and to motivate gun owners already in the pool to buy more guns—the gun industry seeks to create innovative products that offer new features and appeal to consumer trends. The industry itself deliberately creates these consumer trends.

An example lies in the phenomena of: (1) the gun lobby’s nationwide campaign, led by the National Rifle Association (NRA), to change state laws to allow the concealed carry of firearms; and, (2) the gun industry’s parallel aggressive marketing of concealable, high-powered handguns. In a 1996 interview with *The Wall Street Journal*, the NRA’s then-chief lobbyist, Tanya Metaksa, claimed credit for generating new gun sales with the concealed carry campaign: “The gun industry should send me a basket of fruit—our efforts have created a new market.”¹⁶

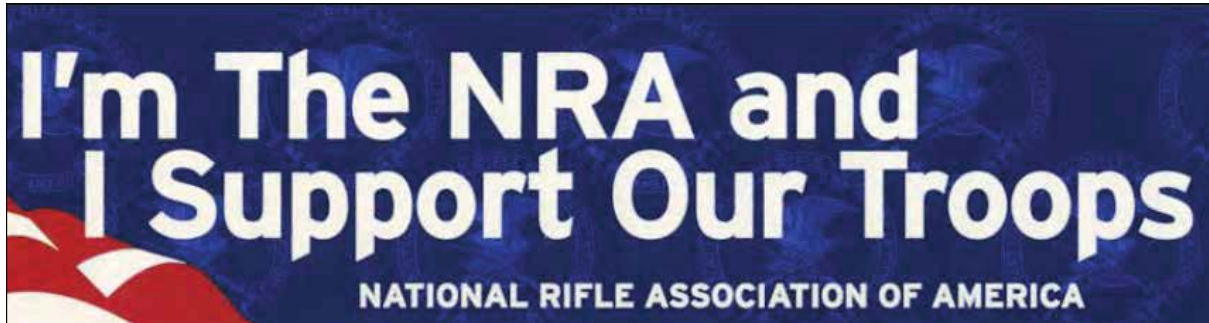


Colt's Manufacturing evokes the militaristic image of Air Force General Curtis LeMay—“Father of the Strategic Air Command”—to promote its 01970 CY “carry model” semiautomatic pistol.

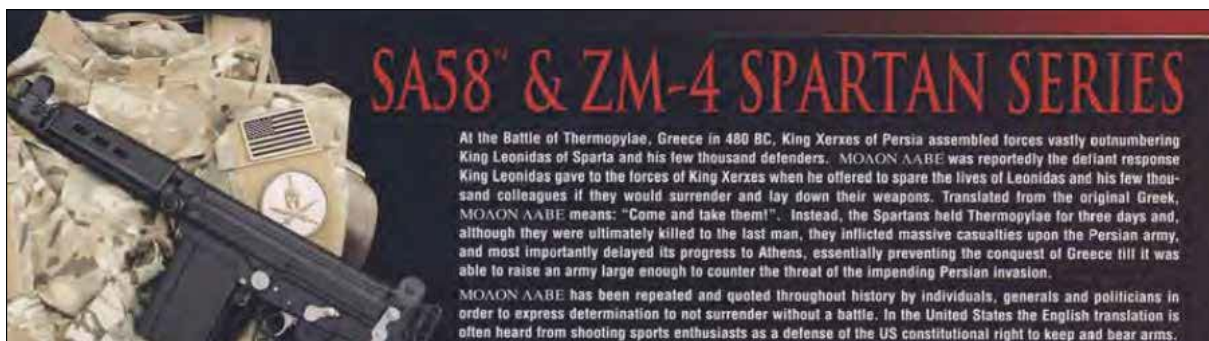
Colt American Legends catalog (2010)

A Freedom Group filing with the SEC contains a more recent description of the process: “We have also shifted our business from a manufacturing-based ‘push system’ to a customer-focused ‘pull system,’ *driven by our Chief Sales and Marketing Officers.*” [emphasis added]¹⁷ Translated into plain English from the language of financial filings, this admission means that the conglomerate’s marketing technique is to *generate* demand (“pull”).

The constant generation of “pull” in niche markets is vital to the industry’s survival. If a manufacturer’s new product generates sufficient “pull,” or product demand, imitation by other manufacturers and proliferation of the design follows swiftly.



NRA bumper sticker typical of gun lobby’s pseudo-patriotic propaganda.



DSA, Inc. promoted its “Spartan Series” semiautomatic assault rifles with the Greek phrase “*Molon Labe*” (“Come and take them”) supposedly uttered by Spartan warriors in 480 BC at the Battle of Thermopylae. “In the United States the English translation is often heard from shooting sports enthusiasts as a defense of the U.S. constitutional right to keep and bear arms,” the company’s brochure states.

Appealing to the Soldier Within. A marketing technique central to the gun industry’s militarization campaign is appealing to the soldier within potential buyers who are drawn for emotional—or more sinister practical—reasons to military weaponry.



FN Herstal USA's 2010 catalog touts the SCAR 16S, "the semi-auto only version of the U.S. Special Operations Command's newest service rifle."

Here, for example, is an industry newsletter's description of the appeal of an assault rifle recently introduced by FN Herstal—the FNAR—by reference to a well-known military weapon, the Browning Automatic Rifle (BAR):

Even as many in the firearms business worry about the potential for another assault on assault rifles...there's yet another entry into the black rifle marketplace.

FNH USA has announced the availability of their new FNAR 7.62x51mm semiautomatic rifle. If [sic] looks something like a tuner-version of the venerable BAR, but there's probably some reason for that resemblance. FNH, after all, owns Browning—and the Browning Automatic Rifle carries a lot of mystique with law enforcement and military folks.¹⁸



"Descending from the legendary Browning Automatic Rifle (BAR), the FNAR puts autoloading speed and bolt-action accuracy into one powerful package."

FNUSA description of its FNAR civilian semiautomatic assault rifle,
www.fnhusa.com/le/products/firearms/group.asp?gid=FNG022&cid=FNC01



The BAR was a favorite of U.S. Marines in World War II—and of a notorious 1930s outlaw, serial cop-killer Clyde Barrow.

The gun industry's embrace of militarization can be seen in the chart below. Eleven of the top 15 gunmakers manufacture some type of assault weapon.

ELEVEN OF THE TOP 15 GUN MANUFACTURERS MARKET ASSAULT WEAPONS¹⁹

Rank	Manufacturer	Assault Weapons?	Make or Type
1	Sturm, Ruger	Yes	Mini-14 and SR-556 assault rifles
2	Smith & Wesson	Yes	M&P 15 assault rifle
3	Remington	Yes	R-15 assault rifle
4	Maverick/Mossberg	Yes	Tactical .22 assault rifle and assorted assault shotguns
5	Marlin	No	
6	Sig Sauer	Yes	Assorted assault rifles
7	Kel-Tec	Yes	Assorted assault rifles
8	Savage	Yes	110 BA assault rifle
9	H&R 1871	No	
10	Beemiller	Yes	Hi-Point Carbine assault rifle
11	Henry Repeating Arms	No	
12	DPMS	Yes	Assorted assault rifles
13	Beretta, USA	Yes	Storm assault rifles
14	Bushmaster	Yes	Assorted assault weapons
15	Glock	No	

HOW HAS THE GUN INDUSTRY MILITARIZED ITS MARKET?

The gun industry has militarized the civilian market with three major types of firearms: high-capacity handguns, assault rifles and pistols, and sniper rifles.

HIGH-CAPACITY HANDGUNS

Handguns are a basic weapon of the U.S. military. Until 1911, the U.S. armed forces historically favored revolvers. In that year the U.S. Army adopted a semiautomatic pistol for the first time, the iconic Colt M1911 in .45ACP (designated the M1911A1 after modifications were made in 1926).²⁰



Colt Model 1911A1

The Colt pistol remained the military's standard sidearm until 1989. Although various models of the Colt pistol were offered in the civilian market, American consumers favored revolvers, which continued to dominate the market until 1989.

In that year, Beretta, U.S.A. Corporation—a subsidiary of an Italian gun manufacturer—won final approval of a contract to replace the venerable M1911A1 with its 9mm semiautomatic pistol. In short order, the U.S. civilian handgun market was revolutionized and militarized, in large part because of a deliberate, well-documented marketing strategy by Beretta's management.

Handgun Militarization—High-Capacity Semiautomatic Pistols. Beretta's pistol, designated the M-9, entered service in 1990 as the military's primary sidearm.²¹ But Beretta's top executive told the *Baltimore Sun* in 1993 that the military contract was simply "part of a carefully planned strategy dating back to 1980"—

The plan was to win the military contract and use it to make Beretta a household name in the United States in hopes of tapping into the larger law-enforcement and commercial markets. That's why, [Robert] Bonaventure [head of Beretta U.S.A. Corp.] said, the company has been selling pistols to the military for about \$225 each—close to production cost....The biggest market—about twice the size of the police and military business combined—is the commercial market....²²

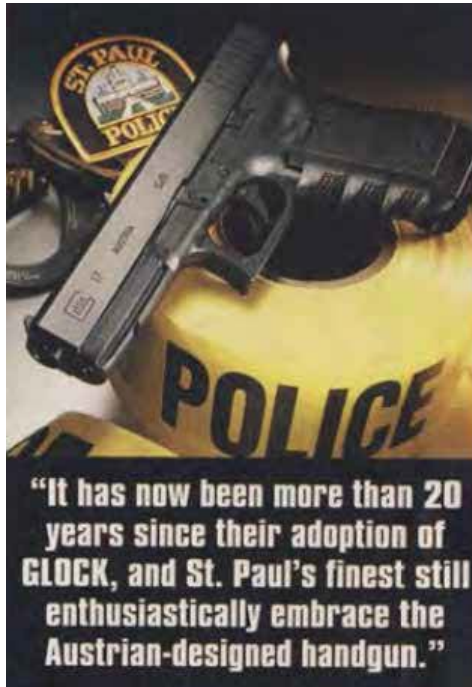


Beretta's top U.S. executive told the *Baltimore Sun* in 1993 that the company's strategy was to use the cachet of military sales to reach the larger civilian handgun market. The Beretta M9 also became a favorite of street gangs and drug dealers.



Beretta advertisement from October 1985 issue of *Guns & Ammo* exemplifies the Italian arms maker's use of military cachet in the civilian gun market.

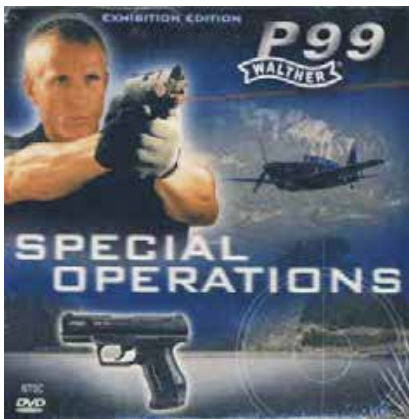
Austrian entrepreneur Gaston Glock had a similar objective when he founded his handgun manufacturing company, won an Austrian army competition in 1982, opened a U.S. subsidiary, and then went after the American law enforcement market. “In marketing terms, we assumed that, by pursuing the law enforcement market, we would then receive the benefits of ‘after sales’ in the commercial market,” Glock told *Advertising Age* in 1995.²³



Austrian gun manufacturer Glock promotes its firearms by constantly linking them to law enforcement use, a form of domestic militarism.

Boosted by these companies’ sophisticated marketing strategies, and an adulatory gun press, high-capacity 9mm semiautomatic pistols reinvigorated the industry in the 1980s. Known as “Wonder Nines,” 9mm semiautomatic pistols drove the formerly dominant revolvers out of the handgun market and created a lucrative boom for the industry. The military-style semiautomatic pistols proliferated.

The switch from revolvers to high-capacity pistols dramatically enhanced handgun lethality. As *Jane’s Infantry Weapons* observed in the early 1980s, revolvers are “bulky,” “generally limited to six rounds,” take a “long time to reload,” and produce low muzzle velocity. Pistols “can be made flat and unobtrusive,” “take up to 13 rounds or more,” feature a “simple to replace magazine,” and high muzzle velocity.²⁴



Gun industry promotional materials, like this DVD distributed at an NRA convention by German gunmaker Walther, frequently emphasize such militaristic terms as "mission," "special operations," and "tactical."



Sniperworld (above) sells military-style firearms through the Internet. Here it assigns customers the "mission" of picking their sniper rifle. The dealer displays its membership in the NRA Business Alliance: "The Business of Freedom."

Handgun Militarization—High-Capacity “Anti-Terrorist” Vest-Busting Pistols. In the scramble for market, the gun industry has introduced a plethora of high-capacity, high-caliber semiautomatic pistol designs since the mid-1980s. But no product better captures the gun industry’s relentless militarization than the Belgian company FN Herstal’s introduction into the civilian market of a pistol and cartridge specifically designed to defeat body armor—the FN Model Five-seveN.

FN Herstal originally created the 5.7x28mm cartridge as the ammunition for a new submachine gun, the P90. The gun and round combination was developed in response to NATO’s request for design of a weapon that would be effective against body armor—ubiquitous on the modern battlefield. (The P90 is the prime example of a new generation of “high-tech” assault rifles, and a civilian version, the PS90, has become popular in the United States.) In short order, the company also designed a handgun that would chamber the innovative armor-piercing submachine round.

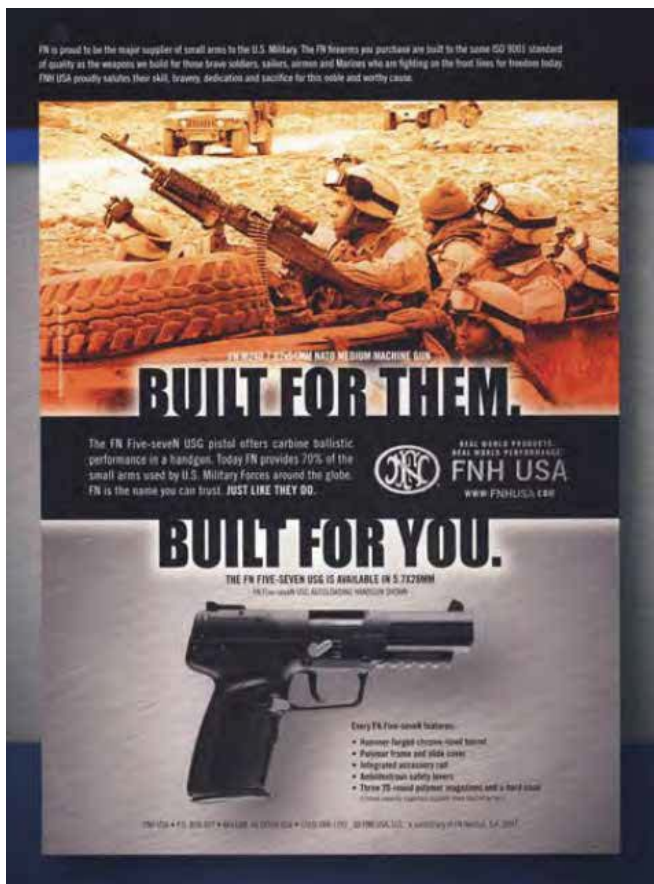


“Just like the Five-seveN handgun, the P90 submachine gun was developed around the 5.7x28mm ammunition to meet the Armies [sic] requirement in terms of efficiency.”

FN Herstal website

FN clearly understood that it was releasing a lethal genie. A spokesman for the company told the *Sunday Times* in 1996 that the pistol was “too potent” for normal police duties and was designed for anti-terrorist and hostage rescue operations.²⁵ The NRA’s *American Rifleman* claimed in 1999 that: “Law enforcement and military markets are the target groups of FN’s new FivesevenN pistol,” and told its readers, “Don’t expect to see this cartridge sold over the counter in the United States. In this incarnation, it is strictly a law enforcement or military round.”²⁶ In 2000, *American Handgunner* magazine assured the public, “For reasons that will become obvious, neither the gun nor the ammunition will ever be sold to civilians or even to individual officers.”²⁷

In fact, this handgun, described as being for anti-terrorist and hostage rescue operations with its law enforcement and military round were, and are, freely sold to civilians. FN was simply hyping its new product with widespread publicity in the gun press about “restricted” sales to military and police, and then—having whetted the gun buying public’s appetite—moved into the much bigger and more profitable civilian market. The Five-sevenN is one of the leading firearms smuggled to Mexico from the U.S. civilian gun market.



FN has heavily promoted its armor-piercing handgun in the U.S. civilian market. FN emphasizes its military cachet: “Today FN provides 70% of the small arms used by U.S. Military Forces around the globe. FN is the name you can trust. JUST LIKE THEY DO.” [Capitals in original.]

FNH USA 2008 catalog



U.S. Army Major Nidal Malik Hasan, left, used an FN Five-seveN 5.7mm semiautomatic pistol at Ft. Hood, Texas, on November 5, 2009. The major allegedly shot to death 13 people and wounded 32 others. He awaits trial in an Army court martial.



Although aimed at women, this ad's text promotes FN's military connection: "Built for America's Forces. Built for You."

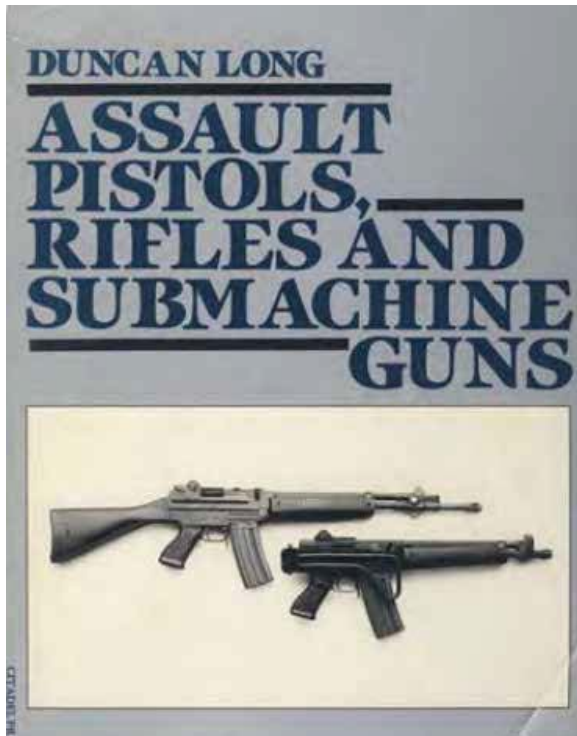
ASSAULT RIFLES AND ASSAULT PISTOLS

In the mid-1980s, the industry found another niche market—semiautomatic assault weapons.

Semiautomatic assault weapons are civilian versions of automatic military assault rifles (like the AK-47, the M-16, and FN's high-tech P-90) and automatic military assault pistols (like the UZI).²⁸

The military weapons “look” the same as the civilian weapons because they are functionally virtually identical. They differ only in one feature: military assault rifles are “machine guns.” A machine gun fires continuously as long as its trigger is held back—until it runs out of ammunition. Civilian assault rifles are *semi*-automatic weapons. The trigger of a semiautomatic weapon must be pulled back separately for each round fired.

Because federal law has banned the sale of new machine guns to civilians since 1986,²⁹ and heavily regulates sales to civilians of pre-1986 machine guns, there is virtually no civilian market for military assault weapons. The gun industry introduced semiautomatic versions of these deadly military assault weapons in order to create and exploit civilian markets.



The next problem arises if you make a semiauto-only model of one of these selective-fire rifles. According to the purists, an assault rifle has to be selective fire. Yet, if you think about it, it's a little hard to accept the idea that firearms with extended magazines, pistol grip stock, etc., cease to be assault rifles by changing a bit of metal.

In his 1986 book pro-gun author Duncan Long dismissed in the quote above the suggestion that semiautomatic civilian assault rifles were different in any substantial way from their military counterparts. The gun lobby has spent three decades trying to “rebrand” civilian assault rifles as mere sporting guns.

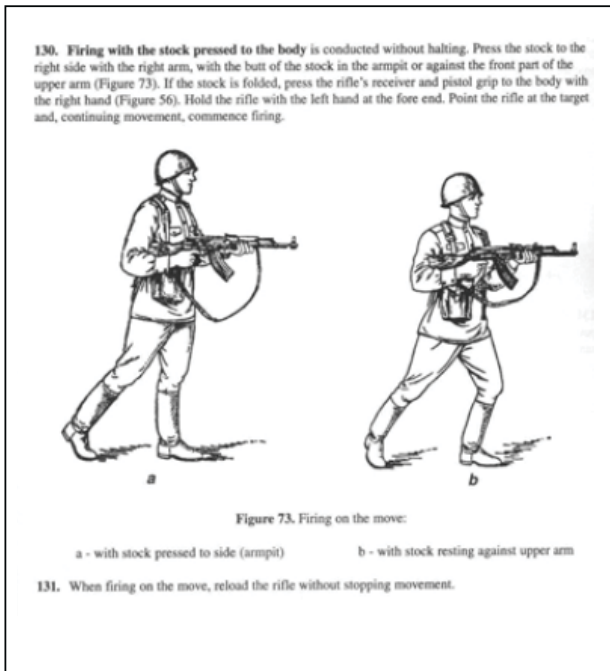
The world's armies developed assault weapons to meet specific combat needs. All assault weapons—military and civilian alike—incorporate specific features that were designed for laying down a high volume of fire over a wide killing zone. This is sometimes known as “hosing down” an area. Civilian assault weapons feature the specific military design features that make spray-firing easy and distinguish assault weapons from traditional sporting firearms.

The most important of these design features are—

- High-capacity detachable ammunition magazines that hold as many as 75 rounds of ammunition.
- A rear pistol grip (handle), including so-called “thumbhole stocks” and magazines that function like pistol grips.
- A forward grip or barrel shroud. Forward grips (located under the barrel or the forward stock) give a shooter greater control over a weapon during firing.

A gun industry observer summed up the design in September 2009:

From the minute you get your first modern, AR-style rifle, the first thing that you notice is the fact that it truly is one of the most ergonomic long guns you'll ever put to your shoulder. Makes sense, it was designed to take young men, many of whom had never fired a gun of any sort before, and quickly make them capable of running the rifle—effectively—in the most extreme duress, armed combat.³⁰



Assault rifles are used for sustained fire action at relatively close range (under 100 meters being the norm). Here Russian troops engage targets with their AK-47/AKM assault rifles.



AK manual, gun magazine, and rifle book illustrate assault rifle “hosing down” technique.

Imports—AK-47 Variants. The Soviet Army’s premier assault rifle, the AK-47, went into service in 1947. The AK-47 has been made in many variants since then. It is said to be the most widely-distributed rifle in the world.

China was directly responsible for the AK boom in the United States. The country exported few guns to the United States until 1987, when Chinese rifle imports—mostly semiautomatic versions of the AK-47—surged. The flood of Chinese rifles reached 64 percent of all rifles imported into the United States in 1993.³¹

The executive branch has clear, existing authority under the Gun Control Act of 1968 to completely prohibit the import of any “non-sporting” firearm, such as these military-derived weapons.³² In 1989, the George H.W. Bush administration blocked the importation of foreign-made semiautomatic assault rifles such as the AK variants. After the gun industry devised ways to skate around this ban with minor design changes, the Clinton administration acted again to cut off the flood of so-called “rule beaters.”

The George W. Bush administration, however, completely and surreptitiously abrogated the first Bush and Clinton import rules. The Obama administration has done nothing to reinstate the earlier tough rules. Accordingly, Eastern European gun manufacturers have taken the place of the Chinese gun makers. They are supplying millions of AK-47-type weapons to the U.S. civilian market through licensed importers.

SHOTGUN NEWS - shotgunnews.com VOLUME 64 - ISSUE 1

Order Online at: **www.jgsales.com** Order by Phone: **928-445-9650**

AZ 86301 • Hours: Mon-Fri: 8 am to 5:30 pm / Sat: 9 am to 3 pm MST • Fax: 928-445-9658 • Email: info@jgsales.com

ROMANIAN AK-47's and AK VARIANTS



Romanian AK-47 WASR10/63M
7.62x39mm semi-auto AK-47 with laminated wood military stock and forend, black synthetic pistol grip, slant cut muzzle brake, sling, bayonet lug, bayonet and high capacity mag. 15-1812 **\$399.95**
Two or more each **\$389.95** Five or more each **\$379.95**



Romanian AK-47 WASR10 7.62x39mm semi-auto with wood stock and forend, synthetic pistol grip, welded muzzle nut, sling and high capacity magazine. 15-1726 **\$389.95**
Two or more each **\$379.95** Five or more each **\$369.95**



Romanian AK-47 WASR10/63FPG 7.62x39mm semi-auto with original style wood forward pistol grip, wood buttstock, synthetic pistol grip, bayonet lug, slant cut muzzle brake, sling, high capacity mag. 15-1759 **\$389.95**



Romanian AK-47 WASR10/63SFP 7.62x39 semi-auto with Tapco polymer side folding stock, black synthetic forend, and pistol grip, slant cut muzzle brake, sling, bayonet lug, bayonet, high capacity mag. 15-1811 **\$389.95**
Two or more each **\$379.95**



Romanian AK-47 WASR10C 7.62x39mm semi-auto with Tapco AR style collapsible stock, black synthetic pistol grip, slant cut muzzle brake, bayonet, bayonet lug, high capacity mag. 15-1217 **\$389.95** Two or more each **\$379.95**



Romanian AK-47 WASR10CG 7.62x39mm semi-auto with Tapco AR style collapsible stock, Tapco Cali style forend, black synthetic pistol grip, slant cut muzzle brake, bayonet, bayonet lug and high capacity mag. 15-1244 **\$419.95**
Two or more each **\$409.95**



Romanian AK-47 GP75 7.62x39mm semi-auto with American made receiver, barrel, polymer pistol grip, forend and stock. Has bayonet lug, slant cut muzzle brake and high capacity mag. 15-1396 **\$429.95**
Three or more each **\$399.95**



Romanian AK-47 1975 Bullpup 7.62x39mm semi-auto with black polymer stock, new US made receiver and high capacity mag. 15-1465 **\$499.95**



Yugoslavian AK-47 M70AB27 7.62x39 semi-auto, underfolding stock, parkerized finish, black polymer forend, slant cut muzzle brake, high capacity mag. 15-1667 **\$489.95**



7.62x39mm Semi-Auto VZ2008 Sporter With milled receiver, folded synthetic pistol grip and forend, slant cut muzzle brake and VZ2008 30 Round VZ2008 Bayonet With Bakelite handle.

SILE DIRECT FROM CHINA AKM-47/S RIFLE



AVAILABLE IN 7.62 x 39 AND 5.56. STRAIGHT OR FOLDING STOCK

THE GUN THAT HAS SEEN MORE SERVICE USE THAN ANY OTHER RIFLE IN THE WORLD AND IS STILL IN USE TODAY. SEE YOUR DEALER FOR FURTHER INFORMATION. LAW ENFORCEMENT AND DEALER INQUIRIES WELCOMED.

SILE INC. IMPORTER OF FINE FIREARMS
7 CENTRE MARKET PLACE, NEW YORK, NY 10013
TELEPHONE 212/925-4111

GUNS & AMMO/DECEMBER 1985

Guns & Ammo ad for AK-type rifles from China in December 1985 (lower right). Since George W. Bush's administration opened the assault rifle floodgates again, AK-type rifles have poured in from Eastern Europe, as evidenced by this May 20, 2010, ad for J&G Sales from *Shotgun News*, which is typical of fare in the popular publication.

Domestic Production—AR-15 Variants of the M-16. After studying over three million casualty reports from World Wars I and II, and data from the Korean War, the U.S. Army concluded, “Marksmanship was not as important as volume.” Accordingly, it decided in the 1960s to replace its M-14 battle rifle with the M-16 assault rifle.³³

The gun industry quickly churned out civilian versions of the M-16, labeling the semiautomatic model the “AR-15” (the same designation as the prototype military assault rifle). “With the number of companies making those particular black rifles today, it’s tough to keep up them [sic],” a gun industry insider wrote in 2009.³⁴



The gun industry created a vast market for AR-15 civilian versions of the U.S. military’s M-16 assault rifle.

Manufacturers have recently introduced assault rifles in 22 caliber, considerably cheaper than the .223 ammunition of the usual AR-15 semiautomatic assault rifle. The lighter weapons also provide an entry model for later transition to higher-caliber rifles. For example, in August 2009 Smith & Wesson began shipments of its M&P15-22 semiautomatic assault rifle. Here is how one gun writer enthused about the new model:

...the M&P15-22 might be the first .22 LR AR platform that actually is appropriate for consumers, law enforcement and military use that can be used to teach AR operations and basic marksmanship skills and know there will be no modifications necessary to transition to the myriad of other AR calibers available.³⁵

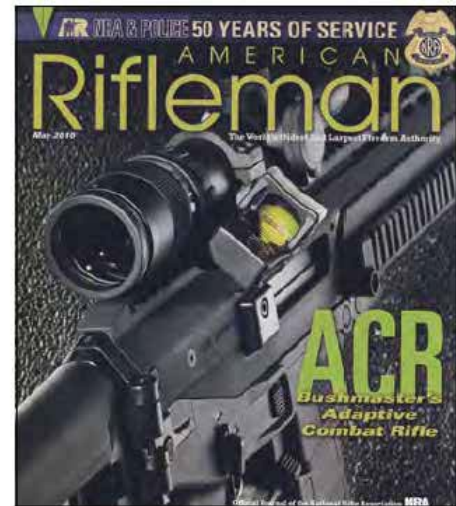
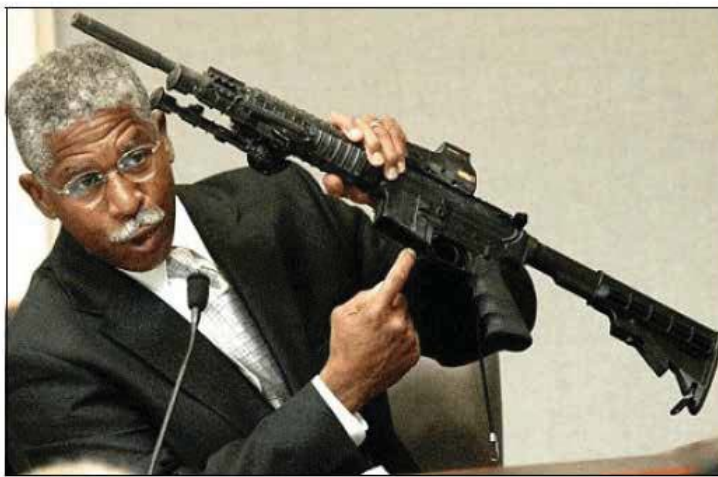


The industry has lately pushed 22 caliber semiautomatic assault rifles.

The 1994 Assault Weapons “Ban” and the Rise of Bushmaster. In 1994, Congress passed a ban on the production of certain semiautomatic assault weapons as well as new high-capacity ammunition magazines that held more than 10 rounds. The law banned specific assault weapons by name and also classified as assault weapons semiautomatic firearms that could accept a detachable ammunition magazine and had two additional assault weapon design characteristics.³⁶

Because the law listed merely cosmetic features (like bayonet mounts) and did not address the fundamental design of assault weapons, it was ineffective. The gun industry quickly made slight design changes in “post-ban” guns to evade the law, a tactic gunmakers dubbed “sporterization.” One of the most aggressive of the manufacturers of “post-ban” ARs was Bushmaster Firearms. A Bushmaster XM15 M4 A3 assault rifle was used by the Washington, D.C.-area snipers to kill 10 and injure three in October 2002. A poster child for the industry’s success at evading the ban, the snipers’ Bushmaster was marketed as a “Post-Ban Carbine.”

The 1994 law expired (“sunset”) on September 13, 2004.



The Washington, D.C.-area “Beltway Snipers” used the Bushmaster semiautomatic assault rifle being shown at left above. Among Bushmaster’s latest AR-type assault rifles is the “Adaptive Combat Rifle” featured on the cover of the NRA’s May 2010 *American Rifleman*.

Assault Pistols—UZI, Ingram, Intratec, and More. A particularly deadly variant in the gun industry's marketing program has been the sale of civilian assault pistols, which are for the most part simply semiautomatic versions of submachine guns. Firearms expert Duncan Long explained the marketing basis of this trend in his book *The Terrifying Three: Uzi, Ingram, and Intratec Weapons Families*:

As the militaries of the world increasingly rely on assault rifles to fill the submachine gun role, making money on a new submachine gun design becomes harder and harder....Citizens purchasing firearms for everything from plinking to self-defense have provided a lucrative market, especially in the United States. Those weapons produced for the civilian market are generally semiauto versions of the automatic weapons, often modified slightly to conform to U.S. firearms laws.³⁷

A more recent development has been the introduction of AK-47 type pistols, which combine all the deadly design characteristics of the military-style assault rifle with the greater concealability of the handgun.



Gun dealers offer AK-47 type semiautomatic assault pistols, like the Draco above, through the Internet.

THE ASSAULT WEAPONS HYPE MARKET

The 1980s Explosion. Assault weapons quickly became hot items on the civilian market in the 1980s for a variety of reasons. For manufacturers, assault weapons helped counter the mid-1980s decline in handgun sales. Criminals—especially drug traffickers—were drawn to assault weapons’ massive firepower, useful for fighting police and especially competing traffickers. Survivalists—who envisioned themselves fending off a horde of desperate neighbors from within their bomb shelters—loved the combat features of high ammunition capacity and anti-personnel striking power of assault weapons. Right-wing paramilitary extremists, in their ongoing battle against the “Zionist Occupational Government,” made these easily purchased firearms their gun of choice. And for gun enthusiast fans of popular entertainment—*Rambo* and *Miami Vice*—semiautomatic assault weapons offered the look and feel of the “real thing.”



German manufacturer Heckler & Koch pushed the civilian version of its military assault rifle in a series of ads—like these from *Guns & Ammo* magazine—in the mid-1980s stressing “survivalist” themes.

The Y2K Exploitation. The gun industry has ever since poured its efforts into new assault weapons designs and into their heavy marketing. One example of the industry's cynicism was its deliberate exploitation of widespread fears of a "breakdown" in public order at the turn of the millennium ("Y2K").³⁸

In the January 1999 issue of *Shooting Sports Retailer*, editor Bob Rogers predicted, "Amidst social turmoil and disintegrating economic underpinnings, you will sell more guns in 1999 than you've ever sold in your life."³⁹ *Shooting Industry's* Russ Thurman asked readers, "Are you cashing in on the new millennium?"⁴⁰

The prime danger, the gun industry luridly suggested, was that of rampaging humans: "...since the Have Nots won't hesitate to break in and take from the Haves, plan on close contact. And plan on being outnumbered. High-capacity rifles, pistols and shotguns are obvious choices."⁴¹ But domestic pets could also become a threat to life in the gun industry's bizarre world: "One might also need to quickly stop a dog or dogs who through starvation revert to wild beasts. Dogs take a lot of killing, so a powerful round and good shot placement will be necessary should this distasteful task arise."⁴²



Premier gun industry magazine *Shooting Industry* advised dealers in September 1999 (left) that "...taking advantage of the Y2K 'scare' is smart business..." In January 2000 the magazine reported that "...predictions of massive unrest...prompted gunowners to stock-up [sic] on ammunition."

Gun World's Y2K Daisy Chain



Gun World magazine not only published its own article in 1999 about how to “survive Y2K”—it also referred its readers to its sister publication *American Survival Guide*, in which appeared another article of survival advice written by *Gun World* editor Jan Libourel.



Typical Y2K gun ads from 1999 are shown above.

Continuing Incitement. The gun industry, the NRA, and the gun press have exploited every real and imagined public fear since the 1980s—including the terror attacks of September 2001, Hurricane Katrina, “spillover” of border violence, and concerns about violent “illegal” immigrants. The industry’s propaganda added fuel to the militia movement in the 1990s. Lethal confrontations occurred between federal law enforcement and civilians heavily armed with military-style weapons at Waco, Texas, and Ruby Ridge, Idaho. Barack Obama’s election, and fears that he would push an anti-gun agenda, ignited growth in the “militia” movement and a disturbing trend of open display of assault weapons near Presidential speaking engagements.⁴³



The ad for a Benelli shotgun on the left, from the NRA's 2010 annual meeting brochure, ostensibly speaks to a “revolution” in shotgun design. The ad for the “tactical” shotgun on the right, from the September 2010 *Guns & Ammo* magazine, links “homeland security” to “Iraq, Afghanistan, Your Livingroom.”



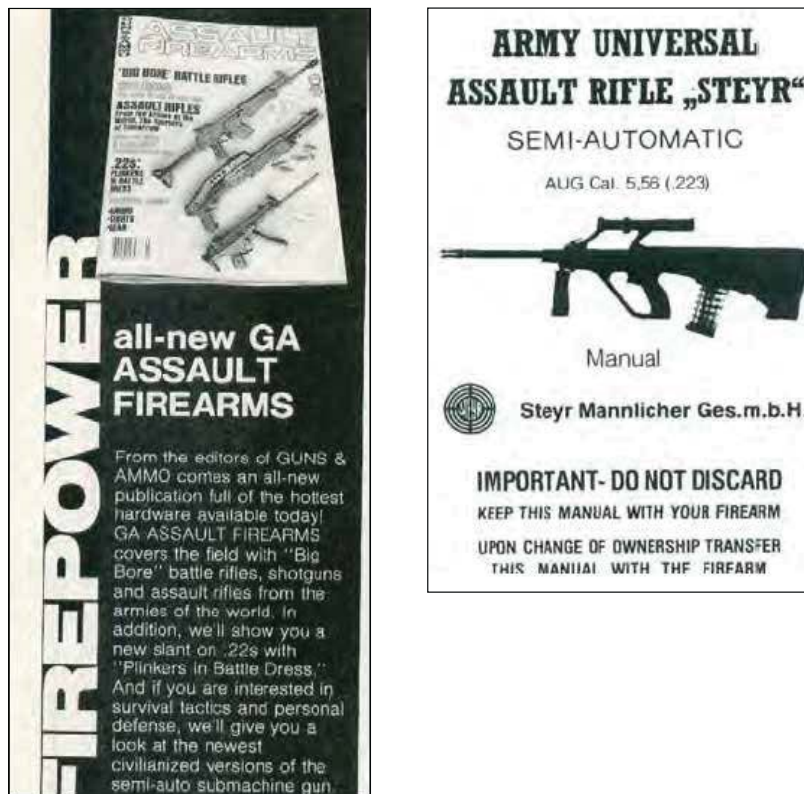
The NRA pamphlet *Freedom in Peril* warns, "Second Amendment freedom today stands naked...." Laced with ugly stereotypes of the gun lobby's political enemies—a classic technique for dehumanizing "the other"—it suggests "towering waves" of danger from ethnic and racial gangs. "Sometimes," the brochure suggestively states, "any hope of prevailing rests in the hearts and hands of a very urgent few...."



The National Shooting Sports Foundation's Rebranding Campaign. In November 2009, the National Shooting Sports Foundation (NSSF) announced that—"due to gun owners' concerns over President-elect Obama and possible legislation regulating the Second Amendment rights of Americans"—it had placed on its website a "media resource...to help clear up much of the confusion and misinformation about so-called 'assault weapons.'"⁴⁴

This was the opening salvo in the industry's meretricious campaign to "rebrand" semiautomatic assault weapons as "modern sporting rifles."⁴⁵ The point of the campaign—inspired by the pummeling the industry gets for selling killing machines—is apparently that semiautomatic assault rifles are really just another sporting gun, no different from an older generation of bolt-action and low-capacity rifles.

Unfortunately for the NSSF and the industry, the widely-reported affection for semiautomatic assault rifles by extremists, drug lords, and common criminals gives the lie to this insidious "rebranding" campaign. Even worse, some within the gun industry's own ranks apparently never got the NSSF rebranding memo. They continue to call semiautomatic assault rifles what they are—*assault* rifles—and even write lurid prose promoting the worst features of these guns.



Manufacturers and fan magazines alike called semiautomatic assault weapons "assault weapons" before their deadly killing power became a matter of public debate.

For recent example, the August 2010 edition of *Gun World* magazine headlines “Ruger’s Mini-14 Tactical Rifle” as “‘Combat Customized’ From the Factory.”⁴⁶ Among other outbursts of naked candor in the enthusiastic article are the following—

- Ruger’s Mini-14 Tactical Rifle is a version of the well-established Mini-14 incorporating many of the assault rifle features that end users have being [sic] applying themselves for decades, this time straight from the factory.
- **Being seen over the years as a sort of “poor man’s assault rifle” the Mini-14 has spawned a huge array of after-market parts that may be applied to make it more “assault rifle-y.”** Recently Sturm, Ruger & Co. finally decided to get into the act themselves by producing their Mini-14 Tactical Rifles. [Bold added]

This spasm of candor is typical of the “wink and nod” game that the gun industry plays when it talks to itself and to its hard-core consumers: call them what you will—“black rifles,” “tactical rifles,” or “modern sporting rifles”—semiautomatic assault weapons are plain and simply military-style assault weapons.



50 CALIBER ANTI-ARMOR SNIPER RIFLES

The 50 caliber anti-armor sniper rifle is a case of militarization in which precisely the same weapon is sold on the civilian market as that sold to the world's armed services.

This lucrative weapon was invented in the early 1980s by a Tennessee commercial photographer, Ronnie G. Barrett, who derived the sniper rifle from the Browning 50 caliber machine gun.⁴⁷

Barrett's 1987 patent called his new invention an "anti-armor gun." He described the rifle in his patent claim as a "shoulder-fireable, armor-penetrating gun." Barrett related the novelty of his anti-armor gun as follows:

The recoil and weight of the Browning M-2 heavy-barrel machine gun (50 cal.), belt-fed, make it unsuitable for firing from the shoulder. The bolt-fed sniper rifle of smaller weight and caliber will not penetrate armored targets. The bolts of guns of a caliber that will penetrate armored targets are often broken by recoil because of excessive strain on the lock lugs. Thus, there is a need for a light-weight, shoulder-fireable, armor-penetrating gun that can stand up to heavy duty use. After extended investigation I have come up with just such a gun.

Barrett Firearms Manufacturing, Inc. is today the leading supplier of 50 caliber anti-armor sniper rifles to U.S. military forces and many other armies of the world.



Advertising note "From the Desk of Ronnie Barrett," inventor of the 50 caliber anti-armor sniper rifle, boasts that "...each Barrett model of large-caliber rifle is in service with a government somewhere around the globe." In his pitch to "Fellow Gun Enthusiasts," Barrett urges them to "[c]onsider this when you are comparing our rifles to any other

Barrett has also aggressively marketed its anti-armor rifles to civilian buyers in the United States. After Barrett effectively created a new civilian market for his anti-armor rifles, lower-priced competition sprang up from dozens of new manufacturers cashing in on the booming niche. These rifles have become one of the hottest items sold in the civilian market.

In spite of their battlefield pedigree, 50 caliber anti-armor rifles are no more regulated under federal law than a 22 caliber target rifle, and are less regulated than handguns. Under federal law, anyone at least 18 years of age who is not in a category as to whom transfers or possession of firearms is prohibited—such as convicted felons—can legally buy any .50BMG anti-armor sniper rifle sold in America. But it is against the law for a federally licensed dealer to sell a handgun to anyone less than 21 years of age. Unlike other weapons of war—such as 50 caliber fully automatic machine guns—50 caliber anti-armor rifles are exempt from the stringent provisions of the federal National Firearms Act, which requires a photo, fingerprints, local law enforcement approval, record of the transfer, and registration of the weapon with a \$200 fee.



The gun industry has saturated the American civilian “gun culture” with 50 caliber anti-armor sniper rifles, like this AR-50.

TAXPAYERS SUBSIDIZE THE GUN INDUSTRY

In spite of “anti-government” and insurrectionist rhetoric from the National Rifle Association and its ilk, the gun industry and the gun lobby aggressively milk the federal government for taxpayer subsidies. For example, the U.S. Fish & Wildlife Service regularly subsidizes gun industry marketing research in the guise of “conservation” grants, as described in this 2009 industry article:

The Task Force 20/20 group, industry leaders from the hunting and shooting sports, is continuing to work toward its goal of increasing participation in hunting and the shooting sports by 20 percent over the next five years....Task Force 20/20 began in 2008 during the NSSF Summit whose primary focus was discussing research from a three-year study titled *The Future of Hunting and the Shooting Sports—Research-based Recruitment and Retention Strategies*. The report condenses the findings of one of the largest and most comprehensive studies ever conducted on factors related to the hunting and shooting sports industry. Funding for the research came from the U.S. Fish & Wildlife Service in the form of a multi-state conservation grant.⁴⁸

The Future of Hunting and the Shooting Sports
Research-based Recruitment and Retention Strategies

[Home](#)
[Task Force Members](#)
[2008 Summit Videos](#)
[Future of Hunting and the Shooting Sports Chapter Summaries](#)
1. [Introduction](#)
2. [Participation in Hunting and Shooting Sports](#)
3. [U.S. Demographic Trends and Characteristics](#)
4. [Hunting and Shooting Initiation, recruitment, Retention, and Desertion](#)
5. [Motivations for and Satisfaction with Hunting and the Shooting Sports](#)
6. [Target Markets](#)
7. [Hunting and Shooting](#)

Background:
In June the National Shooting Sports Foundation hosted the 2008 Shooting Sports Summit in Colorado Springs. The Summit gathered leaders from throughout the shooting, hunting and outdoor industry as well as key leaders from fish and wildlife agencies and conservation organizations to address key challenges that face the future of the shooting sports.

At the core of the Summit was a three-year research project titled, "*The Future of Hunting and the Shooting Sports - Research-based Recruitment and Retention Strategies.*" **The report condenses the findings of one of the largest and most comprehensive studies ever conducted on the factors related to our industry.** Funding for the research came from the U.S. Fish & Wildlife Service in the form of a multi-state conservation grant. NSSF commissioned the firm of Responsive Management to conduct the research for the report.

The Summit closed out with attendees committed to taking action on key efforts to reach new hunters and shooters to ensure that our shooting traditions will be a lasting heritage passed on to future generations. To guide the successful implementation of this research the NSSF has developed *Task Force 20/20SM*.

TASK FORCE 20/20

Mr. & Distrib. ... Agencies ... Hunting Groups ... Shooting Groups ... Media ... Retailers

Member Organizations:

The U.S. armed forces also subsidize industry activity, largely through the ploy of “marksmanship” programs, as this article from an industry newsletter attests:

Every summer, prior to the National Rifle and Pistol Trophy Matches at Camp Perry, Ohio, Soldiers from the U.S. Army Marksmanship Unit take time out of their own training and preparation to pass their knowledge and superb shooting skills on to the next generation of American shooters at the Small Arms Firing School....

“It’s such a great thing,” said Jim Davis, Hamilton, Ind. “This is the best place in the country, maybe the world, to learn about shooting and everything that goes with it.”

Davis took his son and three other children from the Dekalb County 4-H club to the rifle class, stressing to them how valuable the instruction that they are receiving is to them now and down the road.

“I still remember when I came to this school as a teenager,” he said. “I tell my kid that this is something that you’ll always remember.”⁴⁹

The Army Marksmanship Unit also hosts an annual event for “civilians playing army in combat situations.”⁵⁰

The shooting sport of 3-gun competition, with pistol, rifle, and tactical shotgun is rooted somewhere in the idea of adults playing army. It is simulated combat. And Three Gun can get even more interesting when the Army issues an invitation to bring your guns and join up for three days of competition, with the Army Marksmanship Unit hosting their 3-gun challenge.⁵¹

The bottom line—ultimately the only thing that matters to the gun industry—is that taxpayers are paying for the means by which a dying industry hangs on by funding market research in the guise of “conservation grants” and introducing new generations of children to the “sport” of shooting military-style weapons in the drag of military marksmanship programs.

THE RESULT: MILITARIZED FIREARMS DEFINE THE U.S. CIVILIAN FIREARMS MARKET

Military-style weapons today define the U.S. civilian gun market. As noted earlier, *Shooting Wire* summarized the gun industry's situation in December 2008 as follows:

The net of all the numbers is that if you're a company with a strong line of high-capacity pistols and AR-style rifles, you're doing land office business. If you're heavily dependent on hunting, you are hurting.⁵²



Military-style “combat rifles” and lethal firepower dominate U.S. civilian firearms market production and marketing.

THE CONSEQUENCES OF MILITARIZATION

The widespread availability of militarized firearms—including especially high-capacity semiautomatic pistols and assault weapons—has substantially raised the level of lethality of armed encounters in the United States. Criminal street gangs, drug traffickers, and militant extremists are all drawn to the military-style firepower of these weapons.

Two trends are remarkable.

Increasing Attacks on Law Enforcement with Assault Weapons. A recent Violence Policy Center study of reported incidents showed that more than one out of four assault weapons incidents involve police. Moreover, the number of assault weapons incidents involving police grew significantly between the two periods studied (March 1, 2005 to February 28, 2006 and March 1, 2006 to February 28, 2007).⁵³

A typical more recent incident is that of Richard Poplawski, who is accused of shooting to death Pittsburgh, Pennsylvania, police officers Paul J. Sciullo II, Stephen J. Mayhle, and Eric G. Kelly on April 4, 2009. Among the guns Poplawski fired at police was an AK-47 semiautomatic assault rifle.⁵⁴



Richard Poplawski and the three police officers who died on April 4, 2009.

Trafficking of Military-Style Weapons from the United States. According to both United States and Mexican officials, large numbers of military-style firearms from the U.S. civilian gun market fuel criminal violence in Mexico. Congressional hearings and public policy reports have made clear that the U.S. gun industry is instrumental in making readily available to illegal gun traffickers the types and numbers of weapons that facilitate drug lords' confrontations with the Mexican government and its people. U.S. and Mexican officials report that, based on firearms tracing data from the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), the cartels obtain up to 90 percent of their firearms from the United States.⁵⁵



Military-style firearms smuggled from the United States fuel violence among Mexican drug cartels and criminal confrontations with the Mexican government. Weapons of choice include 50 caliber anti-armor sniper rifles, assault rifles, and cop-killing FN Five-seven anti-armor handguns.

WHAT CAN BE DONE?

More than anything else, the news media, public interest groups, and especially policymakers must come to grips with a deadly reality. That reality is that the gun industry is not today—if it ever was—a “sporting” industry. It is a highly militarized and increasingly cynical industry that has cast all restraint aside to generate profit from military-style firearms.

Like an injured predator, the industry is particularly dangerous as it sinks further into its inevitable decline. The gun industry’s desperate “marketing” campaigns underwrite mass shootings in the United States, increasingly lethal confrontations with law enforcement, and armed violence abroad.

Most insidiously, the gun lobby’s exploitation of fear—racial, ethnic, and political—encourages resort to armed violence among the most impressionable and ill-equipped to function in a complex society.

This is truly an era in which to do nothing is to invite unthinkable violence.

ENDNOTES

1. Although counts have varied slightly as forensic evidence became available and was more thoroughly examined, the total number of people killed in all of the terrorist attacks on September 11, 2001, is about 2,975. *Associated Press*, "Official 9/11 Death Toll Climbs By One," July 10, 2008, www.cbsnews.com/stories/2008/07/10/national/main4250100.shtml. By comparison, there were a total of 31,224 firearm deaths in the United States in 2007, the latest year for which data are available. Centers for Disease Control and Prevention, "2007, United States Firearm Deaths and Rates per 100,000."
2. See www.merriam-webster.com/dictionary/militarization.
3. "New Products, New Political Twists," *Shooting Wire*, October 15, 2008, www.shootingwire.com/archived/2008-10-15_sw.html.
4. "Industry Hanging Onto A Single Category," *Shooting Wire*, December 17, 2008, www.shootingwire.com/archived/2008-12-17_sw.html.
5. "Gun Sales Go Soft As Economy Improves, Fears Subside," *Daily Finance*, April 14, 2010, www.dailyfinance.com/story/company-news/gun-sales-go-soft-as-economy-improves-fears-subside/19437972/#.
6. "All Quiet—But Why?," September 14, 2009, www.shootingwire.com/archived/2009-09-14_sw.html.
7. Freedom Group, Inc., Form S-1, Registration Statement under the Securities Act of 1933, as filed with the Securities and Exchange Commission on October 20, 2009.
8. U.S. Census Bureau, *Demographic Trends in the 20th Century* (November 2002), Figure 2.7, "Percent of Total Population Age 65 and Over: 1900 to 2000," p. 59.
9. "Gun sales fall despite Sept. 11," *Christian Science Monitor*, April 2, 2002.
10. "Gun sales fall despite Sept. 11," *Christian Science Monitor*, April 2, 2002.
11. "Conservation Science: Do People Still Care About Nature," The Nature Conservancy, www.nature.org/tncscience/misc/art23800.html.
12. Oliver R.W. Pergams and Patricia A. Zaradic, "Is love of nature in the US becoming love of electronic media?," *Journal of Environmental Management*, March 30, 2006, p. 391. The researchers call the population's increasing attention to video games, personal computers, the Internet, and home entertainment systems "videophilia." "Kids just don't get out(doors) much anymore," *Star Tribune* (Minneapolis), February 10, 2008.
13. Stephen E. Siwek, *Video Games in the 21st Century: Economic Contributions of the US Entertainment Software Industry*, Entertainment Software Association, 2007, p. 9.
14. U.S. Census Bureau, *Demographic Trends in the 20th Century* (November 2002), Appendix A, Table 1, "Total Population for the United States, Regions, and States: 1900 to 2000."

15. National Shooting Sports Foundation, *Industry Intelligence Reports*, "Small-Arms Production in the United States," 2007 Edition, p. 2, Table: "25 Years Small-Arms Production (1980-2005)."
16. "Tinier, Deadlier Pocket Pistols Are in Vogue," *The Wall Street Journal*, September 12, 1996.
17. Freedom Group, Inc., Form S-1, Registration Statement under the Securities Act of 1933, as filed with the Securities and Exchange Commission on October 20, 2009 [emphasis added].
18. "Another Entry Into the Tactical/Black Rifle Game," *Shooting Wire*, October 22, 2008, www.shootingwire.com/archived/2008-10-22_sw.html.
19. *Shooting Industry*, "U.S. Firearm Industry Report—EXTENDED," July 2010, <http://www.shootingindustry.com/Pages/SpecRep02.html>.
20. See, for example, *Jane's Infantry Weapons 1983-1984* (London: Jane's Publishing Company Limited), ".45 Model 1911A1 automatic pistol," p. 66.
21. U.S. Army Fact File, "M-9 Pistol," www.army.mil/factfiles/equipment/individual/m9.html.
22. "Italian Gun Maker Beretta Hits U.S. Market with a Bang," *The Plain Dealer*, August 18, 1993 (reprint of *Baltimore Sun* article).
23. Quoted with citations in Tom Diaz, *Making a Killing: The Business of Guns in America* (The New Press, 1999), p. 77.
24. *Jane's Infantry Weapons 1983-1984* (London: Jane's Publishing Company Limited), "Revolvers and Self-loading Pistols," p. 9.
25. "SAS gets handgun that can shoot through walls," *Sunday Times*, July 7, 1996.
26. Dan Shea, "Military Small Arms Update: FN's FivesevenN System," *American Rifleman*, November/December 1999, p. 51.
27. Charles E. Petty, "FN Five-sevenN," *American Handgunner*, January/February 2000, p. 54.
28. For a more detailed discussion of the design features of assault weapons, see Violence Policy Center, *Bullet Hoses—Semiautomatic Assault Weapons: What Are They? What's So Bad About Them?* (May 2003), www.vpc.org/studies/hosecont.htm.
29. See, 18 U.S. Code, Section 922(o).
30. "Widening the Funnel," *Shooting Wire*, September 30, 2009, www.shootingwire.com/archived/2009-09-30_sw.html.
31. For a more detailed discussion of China's marketing of semiautomatic assault rifles, see Tom Diaz, *Making a Killing: The Business of Guns in America* (The New Press, 1999), pp. 71-75.
32. 18 USC § 925(d)(3). The Attorney General also has authority to regulate the import of firearms that qualify as "defense articles" pursuant to the Arms Export Control Act, 22 USC § 2278.

33. See Violence Policy Center, *Bullet Hoses—Semiautomatic Assault Weapons: What Are They? What's So Bad About Them?* (May 2003), www.vpc.org/studies/hosecont.htm.
34. "Gold Star for DoubleStar," *Shooting Wire*, July 15, 2009, www.shootingwire.com/archived/2009-07-15_sw.html.
35. "S&W Showing New and Announced Products," *Shooting Wire*, August 19, 2009, www.shootingwire.com/archived/2009-08-19_sw.html.
36. For a more detailed discussion of the illusory effects of the 1994 ban, see Violence Policy Center, *Illinois—Land of Post-Ban Assault Weapons* (March 2004), www.vpc.org/graphics/IllinoisAWstudy.pdf.
37. Duncan Long, *The Terrifying Three: Uzi, Ingram, and Intratec Weapons Families* (Boulder, CO: Paladin Press, 1989): 3-4.
38. For a detailed discussion of this period, see Violence Policy Center, *Cashing in on the New Millennium* (December 1999), www.vpc.org/studies/y2kcont.htm.
39. Bob Rogers, "Y2Kaos," *Shooting Sports Retailer*, January 1999, p. 22.
40. Russ Thurman, "It's Time to Sell the New Millennium!," *Shooting Industry*, September 1999, p. 64.
41. Barrett Tillman, "B4Y2K," *American Handgunner*, September/October 1999, pp. 33, 34.
42. Leroy Thompson, "Facing Y2K With a Colt Python," *Handguns*, September 1999, pp. 51, 53.
43. For a detailed discussion of historical and current trends, see Violence Policy Center, *Lessons Unlearned—The Gun Lobby and the Siren Song of Anti-Government Rhetoric* (April 2010), www.vpc.org/studies/lessonsunlearned.pdf.
44. "NSSF Announces Media Resource on 'Assault Weapons,'" *Shooting Wire*, November 29, 2009, www.shootingwire.com/archived/2008-11-24_sw.html.
45. "Rebranding is the creation of a new name, term, symbol, design or a combination of them for an established brand with the intention of developing a differentiated (new) position in the mind of stakeholders and competitors." "Rebranding," *Wikipedia*, <http://en.wikipedia.org/wiki/Rebranding>.
46. "Ruger's Mini-14 Tactical Rifle," *Gun World*, August 2010, p. 58.
47. For a complete discussion of the history and threat of 50 caliber anti-armor rifles, see, Violence Policy Center, *Clear and Present Danger: National Security Experts Warn About the Danger of Unrestricted Sales of 50 Caliber Anti-Armor Sniper Rifles to Civilians* (July 2005), www.vpc.org/studies/50danger.pdf.
48. "Task Force 20/20 Continues Setting Agenda for Five-year Plan," *Shooting Wire*, September 18, 2009, www.shootingwire.com/archived/2009-09-18_sw.html.
49. "Taking Time To Teach," *Shooting Wire*, August 26, 2009, www.shootingwire.com/archived/2009-08-26_sw.html.
50. "Shooting USA Features The USAMU Three Gun Match," *Shooting Wire*, July 15, 2009, www.shootingwire.com/archived/2009-07-15_sw.html.
51. See www.shootingusa.com/TV_SCHEDULE/SHOW_26-17/show_26-17.html.

52. "Industry Hanging Onto A Single Category," *Shooting Wire*, www.shootingwire.com/archived/2008-12-17_sw.html.
53. For complete details, see Violence Policy Center, *Target: Law Enforcement—Assault Weapons in the News* (February 2010), www.vpc.org/studies/targetle.pdf.
54. "Zappala Will Seek Death Penalty for Poplawski," *Pittsburgh Post-Gazette*, April 21, 2009.
55. For more details, see Violence Policy Center, *Indicted: Types of Firearms and Methods of Gun Trafficking from the United States to Mexico as Revealed in U.S. Court Documents* (April 2009), www.vpc.org/studies/indicted.pdf.



Violence Policy Center

1730 Rhode Island Avenue, NW Suite 1014

Washington, DC 20036

WWW.VPC.ORG

Exhibit 33

SEPTEMBER 2018



Violence Policy Center

Firearm Justifiable Homicides and Non-Fatal Self-Defense Gun Use

An Analysis of Federal Bureau of Investigation
and National Crime Victimization Survey Data

WWW.VPC.ORG

19-56004-003

COPYRIGHT AND ACKNOWLEDGMENTS

Copyright © September 2018 Violence Policy Center

The Violence Policy Center (VPC) is a national nonprofit educational organization that conducts research and public education on violence in America and provides information and analysis to policymakers, journalists, advocates, and the general public.

For a complete list of VPC publications with document links, please visit <http://www.vpc.org/publications/>.

To learn more about the Violence Policy Center, or to make a tax-deductible contribution to help support our work, please visit www.vpc.org.

AG00018410

Def. Exhibit 33
Page 001326

INTRODUCTION

Guns are rarely used to kill criminals or stop crimes.

In 2015, across the nation there were only 265 justifiable homicides¹ involving a private citizen using a firearm reported to the Federal Bureau of Investigation's Uniform Crime Reporting (UCR) Program as detailed in its Supplementary Homicide Report (SHR).² That same year, there were 9,027 criminal gun homicides tallied in the SHR. *In 2015, for every justifiable homicide in the United States involving a gun, guns were used in 34 criminal homicides.*³ And this ratio, of course, does not take into account the tens of thousands of lives ended in gun suicides or unintentional shootings that year.⁴

This report analyzes, on both the national and state levels, the use of firearms in justifiable homicides. It also details, using the best data available on the national level, the total number of times guns are used for self-defense by the victims of both attempted and completed violent crimes and property crimes whether or not the use of the gun by the victim resulted in a fatality.

Key findings of this report, as detailed in its accompanying tables, include the following.

JUSTIFIABLE HOMICIDES WITH A GUN COMPARED TO CRIMINAL GUN HOMICIDES

- In 2015, there were only 265 justifiable homicides involving a gun. For the five-year period 2011 through 2015, there were only 1,160 justifiable homicides involving a gun. [For additional information see *Table One: Firearm Justifiable Homicides by State, 2011-2015.*]

1 The Federal Bureau of Investigation (FBI) defines "justifiable homicide" as the killing of a felon, during the commission of a felony, by a private citizen.

2 The Federal Bureau of Investigation's Uniform Crime Reporting (UCR) Program collects basic information on serious crimes from participating police agencies and records supplementary information about the circumstances of homicides in its unpublished Supplementary Homicide Report (SHR). The SHR contains more detailed information not available through published UCR data or elsewhere including: the age, sex, and race of victims and offenders; the types of weapons used; the relationship of victims to offenders; and, the circumstances of the homicides. Detailed information (such as weapon used, relationship between the victim and offender etc.) in the SHR is available only for the first victim and/or offender in any justifiable homicide or homicide incident. In 2015, 98.1 percent of firearm justifiable homicide incidents (260 out of 265) had just one victim. Recognizing how the data is presented in the SHR and the fact that virtually all justifiable incidents had just one victim, throughout this report justifiable homicide incidents will be referred to as justifiable homicides.

3 Number of reported justifiable homicides and homicides taken from Federal Bureau of Investigation (FBI) Uniform Crime Reporting (UCR) Program Supplementary Homicide Report (SHR) as tabulated by the Violence Policy Center. It is important to note that the coding contained in the SHR data used in this report comes from law enforcement reporting at the local level. The level of information submitted to the SHR system may vary from agency to agency. While this study utilizes the best and most recent data available, it is limited by the degree of detail in the information submitted.

4 In 2015 there were 22,018 firearm suicide deaths and 489 fatal unintentional shootings. Source: Federal Centers for Disease Control and Prevention WISQARS database.

- In 2015, 17 states⁵ reported no justifiable homicides (Connecticut, Delaware, Hawaii, Idaho, Iowa, Maine, Massachusetts, Mississippi, Montana, Nebraska, New Hampshire, North Dakota, Rhode Island, South Dakota, Vermont, West Virginia, and Wyoming). [For additional information see *Table One: Firearm Justifiable Homicides by State, 2011-2015*.]
- In 2015 for every justifiable homicide in the United States involving a gun, guns were used in 34 criminal homicides. For the five-year period 2011 through 2015, for every justifiable homicide in the United States involving a gun, guns were used in 35 criminal homicides. [For additional information see *Table Two: Circumstances for Homicides by Firearm, 2011-2015*.]

RELATIONSHIP OF PERSON KILLED TO SHOOTER IN JUSTIFIABLE HOMICIDES BY FIREARM

- In 2015, 37.7 percent (100 of 265) of persons killed in a firearm justifiable homicide were known to the shooter,⁶ 49.4 percent (131) were strangers, and in 12.8 percent (34) the relationship was unknown. For the five-year period 2011 through 2015, 33.8 percent (392 of 1,160) of persons killed in a firearm justifiable homicide were known to the shooter, 53.7 percent (623) were strangers, and in 12.5 percent (145) the relationship was unknown. [For additional information see *Table Three: Relationship of Person Killed to Shooter in Justifiable Homicides by Firearm, 2011-2015*.]

SEX OF SHOOTER IN JUSTIFIABLE HOMICIDES BY FIREARM

- In 2015, of the 265 firearm justifiable homicides, 93.2 percent (247) were committed by men, and 6.0 percent (16) were committed by women. For the five-year period 2011 through 2015, of the 1,160 firearm justifiable homicides, 92.4 percent (1,072) were committed by men, 7.0 percent (81) were committed by women, and in seven cases (0.6 percent) the sex of the shooter was unknown. [For additional information see *Table Four: Sex of Shooter in Justifiable Homicides by Firearm, 2011-2015*.]

SEX OF SHOOTER AND PERSON KILLED IN JUSTIFIABLE HOMICIDES BY FIREARM

- In 2015, of the 265 firearm justifiable homicides, 97.7 percent (259) of the persons shot and killed were men and 2.3 percent (six) were women. For the five-year period 2011 through 2015, of the 1,160 firearm justifiable homicides, 97.8 percent (1,134) of the persons shot and killed were men and 2.2 percent (26) were women. [For additional information see *Table Five: Sex of Person Killed in Justifiable Homicides by Firearm, 2011-2015*.]

5 Alabama, Florida, and the District of Columbia did not submit any data to the FBI Supplementary Homicide Report (SHR) for the years 2011 through 2015. In addition, according to the FBI, limited SHR data was received from Illinois for the years 2011 through 2015. Beginning in 2016, all Illinois law enforcement agencies will be required by state law to report SHR data to the FBI. Data from these jurisdictions was not requested individually because the difference in collection techniques would create a bias in the study results.

6 Relationship categories in which the justifiable homicide victim was known to the shooter are acquaintance, boyfriend, brother, common-law husband, employee, ex-husband, ex-wife, father, friend, girlfriend, homosexual relationship, husband, in-law, neighbor, other family, other known, sister, son, stepfather, stepson, and wife.

- In 2015, 97.6 percent (241) of the persons killed by a male with a gun in a justifiable homicide were male and 2.4 percent (six) were female. For the five-year period 2011 through 2015, 97.6 percent (1,046) of the persons killed by a male with a gun in a justifiable homicide were male and 2.4 percent (26) were female. [For additional information see *Table Six: Sex of Shooter and Person Killed in Justifiable Homicides by Firearm, 2011-2015*.]
- In 2015, 100.0 percent (16) of the persons killed by a female with a gun in a justifiable homicide incident were male and 0.0 percent (zero) were female. For the five-year period 2011 through 2015, 100.0 percent (81) of the persons killed by a female with a gun in a justifiable homicide incident were male and 0.0 percent (zero) were female. [For additional information see *Table Six: Sex of Shooter and Person Killed in Justifiable Homicides by Firearm, 2011-2015*.]

RACE OF SHOOTER IN JUSTIFIABLE HOMICIDES BY FIREARM

- In 2015, 48.3 percent (128) of the shooters who committed justifiable homicides were white, 47.5 percent (126) were black, 1.9 percent (five) were Asian, 0.8 percent (two) were American Indian/Alaskan Native, and 1.5 percent (four) were of unknown race.⁷ For the five-year period 2011 through 2015, 48.0 percent (557) of the shooters who committed justifiable homicides were white, 48.4 percent (561) were black, 1.9 percent (22) were Asian, 0.5 percent (six) were American Indian/Alaskan Native, and 1.2 percent (14) were of unknown race. [For additional information see *Table Seven: Race of Shooter in Justifiable Homicides by Firearm, 2011-2015*.]

RACE OF PERSON KILLED IN JUSTIFIABLE HOMICIDES BY FIREARM

- In 2015, 34.7 percent (92) of persons killed with a gun in a justifiable homicide were white, 64.2 percent (170) were black, 0.4 percent (one) were Asian, 0.8 percent (two) were American Indian/Alaskan Native, and 0.0 percent (zero) were of unknown race. For the five-year period 2011 through 2015, 37.4 percent (434) of persons killed with a gun in a justifiable homicide were white, 60.9 percent (707) were black, 0.8 percent (nine) were Asian, 0.6 percent (seven) were American Indian/Alaskan Native, and 0.3 percent (three) were of unknown race. [For additional information see *Table Eight: Race of Person Killed in Justifiable Homicides by Firearm, 2011-2015*.]
- In 2015, 63.3 percent (81) of the persons killed with a gun in a justifiable homicide by a white shooter were white, 35.9 percent (46) were black, none were Asian, 0.8 percent (one) were American Indian/Alaskan Native, and none were of unknown race. For the five-year period 2011 through 2015, 69.5 percent (387) of the persons killed by white shooters were white, 28.7 percent (160) were black, 0.2 percent (one) were Asian, 1.1 percent (six) were American Indian/Alaskan Native, and 0.5 percent (three) were of unknown race. [For additional information see *Table Nine: Race of Shooter and Person Killed in Justifiable Homicides by Firearm, 2011-2015*.]
- In 2015, 7.9 percent (10) of the persons killed with a gun in a justifiable homicide by a black shooter were white, 92.1 percent (116) were black, none were Asian, none were American Indian/Alaskan Native, and none were of unknown race. For the five-year period 2011 through 2015, 6.2 percent (35) of the persons killed

⁷ Detailed information (such as race of offender and victim) in the FBI's Supplementary Homicide Report is only available for the first victim and/or offender in the incident. Hispanic ethnicity could not be determined because of the inadequacy of data collection and reporting.

by black shooters were white, 93.6 percent (525) were black, 0.2 percent (one) were Asian, none were American Indian/Alaskan Native, and none were of unknown race. [For additional information see *Table Nine: Race of Shooter and Person Killed in Justifiable Homicides by Firearm, 2011-2015*.]

TYPES OF FIREARMS USED IN JUSTIFIABLE HOMICIDES

- In 2015, firearms were used in 80.8 percent of justifiable homicides (265 of 328). Of these: 80.8 percent (214) were handguns; 4.9 percent (13) were shotguns; 2.3 percent (six) were rifles; 11.7 percent (31) were firearm, type not stated; and, 0.4 percent (1) were other gun. For the five-year period 2011 through 2015, firearms were used in 80.6 percent of justifiable homicide incidents (1,160 of 1,439). Of these: 77.6 percent (900) were handguns; 5.0 percent (58) were shotguns; 4.6 percent (53) were rifles; 12.5 percent (145) were firearm, type not stated; and, 0.3 percent (four) were other gun. [For additional information see *Table Ten: Weapon Used in Justifiable Homicides, 2011-2015* and *Table Eleven: Type of Firearms Used in Justifiable Homicides, 2011-2015*.]

HOW OFTEN ARE GUNS USED IN SELF-DEFENSE WHETHER OR NOT A CRIMINAL IS KILLED?

While it is clear that guns are rarely used to justifiably kill criminals, an obvious question remains: How often are guns used in self-defense whether or not a criminal is killed? Pro-gun advocates – from individual gun owners to organizations like the National Rifle Association – frequently claim that guns are used up to 2.5 million times each year in self-defense in the United States.⁸ According to the 2004 book *Private Guns, Public Health* by Dr. David Hemenway, Professor of Health Policy at the Harvard T. H. Chan School of Public Health and director of the Harvard Injury Control Research Center:

Much discussion about the protective benefits of guns has focused on the incidence of self-defense gun use. Proponents of such putative benefits often claim that 2.5 million Americans use guns in self-defense against criminal attackers each year. This estimate is not plausible and has been nominated as the most outrageous number mentioned in a policy discussion by an elected official.

In his book, Hemenway dissects the 2.5 million figure from a variety of angles and, by extension, the NRA's own non-lethal self-defense claims for firearms. He concludes, "It is clear that the claim of 2.5 million annual self-defense gun uses is a vast overestimate" and asks, "But what can account for it?" As he details in his book, the main culprit is the "telescoping and...false positive problem" that derives from the very limited number of respondents claiming a self-defense gun use, "a matter of misclassification that is well known to medical epidemiologists."⁹

8 See, for example: "The Armed Citizen" ("Studies indicate that firearms are used more than 2 million times a year for personal protection..."), *America's 1st Freedom*, National Rifle Association, July 2018; and, "Chris Cox's NRA Armed Citizen: True Stories of Your Right to Self Defense in Action," ("While the anti gun media doesn't want to report the truth about Americans using guns for self defense as often as 2.5 million times a year, you can read breaking stories of everyday citizens fending off violent criminals in CHRIS COX'S ARMED CITIZEN"), *Armed Citizen E-Newsletter* (March 26, 2015). The 2.5 million estimate is the result of a telephone survey conducted by Florida State University criminologist Dr. Gary Kleck, see Hemenway, David, "The Myth of Millions of Annual Self-Defense Gun Uses: A Case Study of Survey Overestimates of Rare Events," *Chance* (American Statistical Association), Volume 10, No. 3, 1997.

9 For a more detailed discussion, please see Hemenway, David, *Private Guns, Public Health*, (The University of Michigan Press, 2004), pp. 66-69 and pp. 238-243.

ESTIMATES ON SELF-DEFENSE USE OF FIREARMS FROM THE BUREAU OF JUSTICE STATISTICS NATIONAL CRIME VICTIMIZATION SURVEY

Hemenway notes, and numerous others agree, that the most accurate survey of self-defense gun use is the National Crime Victimization Survey (NCVS) conducted by the Bureau of Justice Statistics. The survey has been ongoing since 1973.¹⁰

VIOLENT CRIME

According to the NCVS, looking at the total number of self-protective behaviors undertaken by victims of both attempted and completed violent crime for the *three-year period 2014 through 2016*, in only 1.1 percent of these instances had the intended victim in resistance to a criminal “threatened or attacked with a firearm.”¹¹ As detailed in the chart on the next page, for the three-year period 2014 through 2016, the NCVS estimates that there were 16,115,500 victims of attempted or completed violent crime. During this same three-year period, only 177,300 of the self-protective behaviors involved a firearm. Of this number, it is not known what type of firearm was used or whether it was fired or not. The number may also include off-duty law enforcement officers who use their firearms in self-defense.

10 According to the website of the Bureau of Justice Statistics, the National Crime Victimization Survey (NCVS) “is the nation’s primary source of information on criminal victimization. Each year, data are obtained from a nationally representative sample of about 135,000 households, composed of nearly 225,000 persons, on the frequency, characteristics, and consequences of criminal victimization in the United States. The NCVS collects information on nonfatal personal crimes (i.e., rape or sexual assault, robbery, aggravated and simple assault, and personal larceny) and household property crimes (i.e., burglary, motor vehicle theft, and other theft) both reported and not reported to police. Survey respondents provide information about themselves (e.g., age, sex, race and Hispanic origin, marital status, education level, and income) and whether they experienced a victimization. For each victimization incident, the NCVS collects information about the offender (e.g., age, race and Hispanic origin, sex, and victim-offender relationship), characteristics of the crime (e.g., time and place of occurrence, use of weapons, nature of injury, and economic consequences), whether the crime was reported to police, reasons the crime was or was not reported, and victim experiences with the criminal justice system.” Each household is interviewed twice during the year (see <http://www.bjs.gov/index.cfm?ty=dcdetail&iid=245>).

11 For “violent crime” the NCVS measures rape or sexual assault, robbery, and aggravated and simple assault (see Bureau of Justice Statistics, “Violent Crime” (see <https://www.bjs.gov/index.cfm?ty=tp&iid=31>)).

SELF-PROTECTIVE BEHAVIORS, BY TYPE OF CRIME, 2014-2016

	Violent Crime 2014-2016		Property Crime 2014-2016	
	Total	Percent	Total	Percent
Total Number of Crimes	16,115,500	100	45,816,900	100
"Victim was present"^a	16,115,500	100	7,319,100	16.0
Self-Protective Behavior				
Took no action or kept still	6,528,900	40.5	5,866,000	12.8
Threatened or attacked with a firearm	177,300	1.1	123,800	0.3
Threatened or attacked with other weapon	234,800	1.5	17,200	~
Threatened or attacked without a weapon	3,641,300	22.6	239,800	0.5
Nonconfrontational tactics ^b	4,811,700	29.9	910,700	2.0
Other reaction	695,700	4.3	154,300	0.3
Unknown reaction	25,900	0.2	7,300*	~*
Property crime, victim not present ^a	#	#	38,497,900	84.0
a By definition, victims are present during violent crime victimizations. Victims are not necessarily present during property crime victimizations.				
b Includes yelling, cooperating, running away, arguing or reasoning, calling police, or trying to attract attention or warn others.				
~ Less than 0.05%				
* Interpret with caution. Estimate based on 10 or fewer sample cases, or coefficient of variation is greater than 50 percent.				
# Not applicable				
Source: Bureau of Justice Statistics, National Crime Victimization Survey, 2014-2016, Special Tabulation.				

PROPERTY CRIME

According to the NCVS, looking at the total number of self-protective behaviors undertaken by victims of attempted or completed property crime for the three-year period 2014 through 2016, in only 0.3 percent of these instances had the intended victim in resistance to a criminal threatened or attacked with a

firearm.¹² As detailed in the prior table, for the *three-year period 2014 through 2016*, the NCVS estimates that there were 45,816,900 victims of attempted or completed property crime. During this same *three-year period*, only 123,800 of the self-protective behaviors involved a firearm. Of this number, it is not known what type of firearm was used, whether it was fired or not, or whether the use of a gun would even be a legal response to the property crime. And as before, the number may also include off-duty law enforcement officers. In comparison, a 2017 study estimated that there are approximately 250,000 gun theft incidents *per year*, with about 380,000 guns stolen.¹³ Further, according to the FBI, firearms were used in 189,718 aggravated assaults and 125,289 robberies in the United States in 2016 *alone*.¹⁴

COMPARING NCVS DATA TO CLAIMS THAT GUNS ARE USED IN SELF-DEFENSE 2.5 MILLION TIMES A YEAR

Using the NCVS numbers, for the *three-year period 2014 through 2016*, the total number of self-protective behaviors involving a firearm by victims of attempted or completed violent crimes or property crimes totaled only 301,100. In comparison, the gun lobby claims that during the same *three-year period* guns were used 7.5 million times in self defense (applying to the three-year period the gun lobby's oft-repeated claim, noted earlier, that firearms are used in self defense 2.5 million times a year).

CONCLUSION

The reality of self-defense gun use bears no resemblance to the exaggerated claims of the gun lobby and gun industry. The number of justifiable homicides that occur in our nation each year pale in comparison to criminal homicides, let alone gun suicides and fatal unintentional shootings. And contrary to the common stereotype promulgated by the gun lobby, those killed in justifiable homicide incidents don't always fit the expected profile of an attack by a stranger: in 37.7 percent of the justifiable homicides that occurred in 2015 the persons shot and killed were known to the shooter.

The devastation guns inflict on our nation each and every year is clear. In 2016, guns killed more than 38,000 Americans and injured more than 116,000, leaving an untold number of lives traumatized and communities shattered.¹⁵ Unexamined claims of the efficacy and frequency of the self-defense use of firearms are the default rationale offered by the gun lobby and gun industry for this unceasing, bloody toll. The idea that firearms are frequently used in self-defense is the primary argument that the gun lobby and firearms industry use to expand the carrying of firearms into an ever-increasing number of public spaces and even to prevent the regulation of military-style semiautomatic assault weapons and high-capacity ammunition magazines. Yet this argument is hollow and the assertions false. When analyzing the most reliable data available, what is most striking is that in a nation of more than 300 million guns, how *rarely* firearms are used in self-defense.¹⁶

12 For "property crime" the NCVS measures household burglary, motor vehicle theft, as well as property theft. Since the survey information is obtained from a sample of households, it does not include property crimes affecting businesses or other commercial establishments. If such crimes are reported to law enforcement, they are included in the FBI's Uniform Crime Reporting Program. The NCVS includes property crimes affecting victims and household members which were reported and not reported to the police. (Bureau of Justice Statistics, "Property Crime," <http://bjs.gov/index.cfm?ty=p&id=32>.)

13 Hemenway, D., Azrael, D., & Miller, M., "Whose guns are stolen? The epidemiology of gun theft victims." *Injury Epidemiology*, December 2017, <http://doi.org/10.1186/s40621-017-0109-8>.

14 See <https://ucr.fbi.gov/crime-in-the-u.s/2016/crime-in-the-u.s-2016/topic-pages/tables/table-13>.

15 In 2016, 38,658 Americans died from firearms and 116,414 were injured by firearms. Source: Federal Centers for Disease Control and Prevention WISQARS database.

16 It is estimated that the total number of firearms available to civilians in the United States is 310 million: 114 million handguns, 110 million rifles, and 86 million shotguns. Krouse, William J., *Gun Control Legislation*, Congressional Research Service, November 14, 2012, p. 8.

TABLE ONE: FIREARM JUSTIFIABLE HOMICIDES BY STATE, 2011-2015

State	Number of Justifiable Homicides						TOTAL
	2011	2012	2013	2014	2015		
Alabama	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Alaska	3	6	0	0	1	1	10
Arizona	6	7	13	9	15	15	50
Arkansas	0	3	0	1	1	1	5
California	23	27	22	26	20	20	118
Colorado	3	2	3	2	1	1	11
Connecticut	0	0	0	1	0	0	1
Delaware	0	0	0	1	0	0	1
Florida	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Georgia	5	8	6	4	16	16	39
Hawaii	0	0	0	0	0	0	0
Idaho	0	0	0	0	0	0	0
Illinois	4	1	2	1	7	7	15
Indiana	6	12	11	16	6	6	51
Iowa	0	0	0	0	0	0	0
Kansas	1	3	0	1	2	2	7
Kentucky	3	7	0	1	13	13	24
Louisiana	9	10	6	16	7	7	48
Maine	1	2	0	0	0	0	3
Maryland	2	6	5	3	7	7	23
Massachusetts	0	1	0	0	0	0	1
Michigan	31	20	12	15	7	7	85
Minnesota	0	1	2	2	3	3	8
Mississippi	0	1	1	0	0	0	2
Missouri	8	8	3	6	15	15	40
Montana	0	0	0	0	0	0	0

8 | VIOLENCE POLICY CENTER FIREARM JUSTIFIABLE HOMICIDES AND NON-FATAL SELF-DEFENSE GUN USE

AG00018418

State	Number of Justifiable Homicides					
	2011	2012	2013	2014	2015	TOTAL
Nebraska	0	1	3	3	0	7
Nevada	2	1	1	2	6	12
New Hampshire	0	0	1	0	0	1
New Jersey	2	0	3	1	3	9
New Mexico	1	1	1	5	4	12
New York	0	0	0	0	5	5
North Carolina	3	5	1	6	4	19
North Dakota	1	0	0	0	0	1
Ohio	1	2	4	0	1	8
Oklahoma	5	11	7	6	11	40
Oregon	3	6	0	0	1	10
Pennsylvania	11	9	12	5	6	43
Rhode Island	0	0	0	0	0	0
South Carolina	6	11	6	6	14	43
South Dakota	0	1	0	0	0	1
Tennessee	21	20	16	27	18	102
Texas	29	47	49	43	61	229
Utah	0	2	0	0	1	3
Vermont	0	0	1	0	0	1
Virginia	6	7	9	4	2	28
Washington	5	4	8	4	1	22
West Virginia	0	1	0	0	0	1
Wisconsin	0	5	3	6	6	20
Wyoming	0	0	0	1	0	1
Total	201	259	211	224	265	1,160

FIREARM JUSTIFIABLE HOMICIDES AND NON-FATAL SELF-DEFENSE GUN USE | 9 VIOLENCE POLICY CENTER

AG00018419

TABLE TWO: CIRCUMSTANCES FOR HOMICIDES BY FIREARM, 2011-2015

Circumstance	Number of Homicides									
	2011	2012	2013	2014	2015	TOTAL				
Criminal Homicide	8,066	8,342	7,838	7,670	9,027	40,943	97.1%	97.2%	97.2%	97.2%
Justifiable Homicide	201	259	211	224	265	1,160	2.9%	2.8%	2.8%	2.8%
Ratio of Criminal Homicide to Justifiable Homicide	40-1	32-1	37-1	34-1	34-1	35-1				
Total	8,267	8,601	8,049	7,894	9,292	42,103				

TABLE THREE: RELATIONSHIP OF PERSON KILLED TO SHOOTER IN JUSTIFIABLE HOMICIDES BY FIREARM, 2011-2015

Relationship	Number of Justifiable Homicides											TOTAL
	2011			2012		2013		2014		2015		
Acquaintance	36	17.9%	52	20.1%	30	14.2%	53	23.7%	51	19.2%	222	19.1%
Boyfriend	2	1.0%	1	0.4%	3	1.4%	4	1.8%	6	2.3%	16	1.4%
Brother	0	0.0%	4	1.5%	2	1.0%	2	0.9%	5	1.9%	13	1.1%
Common-Law Husband	0	0.0%	0	0.0%	1	0.5%	0	0.0%	0	0.0%	1	0.1%
Employee	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Ex-Husband	1	0.5%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	0.1%
Ex-Wife	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Father	1	0.5%	0	0.0%	1	0.5%	0	0.0%	1	0.4%	3	0.3%
Friend	3	1.5%	5	1.9%	0	0.0%	0	0.0%	7	2.6%	15	1.3%
Girlfriend	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Homosexual Relationship	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	0.4%	1	0.1%
Husband	3	1.5%	1	0.4%	4	1.9%	3	1.3%	1	0.4%	12	1.0%
In-Law	1	0.5%	2	0.8%	0	0.0%	0	0.0%	0	0.0%	3	0.3%
Neighbor	1	0.5%	5	1.9%	2	1.0%	1	0.5%	4	1.5%	13	1.1%
Other Family	5	2.5%	3	1.2%	2	1.0%	0	0.0%	3	1.1%	13	1.1%
Other Known	8	4.0%	13	5.0%	9	4.3%	12	5.4%	14	5.3%	56	4.8%
Sister	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	0.4%	1	0.1%
Son	3	1.5%	4	1.5%	1	0.5%	1	0.5%	2	0.8%	11	0.9%
Stepfather	1	0.5%	0	0.0%	0	0.0%	0	0.0%	1	0.4%	2	0.2%
Stepson	1	0.5%	1	0.4%	1	0.5%	1	0.5%	3	1.1%	7	0.6%
Stranger	110	54.7%	133	51.4%	126	59.7%	123	54.9%	131	49.4%	623	53.7%
Wife	0	0.0%	1	0.4%	1	0.5%	0	0.0%	0	0.0%	2	0.2%
Unknown Relationship	25	12.4%	34	13.1%	28	13.3%	24	10.7%	34	12.8%	145	12.5%
Total	201		259		211		224		265		1,160	

FIREARM JUSTIFIABLE HOMICIDES AND NON-FATAL SELF-DEFENSE GUN USE | 11

VIOLENCE POLICY CENTER

AG00018421

TABLE FOUR: SEX OF SHOOTER IN JUSTIFIABLE HOMICIDES BY FIREARM, 2011-2015

Sex of Shooter	Number of Justifiable Homicides						
	2011	2012	2013	2014	2015	TOTAL	
Male	181	237	198	209	247	1,072	92.4%
Female	17	20	13	15	16	81	7.0%
Unknown	3	2	0	0	2	7	0.6%
Total	201	259	211	224	265	1,160	

TABLE FIVE: SEX OF PERSON KILLED IN JUSTIFIABLE HOMICIDES BY FIREARM, 2011-2015

Sex of Person Killed	Number of Justifiable Homicides						
	2011	2012	2013	2014	2015	TOTAL	
Male	196	254	207	218	259	1,134	97.8%
Female	5	5	4	6	6	26	2.2%
Total	201	259	211	224	265	1,160	

TABLE SIX: SEX OF SHOOTER AND PERSON KILLED IN JUSTIFIABLE HOMICIDES BY FIREARM, 2011-2015

Sex of Shooter	Sex of Person Killed	Number of Justifiable Homicides						
		2011	2012	2013	2014	2015	TOTAL	
Male	Male	176	232	194	203	241	1,046	97.6%
	Female	5	5	4	6	6	26	2.4%
Female	Male	17	20	13	15	16	81	100.0%
	Female	0	0	0	0	0	0	0.0%
Total		198	257	211	224	263	1,153	

TABLE SEVEN: RACE OF SHOOTER IN JUSTIFIABLE HOMICIDES BY FIREARM, 2011-2015

Race of Shooter	Number of Justifiable Homicides						
	2011	2012	2013	2014	2015	TOTAL	TOTAL
White	86	131	99	113	128	557	48.0%
Black	106	117	104	108	126	561	48.4%
Asian	4	6	5	2	5	22	1.9%
American Indian/ Alaskan Native	2	1	1	0	2	6	0.5%
Unknown	3	4	2	1	4	14	1.2%
Total	201	259	211	224	265	1,160	

TABLE EIGHT: RACE OF PERSON KILLED IN JUSTIFIABLE HOMICIDES BY FIREARM, 2011-2015

Race of Person Killed	Number of Justifiable Homicides						
	2011	2012	2013	2014	2015	TOTAL	TOTAL
White	70	98	77	97	92	434	37.4%
Black	128	152	130	127	170	707	60.9%
Asian	2	4	2	0	1	9	0.8%
American Indian/ Alaskan Native	1	3	1	0	2	7	0.6%
Unknown	0	2	1	0	0	3	0.3%
Total	201	259	211	224	265	1,160	

TABLE NINE: RACE OF SHOOTER AND PERSON KILLED IN JUSTIFIABLE HOMICIDES BY FIREARM, 2011-2015

Race of Shooter	Race of Person Killed	Number of Justifiable Homicides										TOTAL	
		2011		2012		2013		2014		2015			
White	White	62	72.1%	85	64.9%	71	71.7%	88	77.9%	81	63.3%	387	69.5%
	Black	23	26.7%	40	30.5%	26	26.3%	25	22.1%	46	35.9%	160	28.7%
	Asian	0	0.0%	1	0.8%	0	0.0%	0	0.0%	0	0.0%	1	0.2%
	American Indian/Alaskan Native	1	1.2%	3	2.3%	1	1.0%	0	0.0%	1	0.8%	6	1.1%
	Unknown	0	0.0%	2	1.5%	1	1.0%	0	0.0%	0	0.0%	3	0.5%
Black	White	3	2.8%	10	8.6%	5	4.8%	7	6.5%	10	7.9%	35	6.2%
	Black	102	96.2%	107	91.5%	99	95.2%	101	93.5%	116	92.1%	525	93.6%
	Asian	1	0.9%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	0.2%
	American Indian/Alaskan Native	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
	Unknown	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Asian	White	2	50.0%	1	16.7%	0	0.0%	1	50.0%	0	0.0%	4	18.2%
	Black	1	25.0%	2	33.3%	3	60.0%	1	50.0%	5	100.0%	12	54.5%
	Asian	1	25.0%	3	50.0%	2	40.0%	0	0.0%	0	0.0%	6	27.3%
	American Indian/Alaskan Native	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
	Unknown	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
American Indian/Alaskan Native	White	2	100.0%	1	100.0%	1	100.0%	0	0.0%	1	50.0%	5	83.3%
	Black	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
	Asian	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
	American Indian/Alaskan Native	0	0.0%	0	0.0%	0	0.0%	0	0.0%	1	50.0%	1	16.7%
	Unknown	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%	0	0.0%
Total		198		255		209		223		261		1,146	

TABLE TEN: WEAPON USED IN JUSTIFIABLE HOMICIDES, 2011-2015

Weapon	Number of Justifiable Homicides											
	2011		2012		2013		2014		2015		TOTAL	
Firearm	201	77.0%	259	83.8%	211	78.1%	224	82.7%	265	80.8%	1,160	80.6%
Knife or cutting instrument	49	18.8%	35	11.3%	35	13.0%	36	13.3%	39	11.9%	194	13.5%
Blunt object	4	1.5%	4	1.3%	7	2.6%	1	0.4%	5	1.5%	21	1.5%
Bodily force	3	1.2%	9	2.9%	11	4.1%	9	3.3%	14	4.3%	46	3.2%
Strangulation	0	0.0%	0	0.0%	1	0.4%	0	0.0%	0	0.0%	1	0.1%
Asphyxiation	0	0.0%	0	0.0%	1	0.4%	0	0.0%	0	0.0%	1	0.1%
Unknown	4	1.5%	2	0.7%	4	1.5%	1	0.4%	5	1.5%	16	1.1%
Total	261		309		270		271		328		1,439	

TABLE ELEVEN: TYPE OF FIREARMS USED IN JUSTIFIABLE HOMICIDES, 2011-2015

Weapon	Number of Justifiable Homicides											
	2011		2012		2013		2014		2015		TOTAL	
Firearm, Type Not Stated	26	12.9%	30	11.6%	30	14.2%	28	12.5%	31	11.7%	145	12.5%
Handgun	152	75.6%	195	75.3%	165	78.2%	174	77.7%	214	80.8%	900	77.6%
Rifle	12	6.0%	19	7.3%	6	2.8%	10	4.5%	6	2.3%	53	4.6%
Shotgun	11	5.5%	15	5.8%	8	3.8%	11	4.9%	13	4.9%	58	5.0%
Other Gun	0	0.0%	0	0.0%	2	0.9%	1	0.4%	1	0.4%	4	0.3%
Total	201		259		211		224		265		1,160	



Violence Policy Center

1025 Connecticut Avenue, NW

Suite 1210

Washington, DC 20036

WWW.VPC.ORG

001342

Exhibit 34

Ch. 129 (SB 23) Perata. Firearms: assault weapons.

(1) Existing law makes it a misdemeanor for any person to manufacture, cause to be manufactured, import into this state, keep or offer for sale, give, lend, or possess specified weapons and explosives.

This bill would make it a misdemeanor or a felony, beginning January 1, 2000, for any person, except as provided, to manufacture, import into the state, keep or offer for sale, give, or lend any large-capacity magazine. A large-capacity magazine would be defined to mean any ammunition feeding device with the capacity to accept more than 10 rounds. By expanding the definition of, and increasing the penalty for, a crime, this bill imposes a state-mandated local program.

(2) Existing law requires imposition of a longer term of imprisonment on any person convicted of assault with a deadly weapon, and for enhanced terms of imprisonment for a person convicted of a felony, if that person was either armed with, or personally used, an assault weapon or machinegun, as defined, in the commission of, or attempted commission of that felony.

Existing law makes it a crime to engage in specified activities regarding assault weapons and regulates the lawful possession of those weapons. Existing law defines the term "assault weapon" by, among other things, designating a list of specified semiautomatic firearms.

This bill would further define the term "assault weapon" by providing descriptive definitions concerning the capacity and function of the weapon. These expanded definitions would specifically apply to the above-mentioned increased term and enhancement provisions and to related provisions. By expanding the definition of a crime, this bill would impose a state-mandated local program.

(3) Existing law makes it a crime, punishable either as a felony or a misdemeanor, for any person to possess any assault weapon, as defined. However, if a person charged with a first-time violation of that offense presents proof that he or she lawfully possessed the assault weapon within a specified period, and has since registered the weapon or relinquished it, the offense is punishable as an infraction, if the person has also complied with specified conditions. Existing law also provides a period of forgiveness to persons in possession of an assault weapon during a specified period under specified conditions. In addition, existing law exempts specified law enforcement agencies from the prohibition against possession, purchase, or sale of assault weapons.

This bill would make it an infraction, punishable by a fine up to \$500, for a first-time violation of the above-mentioned offense, if the offender was found in possession of no more than 2 firearms in compliance with specified provisions and proves that he or she lawfully possessed the assault weapon prior to the date it was defined as an assault weapon under the proposed provision set forth in (2). This bill would also add an additional period of forgiveness for persons in possession of assault weapons, as defined, pursuant to the proposed provision set forth in (2), to extend to the one-year period after the weapon was defined as an assault weapon under that proposed provision. By defining a new crime, this bill would impose a state-mandated local program. The bill would also exempt certain additional off-duty and certain retired law enforcement personnel from the prohibition against possession, purchase, or sale of assault weapons.

(4) Existing law requires any person who lawfully possesses an assault weapon, as defined, prior to specified periods, to register that weapon with the Department of Justice, within a specified period of time.

This bill would require any person who lawfully possessed an assault weapon prior to the date it was defined as an assault weapon pursuant to the proposed provision mentioned in (2) above, to register the weapon within one year of the effective date of that provision.

(5) Existing law requires the Department of Justice to conduct a public education and notification program regarding the registration of assault weapons, the limited forgiveness period of the registration requirement and the consequences of nonregistration.

This bill would require that the public education and notification program include the new definition of assault weapons discussed in paragraph (2) above.

(6) The bill would state legislative intent.

(7) The bill would provide that its provisions are severable.

NOTE: Superior numbers appear as a separate section at the end of the digests.

AG00014562

1999 SUMMARY DIGEST

61

(8) This bill would incorporate additional changes in Section 12020 of the Penal Code proposed by SB 359, to be operative if SB 359 and this bill are both enacted and become effective on or before January 1, 2000, and this bill is enacted last.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Ch. 130 (AB 459) Ackerman. Trust companies: investments.

Existing law authorizes a trust company to invest or reinvest in the securities or other interests of any fund for which the trust company or its affiliate is providing specified investment or management services. The trust company is required to provide written notice to certain persons at least 30 days prior to an initial investment.

This bill instead requires that notice to be provided within 30 days before or after the initial investment.

Ch. 131 (AB 1119) Committee on Budget. Claims against the state: appropriation.

Existing law requires the State Board of Control to report to the Legislature when there is no sufficient appropriation available for the payment of a claim against the state allowed by the board.

This bill would appropriate \$1,603,769.45 from various funds, as specified, to the Executive Officer of the State Board of Control to pay claims accepted by the board in accordance with a schedule that identifies various funds and accounts from which the payments are to be made.

This bill would declare that it is to take effect immediately as an urgency statute.

Ch. 132 (AB 1484) Maldonado. Heritage Ranch Community Services District.

Existing law authorizes the creation of community services districts for the performance of various specified public and utility services.

This bill would grant limited authority to the Heritage Ranch Community Services District to acquire, construct, improve, upgrade, maintain, or operate storage tanks and related facilities to provide petroleum to the district, its inhabitants, and visitors.

This bill would declare that it is to take effect immediately as an urgency statute.

Ch. 133 (AB 1633) Floyd. School facilities: disabled veteran business enterprises.

Existing law, the Leroy F. Greene School Facilities Act of 1998, among other things, establishes the continuously appropriated 1998 State School Facilities Fund, appropriates money to school facilities funds from which the State Allocation Board may apportion to school districts for school facility purposes.

This bill would require any school district using funds allocated pursuant to the act for the construction or modernization of a school building, to have a participation goal of not less than 3% per year, of the overall dollar amount expended each year to the school district for disabled veteran business enterprises.

Ch. 134 (AB 60) Knox. Employment: overtime.

Existing law provides that 8 hours of labor constitute a day's work unless it is otherwise expressly stipulated by the parties to a contract.

This bill would delete the authority of parties to otherwise expressly stipulate the number of hours that constitute a day's work. The bill would provide that, except for an employee working pursuant to an alternative workweek schedule, as specified, hours worked in excess of 8 hours in one day, hours worked in excess of 40 hours in one workweek, and the first 8 hours worked on the 7th day of work in a given workweek are to be compensated at the rate of no less than 1 1/2 times the regular rate of pay of an employee. Under the bill, hours worked in excess of 12 hours in one day as well as hours worked in excess of 8 hours on any 7th day of a workweek are to be compensated at the rate of no less than twice the regular rate of pay of an employee. Employees working

NOTE: Superior numbers appear as a separate section at the end of the digests.

AG00014563

[Ch. 129]

STATUTES OF 1999

1781

Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 129

An act to amend Sections 245, 12001, 12020, 12022, 12022.5, 12280, 12285, and 12289 of, and to add Sections 12079 and 12276.1 to, the Penal Code, relating to firearms.

[Approved by Governor July 19, 1999. Filed with
Secretary of State July 19, 1999.]

The people of the State of California do enact as follows:

SECTION 1. Section 245 of the Penal Code is amended to read:

245. (a) (1) Any person who commits an assault upon the person of another with a deadly weapon or instrument other than a firearm or by any means of force likely to produce great bodily injury shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not exceeding one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both the fine and imprisonment.

(2) Any person who commits an assault upon the person of another with a firearm shall be punished by imprisonment in the state prison for two, three, or four years, or in a county jail for not less than six months and not exceeding one year, or by both a fine not exceeding ten thousand dollars (\$10,000) and imprisonment.

(3) Any person who commits an assault upon the person of another with a machinegun, as defined in Section 12200, or an assault weapon, as defined in Section 12276 or 12276.1, shall be punished by imprisonment in the state prison for 4, 8, or 12 years.

(b) Any person who commits an assault upon the person of another with a semiautomatic firearm shall be punished by imprisonment in the state prison for three, six, or nine years.

(c) Any person who commits an assault with a deadly weapon or instrument, other than a firearm, or by any means likely to produce great bodily injury upon the person of a peace officer or firefighter, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for three, four, or five years.

(d) (1) Any person who commits an assault with a firearm upon the person of a peace officer or firefighter, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or

AG00014564

1782

STATUTES OF 1999

[Ch. 129]

her duties, shall be punished by imprisonment in the state prison for four, six, or eight years.

(2) Any person who commits an assault upon the person of a peace officer or firefighter with a semiautomatic firearm and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, when the peace officer or firefighter is engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for five, seven, or nine years.

(3) Any person who commits an assault with a machinegun, as defined in Section 12200, or an assault weapon, as defined in Section 12276 or 12276.1, upon the person of a peace officer or firefighter, and who knows or reasonably should know that the victim is a peace officer or firefighter engaged in the performance of his or her duties, shall be punished by imprisonment in the state prison for 6, 9, or 12 years.

(e) When a person is convicted of a violation of this section in a case involving use of a deadly weapon or instrument or firearm, and the weapon or instrument or firearm is owned by that person, the court shall order that the weapon or instrument or firearm be deemed a nuisance, and it shall be confiscated and disposed of in the manner provided by Section 12028.

(f) As used in this section, "peace officer" refers to any person designated as a peace officer in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

SEC. 2. Section 12001 of the Penal Code is amended to read:

12001. (a) As used in this title, the terms "pistol," "revolver," and "firearm capable of being concealed upon the person" shall apply to and include any device designed to be used as a weapon, from which is expelled a projectile by the force of any explosion, or other form of combustion, and that has a barrel less than 16 inches in length. These terms also include any device that has a barrel 16 inches or more in length which is designed to be interchanged with a barrel less than 16 inches in length.

(b) As used in this title, "firearm" means any device, designed to be used as a weapon, from which is expelled through a barrel a projectile by the force of any explosion or other form of combustion.

(c) As used in Sections 12021, 12021.1, 12070, 12071, 12072, 12073, 12078, and 12101 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, the term "firearm" includes the frame or receiver of the weapon.

(d) For the purposes of Sections 12025 and 12031, the term "firearm" also shall include any rocket, rocket propelled projectile launcher, or similar device containing any explosive or incendiary material whether or not the device is designed for emergency or distress signaling purposes.

(e) For purposes of Sections 12070, 12071, and paragraph (7) of subdivision (a), and subdivisions (b), (c), (d), and (f) of Section

AG00014565

[Ch. 129]

STATUTES OF 1999

1783

12072, the term "firearm" does not include an unloaded firearm that is defined as an "antique firearm" in Section 921(a)(16) of Title 18 of the United States Code.

(f) Nothing shall prevent a device defined as a "pistol," "revolver," or "firearm capable of being concealed upon the person" from also being found to be a short-barreled shotgun or a short-barreled rifle, as defined in Section 12020.

(g) For purposes of Sections 12551 and 12552, the term "BB device" means any instrument that expels a metallic projectile, such as a BB or a pellet, through the force of air pressure, CO₂ pressure, or spring action, or any spot marker gun.

(h) As used in this title, "wholesaler" means any person who is licensed as a dealer pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto who sells, transfers, or assigns firearms, or parts of firearms, to persons who are licensed as manufacturers, importers, or gunsmiths pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code, or persons licensed pursuant to Section 12071, and includes persons who receive finished parts of firearms and assemble them into completed or partially completed firearms in furtherance of that purpose.

"Wholesaler" shall not include a manufacturer, importer, or gunsmith who is licensed to engage in those activities pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code or a person licensed pursuant to Section 12071 and the regulations issued pursuant thereto. A wholesaler also does not include those persons dealing exclusively in grips, stocks, and other parts of firearms that are not frames or receivers thereof.

(i) As used in Section 12071, 12072, or 12084, "application to purchase" means any of the following:

(1) The initial completion of the register by the purchaser, transferee, or person being loaned the firearm as required by subdivision (b) of Section 12076.

(2) The initial completion of the LEFT by the purchaser, transferee, or person being loaned the firearm as required by subdivision (d) of Section 12084.

(3) The initial completion and transmission to the department of the record of electronic or telephonic transfer by the dealer on the purchaser, transferee, or person being loaned the firearm as required by subdivision (c) of Section 12076.

(j) For purposes of Section 12023, a firearm shall be deemed to be "loaded" whenever both the firearm and the unexpended ammunition capable of being discharged from the firearm are in the immediate possession of the same person.

(k) For purposes of Sections 12021, 12021.1, 12025, 12070, 12072, 12073, 12078, and 12101 of this code, and Sections 8100, 8101, and 8103 of the Welfare and Institutions Code, notwithstanding the fact that the term "any firearm" may be used in those sections, each firearm

AG00014566

1784

STATUTES OF 1999

[Ch. 129]

or the frame or receiver of the same shall constitute a distinct and separate offense under those sections.

(l) For purposes of Section 12020, a violation of that section as to each firearm, weapon, or device enumerated therein shall constitute a distinct and separate offense.

(m) Each application that requires any firearms eligibility determination involving the issuance of any license, permit, or certificate pursuant to this title shall include two copies of the applicant's fingerprints on forms prescribed by the Department of Justice. One copy of the fingerprints may be submitted to the United States Federal Bureau of Investigation.

(n) As used in this chapter, a "personal handgun importer" means an individual who meets all of the following criteria:

(1) He or she is not a person licensed pursuant to Section 12071.

(2) He or she is not a licensed manufacturer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code.

(3) He or she is not a licensed importer of firearms pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(4) He or she is the owner of a pistol, revolver, or other firearm capable of being concealed upon the person.

(5) He or she acquired that pistol, revolver, or other firearm capable of being concealed upon the person outside of California.

(6) He or she moves into this state on or after January 1, 1998, as a resident of this state.

(7) He or she intends to possess that pistol, revolver, or other firearm capable of being concealed upon the person within this state on or after January 1, 1998.

(8) The pistol, revolver, or other firearm capable of being concealed upon the person was not delivered to him or her by a person licensed pursuant to Section 12071 who delivered that firearm following the procedures set forth in Section 12071 and subdivision (c) of Section 12072.

(9) He or she, while a resident of this state, had not previously reported his or her ownership of that pistol, revolver, or other firearm capable of being concealed upon the person to the Department of Justice in a manner prescribed by the department that included information concerning him or her and a description of the firearm.

(10) The pistol, revolver, or other firearm capable of being concealed upon the person is not a firearm that is prohibited by subdivision (a) of Section 12020.

(11) The pistol, revolver, or other firearm capable of being concealed upon the person is not an assault weapon, as defined in Section 12276 or 12276.1.

(12) The pistol, revolver, or other firearm capable of being concealed upon the person is not a machinegun, as defined in Section 12200.

AG00014567

[Ch. 129]

STATUTES OF 1999

1785

(13) The person is 18 years of age or older.

(o) For purposes of paragraph (6) of subdivision (n):

(1) Except as provided in paragraph (2), residency shall be determined in the same manner as is the case for establishing residency pursuant to Section 12505 of the Vehicle Code.

(2) In the case of members of the armed forces of the United States, residency shall be deemed to be established when he or she was discharged from active service in this state.

SEC. 3. Section 12020 of the Penal Code is amended to read:

12020. (a) Any person in this state who does any of the following is punishable by imprisonment in a county jail not exceeding one year or in the state prison:

(1) Manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any undetectable firearm, any firearm which is not immediately recognizable as a firearm, any camouflaging firearm container, any ammunition which contains or consists of any fl  chette dart, any bullet containing or carrying an explosive agent, any ballistic knife, any multiburst trigger activator, any nunchaku, any short-barreled shotgun, any short-barreled rifle, any metal knuckles, any belt buckle knife, any leaded cane, any zip gun, any shuriken, any unconventional pistol, any lipstick case knife, any cane sword, any shobi-zue, any air gauge knife, any writing pen knife, any metal military practice handgrenade or metal replica handgrenade, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sap, or sandbag.

(2) Commencing January 1, 2000, manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, or lends, any large-capacity magazine.

(3) Carries concealed upon his or her person any explosive substance, other than fixed ammunition.

(4) Carries concealed upon his or her person any dirk or dagger.

However, a first offense involving any metal military practice handgrenade or metal replica handgrenade shall be punishable only as an infraction unless the offender is an active participant in a criminal street gang as defined in the Street Terrorism and Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.29) of Title 7 of Part 1). A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

(b) Subdivision (a) does not apply to any of the following:

(1) The sale to, purchase by, or possession of short-barreled shotguns or short-barreled rifles by police departments, sheriffs' offices, marshals' offices, the California Highway Patrol, the Department of Justice, or the military or naval forces of this state or of the United States for use in the discharge of their official duties or the possession of short-barreled shotguns and short-barreled rifles by regular, salaried, full-time members of a police department, sheriff's

AG00014568

1786

STATUTES OF 1999

[Ch. 129]

office, marshal's office, the California Highway Patrol, or the Department of Justice when on duty and the use is authorized by the agency and is within the course and scope of their duties.

(2) The manufacture, possession, transportation or sale of short-barreled shotguns or short-barreled rifles when authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) of this chapter and not in violation of federal law.

(3) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(4) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(5) Any antique firearm. For purposes of this section, "antique firearm" means any firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(6) Tracer ammunition manufactured for use in shotguns.

(7) Any firearm or ammunition which is a curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess the items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition who obtains title to these items by bequest or intestate succession may retain title for not more than one year, but actual possession of these items at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(8) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing these weapons who obtains title to these weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of

AG00014569

[Ch. 129]

STATUTES OF 1999

1787

these weapons at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the weapons by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a). The exemption provided in this subdivision does not apply to pen guns.

(9) Instruments or devices that are possessed by federal, state, and local historical societies, museums, and institutional collections which are open to the public, provided that these instruments or devices are properly housed, secured from unauthorized handling, and, if the instrument or device is a firearm, unloaded.

(10) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are possessed or utilized during the course of a motion picture, television, or video production or entertainment event by an authorized participant therein in the course of making that production or event or by an authorized employee or agent of the entity producing that production or event.

(11) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are sold by, manufactured by, exposed or kept for sale by, possessed by, imported by, or lent by persons who are in the business of selling instruments or devices listed in subdivision (a) solely to the entities referred to in paragraphs (9) and (10) when engaging in transactions with those entities.

(12) The sale to, possession of, or purchase of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law for use in the discharge of their official duties, or the possession of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by peace officers thereof when on duty and the use is authorized by the agency and is within the course and scope of their duties.

(13) Weapons, devices, and ammunition, other than a short-barreled rifle or short-barreled shotgun, that are sold by, manufactured by, exposed, or kept for sale by, possessed by, imported by, or lent by, persons who are in the business of selling weapons, devices, and ammunition listed in subdivision (a) solely to the entities referred to in paragraph (12) when engaging in transactions with those entities.

(14) The manufacture for, sale to, exposing or keeping for sale to, importation of, or lending of wooden clubs or batons to special police officers or uniformed security guards authorized to carry any wooden club or baton pursuant to Section 12002 by entities that are in the business of selling wooden batons or clubs to special police officers and uniformed security guards when engaging in transactions with those persons.

(15) Any plastic toy handgrenade, or any metal military practice handgrenade or metal replica handgrenade that is a relic, curio,

AG00014570

1788

STATUTES OF 1999

[Ch. 129]

memorabilia, or display item, that is filled with a permanent inert substance or that is otherwise permanently altered in a manner that prevents ready modification for use as a grenade.

(16) Any instrument, ammunition, weapon, or device listed in subdivision (a) that is not a firearm that is found and possessed by a person who meets all of the following:

(A) The person is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the instrument, ammunition, weapon, or device no longer than was necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the listed item, he or she is transporting the listed item to a law enforcement agency for disposition according to law.

(17) Any firearm, other than a short-barreled rifle or short-barreled shotgun, that is found and possessed by a person who meets all of the following:

(A) The person is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the firearm no longer than was necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the firearm, he or she is transporting the firearm to a law enforcement agency for disposition according to law.

(D) Prior to transporting the firearm to a law enforcement agency, he or she has given prior notice to that law enforcement agency that he or she is transporting the firearm to that law enforcement agency for disposition according to law.

(E) The firearm is transported in a locked container as defined in subdivision (d) of Section 12026.2.

(18) The possession of any weapon, device, or ammunition, by a forensic laboratory or any authorized agent or employee thereof in the course and scope of his or her authorized activities.

(19) The sale of, giving of, lending of, importation into this state of, or purchase of, any large-capacity magazine to or by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties whether on or off duty, and where the use is authorized by the agency and is within the course and scope of their duties.

(20) The sale to, lending to, transfer to, purchase by, receipt of, or importation into this state of, a large capacity magazine by a sworn

AG00014571

[Ch. 129]

STATUTES OF 1999

1789

peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 who is authorized to carry a firearm in the course and scope of his or her duties.

(21) The sale or purchase of any large-capacity magazine to or by a person licensed pursuant to Section 12071.

(22) The loan of a lawfully possessed large-capacity magazine between two individuals if all of the following conditions are met:

(A) The person being loaned the large-capacity magazine is not prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition.

(B) The loan of the large-capacity magazine occurs at a place or location where the possession of the large-capacity magazine is not otherwise prohibited and the person who lends the large-capacity magazine remains in the accessible vicinity of the person to whom the large-capacity magazine is loaned.

(23) The importation of a large-capacity magazine by a person who lawfully possessed the large-capacity magazine in the state prior to January 1, 2000, lawfully took it out of the state, and is returning to the state with the large-capacity magazine previously lawfully possessed in the state.

(24) The lending or giving of any large-capacity magazine to a person licensed pursuant to Section 12071, or to a gunsmith, for the purposes of maintenance, repair, or modification of that large-capacity magazine.

(25) The return to its owner of any large-capacity magazine by a person specified in paragraph (24).

(26) The importation into this state of, or sale of, any large-capacity magazine by a person who has been issued a permit to engage in those activities pursuant to Section 12079, when those activities are in accordance with the terms and conditions of that permit.

(27) The sale of, giving of, lending of, importation into this state of, or purchase of, any large-capacity magazine, to or by entities that operate armored vehicle businesses pursuant to the laws of this state.

(28) The lending of large-capacity magazines by the entities specified in paragraph (27) to their authorized employees, while in the course and scope of their employment for purposes that pertain to the entity's armored vehicle business.

(29) The return of those large-capacity magazines to those entities specified in paragraph (27) by those employees specified in paragraph (28).

(c) (1) As used in this section, a "short-barreled shotgun" means any of the following:

(A) A firearm which is designed or redesigned to fire a fixed shotgun shell and having a barrel or barrels of less than 18 inches in length.

AG00014572

1790

STATUTES OF 1999

[Ch. 129]

(B) A firearm which has an overall length of less than 26 inches and which is designed or redesigned to fire a fixed shotgun shell.

(C) Any weapon made from a shotgun (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length.

(D) Any device which may be readily restored to fire a fixed shotgun shell which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, can be readily assembled if those parts are in the possession or under the control of the same person.

(2) As used in this section, a "short-barreled rifle" means any of the following:

(A) A rifle having a barrel or barrels of less than 16 inches in length.

(B) A rifle with an overall length of less than 26 inches.

(C) Any weapon made from a rifle (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length.

(D) Any device which may be readily restored to fire a fixed cartridge which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, may be readily assembled if those parts are in the possession or under the control of the same person.

(3) As used in this section, a "nunchaku" means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire, or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

(4) As used in this section, a "wallet gun" means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if the firearm may be fired while mounted or enclosed in the case.

(5) As used in this section, a "cane gun" means any firearm mounted or enclosed in a stick, staff, rod, crutch, or similar device, designed to be, or capable of being used as, an aid in walking, if the firearm may be fired while mounted or enclosed therein.

(6) As used in this section, a "fl chette dart" means a dart, capable of being fired from a firearm, which measures approximately one

AG00014573

[Ch. 129]

STATUTES OF 1999

1791

inch in length, with tail fins which take up five-sixteenths of an inch of the body.

(7) As used in this section, “metal knuckles” means any device or instrument made wholly or partially of metal which is worn for purposes of offense or defense in or on the hand and which either protects the wearer’s hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow. The metal contained in the device may help support the hand or fist, provide a shield to protect it, or consist of projections or studs which would contact the individual receiving a blow.

(8) As used in this section, a “ballistic knife” means a device that propels a knifelike blade as a projectile by means of a coil spring, elastic material, or compressed gas. Ballistic knife does not include any device which propels an arrow or a bolt by means of any common bow, compound bow, crossbow, or underwater spear gun.

(9) As used in this section, a “camouflaging firearm container” means a container which meets all of the following criteria:

(A) It is designed and intended to enclose a firearm.

(B) It is designed and intended to allow the firing of the enclosed firearm by external controls while the firearm is in the container.

(C) It is not readily recognizable as containing a firearm.

“Camouflaging firearm container” does not include any camouflaging covering used while engaged in lawful hunting or while going to or returning from a lawful hunting expedition.

(10) As used in this section, a “zip gun” means any weapon or device which meets all of the following criteria:

(A) It was not imported as a firearm by an importer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(B) It was not originally designed to be a firearm by a manufacturer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(C) No tax was paid on the weapon or device nor was an exemption from paying tax on that weapon or device granted under Section 4181 and subchapters F (commencing with Section 4216) and G (commencing with Section 4221) of Chapter 32 of Title 26 of the United States Code, as amended, and the regulations issued pursuant thereto.

(D) It is made or altered to expel a projectile by the force of an explosion or other form of combustion.

(11) As used in this section, a “shuriken” means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing.

AG00014574

1792

STATUTES OF 1999

[Ch. 129]

(12) As used in this section, an “unconventional pistol” means a firearm that does not have a rifled bore and has a barrel or barrels of less than 18 inches in length or has an overall length of less than 26 inches.

(13) As used in this section, a “belt buckle knife” is a knife which is made an integral part of a belt buckle and consists of a blade with a length of at least 2½ inches.

(14) As used in this section, a “lipstick case knife” means a knife enclosed within and made an integral part of a lipstick case.

(15) As used in this section, a “cane sword” means a cane, swagger stick, stick, staff, rod, pole, umbrella, or similar device, having concealed within it a blade that may be used as a sword or stiletto.

(16) As used in this section, a “shobi-zue” means a staff, crutch, stick, rod, or pole concealing a knife or blade within it which may be exposed by a flip of the wrist or by a mechanical action.

(17) As used in this section, a “leaded cane” means a staff, crutch, stick, rod, pole, or similar device, unnaturally weighted with lead.

(18) As used in this section, an “air gauge knife” means a device that appears to be an air gauge but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended.

(19) As used in this section, a “writing pen knife” means a device that appears to be a writing pen but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended or the pointed, metallic shaft is exposed by the removal of the cap or cover on the device.

(20) As used in this section, a “rifle” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(21) As used in this section, a “shotgun” means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger.

(22) As used in this section, an “undetectable firearm” means any weapon which meets one of the following requirements:

(A) When, after removal of grips, stocks, and magazines, it is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar.

(B) When any major component of which, when subjected to inspection by the types of X-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the

AG00014575

[Ch. 129]

STATUTES OF 1999

1793

component. Barium sulfate or other compounds may be used in the fabrication of the component.

(C) For purposes of this paragraph, the terms "firearm," "major component," and "Security Exemplar" have the same meanings as those terms are defined in Section 922 of Title 18 of the United States Code.

All firearm detection equipment newly installed in nonfederal public buildings in this state shall be of a type identified by either the United States Attorney General, the Secretary of Transportation, or the Secretary of the Treasury, as appropriate, as available state-of-the-art equipment capable of detecting an undetectable firearm, as defined, while distinguishing innocuous metal objects likely to be carried on one's person sufficient for reasonable passage of the public.

(23) As used in this section, a "multiburst trigger activator" means one of the following devices:

(A) A device designed or redesigned to be attached to a semiautomatic firearm which allows the firearm to discharge two or more shots in a burst by activating the device.

(B) A manual or power-driven trigger activating device constructed and designed so that when attached to a semiautomatic firearm it increases the rate of fire of that firearm.

(24) As used in this section, a "dirk" or "dagger" means a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death. A nonlocking folding knife, a folding knife that is not prohibited by Section 653k, or a pocketknife is capable of ready use as a stabbing weapon that may inflict great bodily injury or death only if the blade of the knife is exposed and locked into position.

(25) As used in this section, "large-capacity magazine" means any ammunition feeding device with the capacity to accept more than 10 rounds, but shall not be construed to include a feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds nor shall it include any .22 caliber tube ammunition feeding device.

(d) Knives carried in sheaths which are worn openly suspended from the waist of the wearer are not concealed within the meaning of this section.

SEC. 3.5. Section 12020 of the Penal Code is amended to read:

12020. (a) Any person in this state who does any of the following is punishable by imprisonment in a county jail not exceeding one year or in the state prison:

(1) Manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, lends, or possesses any cane gun or wallet gun, any undetectable firearm, any firearm which is not immediately recognizable as a firearm, any camouflaging firearm container, any ammunition which contains or consists of any fl chette dart, any bullet containing or carrying an

AG00014576

1794

STATUTES OF 1999

[Ch. 129]

explosive agent, any ballistic knife, any multiburst trigger activator, any nunchaku, any short-barreled shotgun, any short-barreled rifle, any metal knuckles, any belt buckle knife, any leaded cane, any zip gun, any shuriken, any unconventional pistol, any lipstick case knife, any cane sword, any shobi-zue, any air gauge knife, any writing pen knife, any metal military practice handgrenade or metal replica handgrenade, or any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sap, or sandbag.

(2) Commencing January 1, 2000, manufactures or causes to be manufactured, imports into the state, keeps for sale, or offers or exposes for sale, or who gives, or lends, any large-capacity magazine.

(3) Carries concealed upon his or her person any explosive substance, other than fixed ammunition.

(4) Carries concealed upon his or her person any dirk or dagger.

However, a first offense involving any metal military practice handgrenade or metal replica handgrenade shall be punishable only as an infraction unless the offender is an active participant in a criminal street gang as defined in the Street Terrorism and Enforcement and Prevention Act (Chapter 11 (commencing with Section 186.29) of Title 7 of Part 1). A bullet containing or carrying an explosive agent is not a destructive device as that term is used in Section 12301.

(b) Subdivision (a) does not apply to any of the following:

(1) The sale to, purchase by, or possession of short-barreled shotguns or short-barreled rifles by police departments, sheriffs' offices, marshals' offices, the California Highway Patrol, the Department of Justice, or the military or naval forces of this state or of the United States for use in the discharge of their official duties or the possession of short-barreled shotguns and short-barreled rifles by peace officer members of a police department, sheriff's office, marshal's office, the California Highway Patrol, or the Department of Justice when on duty and the use is authorized by the agency and is within the course and scope of their duties and the peace officer has completed a training course in the use of these weapons certified by the Commission on Peace Officer Standards and Training.

(2) The manufacture, possession, transportation or sale of short-barreled shotguns or short-barreled rifles when authorized by the Department of Justice pursuant to Article 6 (commencing with Section 12095) of this chapter and not in violation of federal law.

(3) The possession of a nunchaku on the premises of a school which holds a regulatory or business license and teaches the arts of self-defense.

(4) The manufacture of a nunchaku for sale to, or the sale of a nunchaku to, a school which holds a regulatory or business license and teaches the arts of self-defense.

(5) Any antique firearm. For purposes of this section, "antique firearm" means any firearm not designed or redesigned for using rimfire or conventional center fire ignition with fixed ammunition

AG00014577

[Ch. 129]

STATUTES OF 1999

1795

and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(6) Tracer ammunition manufactured for use in shotguns.

(7) Any firearm or ammunition which is a curio or relic as defined in Section 178.11 of Title 27 of the Code of Federal Regulations and which is in the possession of a person permitted to possess the items pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition who obtains title to these items by bequest or intestate succession may retain title for not more than one year, but actual possession of these items at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the firearms or ammunition by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a).

(8) Any other weapon as defined in subsection (e) of Section 5845 of Title 26 of the United States Code and which is in the possession of a person permitted to possess the weapons pursuant to the federal Gun Control Act of 1968 (Public Law 90-618), as amended, and the regulations issued pursuant thereto. Any person prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing these weapons who obtains title to these weapons by bequest or intestate succession may retain title for not more than one year, but actual possession of these weapons at any time is punishable pursuant to Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code. Within the year, the person shall transfer title to the weapons by sale, gift, or other disposition. Any person who violates this paragraph is in violation of subdivision (a). The exemption provided in this subdivision does not apply to pen guns.

(9) Instruments or devices that are possessed by federal, state, and local historical societies, museums, and institutional collections which are open to the public, provided that these instruments or devices are properly housed, secured from unauthorized handling, and, if the instrument or device is a firearm, unloaded.

(10) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are possessed or utilized during the course of a motion picture, television, or video production or entertainment event by an authorized participant therein in the course of making

AG00014578

1796

STATUTES OF 1999

[Ch. 129]

that production or event or by an authorized employee or agent of the entity producing that production or event.

(11) Instruments or devices, other than short-barreled shotguns or short-barreled rifles, that are sold by, manufactured by, exposed or kept for sale by, possessed by, imported by, or lent by persons who are in the business of selling instruments or devices listed in subdivision (a) solely to the entities referred to in paragraphs (9) and (10) when engaging in transactions with those entities.

(12) The sale to, possession of, or purchase of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law for use in the discharge of their official duties, or the possession of any weapon, device, or ammunition, other than a short-barreled rifle or short-barreled shotgun, by peace officers thereof when on duty and the use is authorized by the agency and is within the course and scope of their duties.

(13) Weapons, devices, and ammunition, other than a short-barreled rifle or short-barreled shotgun, that are sold by, manufactured by, exposed or kept for sale by, possessed by, imported by, or lent by, persons who are in the business of selling weapons, devices, and ammunition listed in subdivision (a) solely to the entities referred to in paragraph (12) when engaging in transactions with those entities.

(14) The manufacture for, sale to, exposing or keeping for sale to, importation of, or lending of wooden clubs or batons to special police officers or uniformed security guards authorized to carry any wooden club or baton pursuant to Section 12002 by entities that are in the business of selling wooden batons or clubs to special police officers and uniformed security guards when engaging in transactions with those persons.

(15) Any plastic toy handgrenade, or any metal military practice handgrenade or metal replica handgrenade that is a relic, curio, memorabilia, or display item, that is filled with a permanent inert substance or that is otherwise permanently altered in a manner that prevents ready modification for use as a grenade.

(16) Any instrument, ammunition, weapon, or device listed in subdivision (a) that is not a firearm that is found and possessed by a person who meets all of the following:

(A) The person is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the instrument, ammunition, weapon, or device no longer than was necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to law.

AG00014579

[Ch. 129]

STATUTES OF 1999

1797

(C) If the person is transporting the listed item, he or she is transporting the listed item to a law enforcement agency for disposition according to law.

(17) Any firearm, other than a short-barreled rifle or short-barreled shotgun, that is found and possessed by a person who meets all of the following:

(A) The person is not prohibited from possessing firearms or ammunition pursuant to Section 12021 or 12021.1 or paragraph (1) of subdivision (b) of Section 12316 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person possessed the firearm no longer than was necessary to deliver or transport the same to a law enforcement agency for that agency's disposition according to law.

(C) If the person is transporting the firearm, he or she is transporting the firearm to a law enforcement agency for disposition according to law.

(D) Prior to transporting the firearm to a law enforcement agency, he or she has given prior notice to that law enforcement agency that he or she is transporting the firearm to that law enforcement agency for disposition according to law.

(E) The firearm is transported in a locked container as defined in subdivision (d) of Section 12026.2.

(18) The possession of any weapon, device, or ammunition, by a forensic laboratory or any authorized agent or employee thereof in the course and scope of his or her authorized activities.

(19) The sale of, giving of, lending of, importation into this state of, or purchase of, any large-capacity magazine to or by any federal, state, county, city and county, or city agency that is charged with the enforcement of any law, for use by agency employees in the discharge of their official duties whether on or off duty, and where the use is authorized by the agency and is within the course and scope of their duties.

(20) The sale to, lending to, transfer to, purchase by, receipt of, or importation into this state of, a large capacity magazine by a sworn peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 who is authorized to carry a firearm in the course and scope of his or her duties.

(21) The sale or purchase of any large-capacity magazine to or by a person licensed pursuant to Section 12071.

(22) The loan of a lawfully possessed large-capacity magazine between two individuals if all of the following conditions are met:

(A) The person being loaned the large-capacity magazine is not prohibited by Section 12021, 12021.1, or 12101 of this code or Section 8100 or 8103 of the Welfare and Institutions Code from possessing firearms or ammunition.

(B) The loan of the large-capacity magazine occurs at a place or location where the possession of the large-capacity magazine is not otherwise prohibited and the person who lends the large-capacity

AG00014580

1798

STATUTES OF 1999

[Ch. 129]

magazine remains in the accessible vicinity of the person to whom the large-capacity magazine is loaned.

(23) The importation of a large-capacity magazine by a person who lawfully possessed the large-capacity magazine in the state prior to January 1, 2000, lawfully took it out of the state, and is returning to the state with the large-capacity magazine previously lawfully possessed in the state.

(24) The lending or giving of any large-capacity magazine to a person licensed pursuant to Section 12071, or to a gunsmith, for the purposes of maintenance, repair, or modification of that large-capacity magazine.

(25) The return to its owner of any large-capacity magazine by a person specified in paragraph (24).

(26) The importation into this state of, or sale of, any large-capacity magazine by a person who has been issued a permit to engage in those activities pursuant to Section 12079, when those activities are in accordance with the terms and conditions of that permit.

(27) The sale of, giving of, lending of, importation into this state of, or purchase of, any large-capacity magazine, to or by entities that operate armored vehicle businesses pursuant to the laws of this state.

(28) The lending of large-capacity magazines by the entities specified in paragraph (27) to their authorized employees, while in the course and scope of their employment for purposes that pertain to the entity's armored vehicle business.

(29) The return of those large-capacity magazines to those entities specified in paragraph (27) by those employees specified in paragraph (28).

(c) (1) As used in this section, a "short-barreled shotgun" means any of the following:

(A) A firearm which is designed or redesigned to fire a fixed shotgun shell and having a barrel or barrels of less than 18 inches in length.

(B) A firearm which has an overall length of less than 26 inches and which is designed or redesigned to fire a fixed shotgun shell.

(C) Any weapon made from a shotgun (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length.

(D) Any device which may be readily restored to fire a fixed shotgun shell which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, can be readily assembled if those parts are in the possession or under the control of the same person.

AG00014581

[Ch. 129]

STATUTES OF 1999

1799

(2) As used in this section, a “short-barreled rifle” means any of the following:

(A) A rifle having a barrel or barrels of less than 16 inches in length.

(B) A rifle with an overall length of less than 26 inches.

(C) Any weapon made from a rifle (whether by alteration, modification, or otherwise) if that weapon, as modified, has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length.

(D) Any device which may be readily restored to fire a fixed cartridge which, when so restored, is a device defined in subparagraphs (A) to (C), inclusive.

(E) Any part, or combination of parts, designed and intended to convert a device into a device defined in subparagraphs (A) to (C), inclusive, or any combination of parts from which a device defined in subparagraphs (A) to (C), inclusive, may be readily assembled if those parts are in the possession or under the control of the same person.

(3) As used in this section, a “nunchaku” means an instrument consisting of two or more sticks, clubs, bars or rods to be used as handles, connected by a rope, cord, wire, or chain, in the design of a weapon used in connection with the practice of a system of self-defense such as karate.

(4) As used in this section, a “wallet gun” means any firearm mounted or enclosed in a case, resembling a wallet, designed to be or capable of being carried in a pocket or purse, if the firearm may be fired while mounted or enclosed in the case.

(5) As used in this section, a “cane gun” means any firearm mounted or enclosed in a stick, staff, rod, crutch, or similar device, designed to be, or capable of being used as, an aid in walking, if the firearm may be fired while mounted or enclosed therein.

(6) As used in this section, a “fléchette dart” means a dart, capable of being fired from a firearm, which measures approximately one inch in length, with tail fins which take up five-sixteenths of an inch of the body.

(7) As used in this section, “metal knuckles” means any device or instrument made wholly or partially of metal which is worn for purposes of offense or defense in or on the hand and which either protects the wearer’s hand while striking a blow or increases the force of impact from the blow or injury to the individual receiving the blow. The metal contained in the device may help support the hand or fist, provide a shield to protect it, or consist of projections or studs which would contact the individual receiving a blow.

(8) As used in this section, a “ballistic knife” means a device that propels a knifelike blade as a projectile by means of a coil spring, elastic material, or compressed gas. Ballistic knife does not include any device which propels an arrow or a bolt by means of any common bow, compound bow, crossbow, or underwater spear gun.

AG00014582

1800

STATUTES OF 1999

[Ch. 129]

(9) As used in this section, a “camouflaging firearm container” means a container which meets all of the following criteria:

(A) It is designed and intended to enclose a firearm.

(B) It is designed and intended to allow the firing of the enclosed firearm by external controls while the firearm is in the container.

(C) It is not readily recognizable as containing a firearm.

“Camouflaging firearm container” does not include any camouflaging covering used while engaged in lawful hunting or while going to or returning from a lawful hunting expedition.

(10) As used in this section, a “zip gun” means any weapon or device which meets all of the following criteria:

(A) It was not imported as a firearm by an importer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(B) It was not originally designed to be a firearm by a manufacturer licensed pursuant to Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto.

(C) No tax was paid on the weapon or device nor was an exemption from paying tax on that weapon or device granted under Section 4181 and subchapters F (commencing with Section 4216) and G (commencing with Section 4221) of Chapter 32 of Title 26 of the United States Code, as amended, and the regulations issued pursuant thereto.

(D) It is made or altered to expel a projectile by the force of an explosion or other form of combustion.

(11) As used in this section, a “shuriken” means any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape for use as a weapon for throwing.

(12) As used in this section, an “unconventional pistol” means a firearm that does not have a rifled bore and has a barrel or barrels of less than 18 inches in length or has an overall length of less than 26 inches.

(13) As used in this section, a “belt buckle knife” is a knife which is made an integral part of a belt buckle and consists of a blade with a length of at least 2½ inches.

(14) As used in this section, a “lipstick case knife” means a knife enclosed within and made an integral part of a lipstick case.

(15) As used in this section, a “cane sword” means a cane, swagger stick, stick, staff, rod, pole, umbrella, or similar device, having concealed within it a blade that may be used as a sword or stiletto.

(16) As used in this section, a “shobi-zue” means a staff, crutch, stick, rod, or pole concealing a knife or blade within it which may be exposed by a flip of the wrist or by a mechanical action.

AG00014583

[Ch. 129]

STATUTES OF 1999

1801

(17) As used in this section, a "leaded cane" means a staff, crutch, stick, rod, pole, or similar device, unnaturally weighted with lead.

(18) As used in this section, an "air gauge knife" means a device that appears to be an air gauge but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended.

(19) As used in this section, a "writing pen knife" means a device that appears to be a writing pen but has concealed within it a pointed, metallic shaft that is designed to be a stabbing instrument which is exposed by mechanical action or gravity which locks into place when extended or the pointed, metallic shaft is exposed by the removal of the cap or cover on the device.

(20) As used in this section, a "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger.

(21) As used in this section, a "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger.

(22) As used in this section, an "undetectable firearm" means any weapon which meets one of the following requirements:

(A) When, after removal of grips, stocks, and magazines, it is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar.

(B) When any major component of which, when subjected to inspection by the types of X-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

(C) For purposes of this paragraph, the terms "firearm," "major component," and "Security Exemplar" have the same meanings as those terms are defined in Section 922 of Title 18 of the United States Code.

All firearm detection equipment newly installed in nonfederal public buildings in this state shall be of a type identified by either the United States Attorney General, the Secretary of Transportation, or the Secretary of the Treasury, as appropriate, as available state-of-the-art equipment capable of detecting an undetectable firearm, as defined, while distinguishing innocuous metal objects likely to be carried on one's person sufficient for reasonable passage of the public.

(23) As used in this section, a "multiburst trigger activator" means one of the following devices:

AG00014584

1802

STATUTES OF 1999

[Ch. 129]

(A) A device designed or redesigned to be attached to a semiautomatic firearm which allows the firearm to discharge two or more shots in a burst by activating the device.

(B) A manual or power-driven trigger activating device constructed and designed so that when attached to a semiautomatic firearm it increases the rate of fire of that firearm.

(24) As used in this section, a "dirk" or "dagger" means a knife or other instrument with or without a handguard that is capable of ready use as a stabbing weapon that may inflict great bodily injury or death. A nonlocking folding knife, a folding knife that is not prohibited by Section 653k, or a pocketknife is capable of ready use as a stabbing weapon that may inflict great bodily injury or death only if the blade of the knife is exposed and locked into position.

(25) As used in this section, "large-capacity magazine" means any ammunition feeding device with the capacity to accept more than 10 rounds, but shall not be construed to include a feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds nor shall it include any .22 caliber tube ammunition feeding device.

(d) Knives carried in sheaths which are worn openly suspended from the waist of the wearer are not concealed within the meaning of this section.

SEC. 4. Section 12022 of the Penal Code is amended to read:

12022. (a) (1) Except as provided in subdivisions (c) and (d), any person who is armed with a firearm in the commission or attempted commission of a felony shall, upon conviction of that felony or attempted felony, in addition and consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of one year, unless the arming is an element of the offense of which he or she was convicted. This additional term shall apply to any person who is a principal in the commission or attempted commission of a felony if one or more of the principals is armed with a firearm, whether or not the person is personally armed with a firearm.

(2) Except as provided in subdivision (c), and notwithstanding subdivision (d), if the firearm is an assault weapon, as defined in Section 12276 or Section 12276.1, or a machinegun, as defined in Section 12200, the additional term described in this subdivision shall be three years whether or not the arming is an element of the offense of which he or she was convicted. The additional term provided in this paragraph shall apply to any person who is a principal in the commission or attempted commission of a felony if one or more of the principals is armed with an assault weapon or machinegun whether or not the person is personally armed with an assault weapon or machinegun.

(b) (1) Any person who personally uses a deadly or dangerous weapon in the commission or attempted commission of a felony shall, upon conviction of that felony or attempted felony, in addition and

AG00014585

[Ch. 129]

STATUTES OF 1999

1803

consecutive to the punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of one year, unless use of a deadly or dangerous weapon is an element of the offense of which he or she was convicted.

(2) If the person described in paragraph (1) has been convicted of carjacking or attempted carjacking, the additional term shall be one, two, or three years.

(3) When a person is found to have personally used a deadly or dangerous weapon in the commission or attempted commission of a felony as provided in this subdivision and the weapon is owned by that person, the court shall order that the weapon be deemed a nuisance and disposed of in the manner provided in Section 12028.

(c) Notwithstanding the enhancement set forth in subdivision (a), any person who is personally armed with a firearm in the commission or attempted commission of a violation of Section 11351, 11351.5, 11352, 11366.5, 11366.6, 11378, 11378.5, 11379, 11379.5, or 11379.6 of the Health and Safety Code, shall, upon conviction of that offense and in addition and consecutive to the punishment prescribed for that offense of which he or she has been convicted, be punished by an additional term of imprisonment in the state prison for three, four, or five years in the court's discretion. The court shall order the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of the sentence.

(d) Notwithstanding the enhancement set forth in subdivision (a), any person who is not personally armed with a firearm who, knowing that another principal is personally armed with a firearm, is a principal in the commission or attempted commission of an offense specified in subdivision (c), shall, upon conviction of that offense, be punished by an additional term of one, two, or three years in the court's discretion. The court shall order the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record at the time of the sentence.

(e) For purposes of imposing an enhancement under Section 1170.1, the enhancements under this section shall count as one, single enhancement.

(f) Notwithstanding any other provision of law, the court may strike the additional punishment for the enhancements provided in subdivision (c) or (d) in an unusual case where the interests of justice would best be served, if the court specifies on the record and enters into the minutes the circumstances indicating that the interests of justice would best be served by that disposition.

SEC. 5. Section 12022.5 of the Penal Code is amended to read:

12022.5. (a) (1) Except as provided in subdivisions (b) and (c), any person who personally uses a firearm in the commission or attempted commission of a felony shall, upon conviction of that felony or attempted felony, in addition and consecutive to the

AG00014586

1804

STATUTES OF 1999

[Ch. 129]

punishment prescribed for the felony or attempted felony of which he or she has been convicted, be punished by an additional term of imprisonment in the state prison for 3, 4, or 10 years, unless use of a firearm is an element of the offense of which he or she was convicted.

(2) If the person described in paragraph (1) has been convicted of carjacking or attempted carjacking, the additional term shall be 4, 5, or 10 years. The court shall order imposition of the middle term unless there are circumstances in aggravation or mitigation. The court shall state its reasons for its enhancement choice on the record at the time of sentencing.

(b) (1) Notwithstanding subdivision (a), any person who is convicted of a felony or an attempt to commit a felony, including murder or attempted murder, in which that person discharged a firearm at an occupied motor vehicle which caused great bodily injury or death to the person of another, shall, upon conviction of that felony or attempted felony, in addition and consecutive to the sentence prescribed for the felony or attempted felony, be punished by an additional term of imprisonment in the state prison for 5, 6, or 10 years.

(2) Notwithstanding subdivision (a), any person who personally uses an assault weapon, as specified in Section 12276 or Section 12276.1, or a machinegun, as defined in Section 12200, in the commission or attempted commission of a felony, shall, upon conviction of that felony or attempted felony, in addition and consecutive to the sentence prescribed for the felony or attempted felony, be punished by an additional term of imprisonment in the state prison for 5, 6, or 10 years.

(c) Notwithstanding the enhancement set forth in subdivision (a), any person who personally uses a firearm in the commission or attempted commission of a violation of Section 11351, 11351.5, 11352, 11366.5, 11366.6, 11378, 11378.5, 11379, 11379.5, or 11379.6 of the Health and Safety Code, shall, upon conviction of that offense and in addition and consecutive to the punishment prescribed for the offense of which he or she has been convicted, be punished by an additional term of imprisonment in the state prison for 3, 4, or 10 years in the court's discretion. The court shall order the imposition of the middle term unless there are circumstances in aggravation or mitigation. The court shall state the reasons for its enhancement choice on the record.

(d) The additional term provided by this section may be imposed in cases of assault with a firearm under paragraph (2) of subdivision (a) of Section 245, or assault with a deadly weapon which is a firearm under Section 245, or murder if the killing was perpetrated by means of shooting a firearm from a motor vehicle, intentionally at another person outside of the vehicle with the intent to inflict great bodily injury or death.

(e) When a person is found to have personally used a firearm, an assault weapon, or a machinegun in the commission or attempted

AG00014587

[Ch. 129]

STATUTES OF 1999

1805

commission of a felony as provided in this section and the firearm, assault weapon, or machinegun is owned by that person, the court shall order that the firearm be deemed a nuisance and disposed of in the manner provided in Section 12028.

(f) For purposes of imposing an enhancement under Section 1170.1, the enhancements under this section shall count as one, single enhancement.

SEC. 6. Section 12079 is added to the Penal Code, to read:

12079. (a) Upon a showing that good cause exists, the Department of Justice may issue permits for the possession, transportation, or sale between a person licensed pursuant to Section 12071 and an out-of-state client, of large capacity magazines.

(b) For purposes of this section, "large capacity magazine" shall have the same meaning as that set forth in paragraph (25) of subdivision (c) of Section 12020.

SEC. 7. Section 12276.1 is added to the Penal Code, to read:

12276.1. (a) Notwithstanding Section 12276, "assault weapon" shall also mean any of the following:

(1) A semiautomatic, centerfire rifle that has the capacity to accept a detachable magazine and any one of the following:

(A) A pistol grip that protrudes conspicuously beneath the action of the weapon.

(B) A thumbhole stock.

(C) A folding or telescoping stock.

(D) A grenade launcher or flare launcher.

(E) A flash suppressor.

(F) A forward pistol grip.

(2) A semiautomatic, centerfire rifle that has a fixed magazine with the capacity to accept more than 10 rounds.

(3) A semiautomatic, centerfire rifle that has an overall length of less than 30 inches.

(4) A semiautomatic pistol that has the capacity to accept a detachable magazine and any one of the following:

(A) A threaded barrel, capable of accepting a flash suppressor, forward handgrip, or silencer.

(B) A second handgrip.

(C) A shroud that is attached to, or partially or completely encircles, the barrel that allows the bearer to fire the weapon without burning his or her hand, except a slide that encloses the barrel.

(D) The capacity to accept a detachable magazine at some location outside of the pistol grip.

(5) A semiautomatic pistol with a fixed magazine that has the capacity to accept more than 10 rounds.

(6) A semiautomatic shotgun that has both of the following:

(A) A folding or telescoping stock.

(B) A pistol grip that protrudes conspicuously beneath the action of the weapon, thumbhole stock, or vertical handgrip.

AG00014588

1806

STATUTES OF 1999

[Ch. 129]

(7) A semiautomatic shotgun that has the ability to accept a detachable magazine.

(8) Any shotgun with a revolving cylinder.

(b) "Assault weapon" does not include any antique firearm.

(c) The following definitions shall apply under this section:

(1) "Magazine" shall mean any ammunition feeding device.

(2) "Capacity to accept more than 10 rounds" shall mean capable of accommodating more than 10 rounds, but shall not be construed to include a feeding device that has been permanently altered so that it cannot accommodate more than 10 rounds.

(3) "Antique firearm" means any firearm manufactured prior to January 1, 1899.

(d) This section shall become operative January 1, 2000.

SEC. 8. Section 12280 of the Penal Code is amended to read:

12280. (a) (1) Any person who, within this state, manufactures or causes to be manufactured, distributes, transports, or imports into the state, keeps for sale, or offers or exposes for sale, or who gives or lends any assault weapon, except as provided by this chapter, is guilty of a felony, and upon conviction shall be punished by imprisonment in the state prison for four, six, or eight years.

(2) In addition and consecutive to the punishment imposed under paragraph (1), any person who transfers, lends, sells, or gives any assault weapon to a minor in violation of paragraph (1) shall receive an enhancement of one year.

(b) Except as provided in Section 12288, and in subdivisions (c) and (d), any person who, within this state, possesses any assault weapon, except as provided in this chapter, is guilty of a public offense and upon conviction shall be punished by imprisonment in the state prison, or in a county jail, not exceeding one year. However, if the person presents proof that he or she lawfully possessed the assault weapon prior to June 1, 1989, or prior to the date it was specified as an assault weapon, and has since either registered the firearm and any other lawfully obtained firearm specified by Section 12276 or 12276.5 pursuant to Section 12285 or relinquished them pursuant to Section 12288, a first-time violation of this subdivision shall be an infraction punishable by a fine of up to five hundred dollars (\$500), but not less than three hundred fifty dollars (\$350), if the person has otherwise possessed the firearm in compliance with subdivision (c) of Section 12285. In these cases, the firearm shall be returned unless the court finds in the interest of public safety, after notice and hearing, that the assault weapon should be destroyed pursuant to Section 12028.

(c) A first-time violation of subdivision (b) shall be an infraction punishable by a fine of up to five hundred dollars (\$500), if the person was found in possession of no more than two firearms in compliance with subdivision (c) of Section 12285 and the person meets all of the following conditions:

AG00014589

[Ch. 129]

STATUTES OF 1999

1807

(1) The person proves that he or she lawfully possessed the assault weapon prior to the date it was defined as an assault weapon pursuant to Section 12276.1.

(2) The person is not found in possession of a firearm specified as an assault weapon pursuant to Section 12276 or Section 12276.5.

(3) The person has not previously been convicted of violating this section.

(4) The person was found to be in possession of the assault weapons within one year following the end of the one-year registration period established pursuant to subdivision (a) of Section 12285.

(5) The person has since registered the firearms and any other lawfully obtained firearms defined by Section 12276.1, pursuant to Section 12285, except as provided for by this section, or relinquished them pursuant to Section 12288.

(d) Firearms seized pursuant to subdivision (c) shall be returned unless the court finds in the interest of public safety, after notice and hearing, that the assault weapon should be destroyed pursuant to Section 12028.

(e) Notwithstanding Section 654 or any other provision of law, any person who commits another crime while violating this section may receive an additional, consecutive punishment of one year for violating this section in addition and consecutive to the punishment, including enhancements, which is prescribed for the other crime.

(f) Subdivisions (a) and (b) shall not apply to the sale to, purchase by, or possession of assault weapons by the Department of Justice, police departments, sheriffs' offices, marshals' offices, the Youth and Adult Corrections Agency, the Department of the California Highway Patrol, district attorneys' offices, Department of Fish and Game, Department of Parks and Recreation, or the military or naval forces of this state or of the United States for use in the discharge of their official duties.

(g) Subdivision (b) shall not prohibit the possession or use of assault weapons by sworn peace officer members of those agencies specified in subdivision (f) for law enforcement purposes, whether on or off duty.

(h) Subdivisions (a) and (b) shall not prohibit the sale or transfer of assault weapons by an entity specified in subdivision (f) to a person, upon retirement, who retired as a sworn officer from that entity.

(i) Subdivision (b) shall not apply to the possession of an assault weapon by a retired peace officer who received that assault weapon pursuant to subdivision (h).

(j) Subdivision (b) shall not apply to the possession of an assault weapon, as defined in Section 12276, by any person during the 1990 calendar year, during the 90-day period immediately after the date it was specified as an assault weapon pursuant to Section 12276.5, or during the one-year period after the date it was defined as an assault

AG00014590

1808

STATUTES OF 1999

[Ch. 129]

weapon pursuant to Section 12276.1, if all of the following are applicable:

(1) The person is eligible under this chapter to register the particular assault weapon.

(2) The person lawfully possessed the particular assault weapon described in paragraph (1) prior to June 1, 1989, if the weapon is specified as an assault weapon pursuant to Section 12276, or prior to the date it was specified as an assault weapon pursuant to Section 12276.5, or prior to the date it was defined as an assault weapon pursuant to Section 12276.1.

(3) The person is otherwise in compliance with this chapter.

(k) Subdivisions (a) and (b) shall not apply to the manufacture by persons who are issued permits pursuant to Section 12287 of assault weapons for sale to the following:

(1) Exempt entities listed in subdivision (f).

(2) Entities and persons who have been issued permits pursuant to Section 12286.

(3) Entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed in paragraphs (4) to (6), inclusive.

(4) Federal military and law enforcement agencies.

(5) Law enforcement and military agencies of other states.

(6) Foreign governments and agencies approved by the United States State Department.

(l) Subdivision (a) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon registered under Section 12285 or that was possessed pursuant to subdivision (g) or (i) which is disposed of as authorized by the probate court, if the disposition is otherwise permitted by this chapter.

(m) Subdivision (b) shall not apply to a person who is the executor or administrator of an estate that includes an assault weapon registered under Section 12285 or that was possessed pursuant to subdivision (g) or (i), if the assault weapon is possessed at a place set forth in paragraph (1) of subdivision (c) of Section 12285 or as authorized by the probate court.

(n) Subdivision (a) shall not apply to:

(1) A person who lawfully possesses and has registered an assault weapon pursuant to this chapter who lends that assault weapon to another if all the following apply:

(A) The person to whom the assault weapon is lent is 18 years of age or over and is not in a class of persons prohibited from possessing firearms by virtue of Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(B) The person to whom the assault weapon is lent remains in the presence of the registered possessor of the assault weapon.

(C) The assault weapon is possessed at any of the following locations:

AG00014591

[Ch. 129]

STATUTES OF 1999

1809

(i) While on a target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(ii) While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets.

(iii) While attending any exhibition, display, or educational project that is about firearms and that is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(2) The return of an assault weapon to the registered possessor which is lent by the same pursuant to paragraph (1).

(o) Subdivision (b) shall not apply to the possession of an assault weapon by a person to whom an assault weapon is lent pursuant to subdivision (n).

(p) Subdivisions (a) and (b) shall not apply to the possession and importation of an assault weapon into this state by a nonresident if all of the following conditions are met:

(1) The person is attending or going directly to or coming directly from an organized competitive match or league competition that involves the use of an assault weapon.

(2) The competition or match is conducted on the premises of one of the following:

(i) A target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(ii) A target range of a public or private club or organization that is organized for the purpose of practicing shooting at targets.

(3) The match or competition is sponsored by, conducted under the auspices of, or approved by, a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

(4) The assault weapon is transported in accordance with Section 12026.1 or 12026.2.

(5) The person is 18 years of age or over and is not in a class of persons prohibited from possessing firearms by virtue of Section 12021 or 12021.1 of this code or Section 8100 or 8103 of the Welfare and Institutions Code.

(q) Subdivision (b) shall not apply to any of the following persons:

(1) A person acting in accordance with Section 12286.

(2) A person who has a permit to possess an assault weapon issued pursuant to Section 12286 when he or she is acting in accordance with Section 12285 or 12286.

(r) Subdivisions (a) and (b) shall not apply to any of the following persons:

(1) A person acting in accordance with Section 12285.

(2) A person acting in accordance with Section 12286 or 12290.

AG00014592

1810

STATUTES OF 1999

[Ch. 129]

(s) Subdivision (b) shall not apply to the registered owner of an assault weapon possessing that firearm in accordance with subdivision (c) of Section 12285.

(t) Subdivision (a) shall not apply to the importation into this state of an assault weapon by the registered owner of that assault weapon, if it is in accordance with the provisions of subdivision (c) of Section 12285.

(u) As used in this chapter, the date a firearm is an assault weapon is the earliest of the following:

(1) The effective date of an amendment to Section 12276 that adds the designation of the specified firearm.

(2) The effective date of the list promulgated pursuant to Section 12276.5 that adds or changes the designation of the specified firearm.

(3) The operative date of Section 12276.1, as specified in subdivision (b) of that section.

SEC. 9. Section 12285 of the Penal Code is amended to read:

12285. (a) Any person who lawfully possesses an assault weapon, as defined in Section 12276, prior to June 1, 1989, shall register the firearm by January 1, 1991, and any person who lawfully possessed an assault weapon prior to the date it was specified as an assault weapon pursuant to Section 12276.5 shall register the firearm within 90 days with the Department of Justice pursuant to those procedures that the department may establish. Except as provided in subdivision (a) of Section 12280, any person who lawfully possessed an assault weapon prior to the date it was defined as an assault weapon pursuant to Section 12276.1, and which was not specified as an assault weapon under Section 12276 or 12276.5, shall register the firearm within one year of the effective date of Section 12276.1, with the department pursuant to those procedures that the department may establish. The registration shall contain a description of the firearm that identifies it uniquely, including all identification marks, the full name, address, date of birth, and thumbprint of the owner, and any other information that the department may deem appropriate. The department may charge a fee for registration of up to twenty dollars (\$20) per person but not to exceed the actual processing costs of the department. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustment for the department's budget or as otherwise increased through the Budget Act.

(b) (1) Except as provided in paragraph (2), no assault weapon possessed pursuant to this section may be sold or transferred on or after January 1, 1990, to anyone within this state other than to a licensed gun dealer, as defined in subdivision (c) of Section 12290, or as provided in Section 12288. Any person who (A) obtains title to an assault weapon registered under this section or that was possessed pursuant to subdivision (g) or (i) of Section 12280 by bequest or intestate succession, or (B) lawfully possessed a firearm subsequently

AG00014593

[Ch. 129]

STATUTES OF 1999

1811

declared to be an assault weapon pursuant to Section 12276.5, or subsequently defined as an assault weapon pursuant to Section 12276.1, shall, within 90 days, render the weapon permanently inoperable, sell the weapon to a licensed gun dealer, obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2, or remove the weapon from this state. A person who lawfully possessed a firearm that was subsequently declared to be an assault weapon pursuant to Section 12276.5 may alternatively register the firearm within 90 days of the declaration issued pursuant to subdivision (f) of Section 12276.5.

(2) A person moving into this state, otherwise in lawful possession of an assault weapon, shall do one of the following:

(A) Prior to bringing the assault weapon into this state, that person shall first obtain a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2.

(B) The person shall cause the assault weapon to be delivered to a licensed gun dealer, as defined in subdivision (c) of Section 12290, in this state in accordance with Chapter 44 (commencing with Section 921) of Title 18 of the United States Code and the regulations issued pursuant thereto. If the person obtains a permit from the Department of Justice in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2, the dealer shall redeliver that assault weapon to the person. If the licensed gun dealer, as defined in subdivision (c) of Section 12290, is prohibited from delivering the assault weapon to a person pursuant to this paragraph, the dealer shall possess or dispose of the assault weapon as allowed by this chapter.

(c) A person who has registered an assault weapon under this section may possess it only under any of the following conditions unless a permit allowing additional uses is first obtained under Section 12286:

(1) At that person's residence, place of business, or other property owned by that person, or on property owned by another with the owner's express permission.

(2) While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets.

(3) While on a target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.

(4) While on the premises of a shooting club which is licensed pursuant to the Fish and Game Code.

(5) While attending any exhibition, display, or educational project which is about firearms and which is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.

AG00014594

1812

STATUTES OF 1999

[Ch. 129]

(6) While on publicly owned land if the possession and use of a firearm described in Section 12276 or 12276.1 is specifically permitted by the managing agency of the land.

(7) While transporting the assault weapon between any of the places mentioned in this subdivision, or to any licensed gun dealer, as defined in subdivision (c) of Section 12290, for servicing or repair pursuant to subdivision (b) of Section 12290, if the assault weapon is transported as required by Section 12026.1.

(d) No person who is under the age of 18 years, no person who is prohibited from possessing a firearm by Section 12021 or 12021.1, and no person described in Section 8100 or 8103 of the Welfare and Institutions Code may register or possess an assault weapon.

(e) The department's registration procedures shall provide the option of joint registration for assault weapons owned by family members residing in the same household.

(f) For 90 days following January 1, 1992, a forgiveness period shall exist to allow persons specified in subdivision (b) of Section 12280 to register with the Department of Justice assault weapons that they lawfully possessed prior to June 1, 1989.

(g) Any person who registered a firearm as an assault weapon pursuant to the provisions of law in effect prior to January 1, 2000, where the assault weapon is thereafter defined as an assault weapon pursuant to Section 12276.1, shall be deemed to have registered the weapon for purposes of this chapter and shall not be required to reregister the weapon pursuant to this section.

(h) Any person who registers his or her assault weapon during the 90-day forgiveness period described in subdivision (f), and any person whose registration form was received by the Department of Justice after January 1, 1991, and who was issued a temporary registration prior to the end of the forgiveness period, shall not be charged with a violation of subdivision (b) of Section 12280, if law enforcement becomes aware of that violation only as a result of the registration of the assault weapon. This subdivision shall have no effect upon persons charged with a violation of subdivision (b) of Section 12280 of the Penal Code prior to January 1, 1992, provided that law enforcement was aware of the violation before the weapon was registered.

SEC. 10. Section 12287 of the Penal Code is amended to read:

12287. (a) The Department of Justice may, upon a finding of good cause, issue permits for the manufacture of assault weapons to federally licensed manufacturers of firearms for the sale to, purchase by, or possession of assault weapons by, any of the following:

(1) The agencies listed in subdivision (f) of Section 12280.

(2) Entities and persons who have been issued permits pursuant to Section 12286.

(3) Entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed in paragraphs (4) to (6), inclusive.

AG00014595

[Ch. 129]

STATUTES OF 1999

1813

- (4) Federal law enforcement and military agencies.
- (5) Law enforcement and military agencies of other states.
- (6) Foreign governments and agencies approved by the United States State Department.

(b) Application for the permits, the keeping and inspection thereof, and the revocation of permits shall be undertaken in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2.

SEC. 11. Section 12289 of the Penal Code is amended to read:

12289. (a) The Department of Justice shall conduct a public education and notification program regarding the registration of assault weapons and the definition of the weapons set forth in Section 12276.1. The public education and notification program shall include outreach to local law enforcement agencies and utilization of public service announcements in a variety of media approaches, to ensure maximum publicity of the limited forgiveness period of the registration requirement specified in subdivision (f) of Section 12285 and the consequences of nonregistration. The department shall develop posters describing gunowners' responsibilities under this chapter which shall be posted in a conspicuous place in every licensed gun store in the state during the forgiveness period.

(b) Any costs incurred by the Department of Justice to implement this section which cannot be absorbed by the department shall be funded from the Dealers' Record of Sale Special Account, as set forth in subdivision (d) of Section 12076, upon appropriation by the Legislature.

SEC. 12. It was the original intent of the Legislature in enacting Chapter 19 of the Statutes of 1989 to ban all assault weapons, regardless of their name, model number, or manufacture. It is the purpose of this act to effectively achieve the Legislature's intent to prohibit all assault weapons.

SEC. 13. If any phrase, clause, sentence, section, or provision of this act or application thereof is held invalid as to any person or circumstance, such invalidity shall not affect any other phrase, clause, sentence, section, provision, or application of this act, that can be given effect without the invalid phrase, clause, sentence, section, provision, or application and to this end the provisions of the act are declared to be severable.

SEC. 14. Section 3.5 of this bill incorporates amendments to Section 12020 of the Penal Code proposed by this bill and SB 359. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2000, (2) each bill amends Section 12020 of the Penal Code, and (3) this bill is enacted after SB 359, in which case Section 12020 of the Penal Code, as amended by SB 359, shall remain operative only until the operative date of this bill, at which time Section 3.5 of this bill shall become operative, and Section 3 of this bill shall not become operative.

AG00014596

1814

STATUTES OF 1999

[Ch. 130]

SEC. 15. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

CHAPTER 130

An act to amend Section 1561.1 of the Financial Code, relating to investments.

[Approved by Governor July 19, 1999. Filed with
Secretary of State July 20, 1999.]

The people of the State of California do enact as follows:

SECTION 1. Section 1561.1 of the Financial Code is amended to read:

1561.1. (a) As used in this section:

(1) "Fund" means any investment company registered under the Investment Company Act of 1940 (15 U.S.C. Sec. 80a-1 et seq.), as amended from time to time.

(2) "Trust" means any court trust or private trust.

(3) "Trust Law" means Division 9 (commencing with Section 15000) of the Probate Code.

(b) Within the standards established by trust law, including, but not limited to, Division 9 (commencing with Section 15000) of the Probate Code, a trust company acting in any capacity under a trust may, in the exercise of its investment discretion unless the trust instrument provides expressly to the contrary, invest and reinvest in the securities of or other interests in any fund to which the trust company or its affiliate is providing services including, but not limited to services as an investment adviser, sponsor, distributor, custodian, agent, registrar, administrator, servicer, or manager, and for which the trust company or its affiliate receives compensation.

(c) Within 30 days before or after the initial investment under the exercise of discretionary powers authorized by subdivision (b), the trust company, acting in any capacity under a trust, shall furnish written notice of the exercise of the discretionary powers and a copy of the prospectus relating to the securities to all persons to whom the trust company is required to render statements of account pursuant to applicable provisions of the Trust Law or to whom the trust company regularly provides a statement of account unless specifically waived in writing.

AG00014597

**Exhibit 34 page numbers 1379-1456 are
intentionally omitted.**

Exhibit 35

THE BLOODY TRAIL OF GUNLESS MURDERERS!

GUNS & AMMO

**THE NEW BREED OF
ASSAULT RIFLE**

**KAUSER'S
CLASSIC CARTRIDGES**

**BOB MILEK'S
HANDLOADING TIPS
FOR THE
44 MAGNUM
SIXGUN**

\$1.50
In Canada
\$1.75



EXHIBIT 28
Boone

FIELD TESTS:

- CLASSIC RUGER .22 AUTO
- MANNLICHER/GAMBA TRAPGUN
- CROSMAN AIR PISTOL





The German MP-44 (R), the first of the modern assault rifles, has sired a whole new breed of modern semi-auto sporters such as this Heckler & Koch HK-91 at left. For an in-depth appraisal of these rifles, see page 48. Cover photo by Bob D'Olivo.



PETERSEN PUBLISHING COMPANY

A. E. PETERSEN, Chairman of the Board
F. R. WAINGROW, President
ROBERT E. BROWN, Sr. Vice President, Publisher
DICK DAY, Sr. Vice President, Hot Rod Division
JIM P. WALSH, Sr. Vice President, National Advertising Director
ROBERT MACLEOD, V.P., Publisher
THOMAS J. SIATOS, V.P., Group Publisher
PHILIP E. TRIMBACH, V.P., Financial Administration
WILLIAM PORTER, V.P., Circulation Director
JAMES J. KRENEK, V.P., Manufacturing
LEO D. LEWIS, Treasurer/Asst. Secretary
DICK WATSON, Controller
LOU ABBOTT, Director, Production
JOHN CARRINGTON, Director, Book Sales and Marketing
MARIA COX, Director, Data Processing
BOB D'OLIVO, Director, Photography
NIGEL P. HEATON, Director, Circulation Marketing and Administration
AL ISAACS, Director, Corporate Art
CAROL JOHNSON, Director, Advertising Administration
DON MCGILVER, Director, Advertising Research
JACK THOMPSON, Assistant Director, Circulation
VERN BALL, Director, Fulfillment Services

SALES OFFICES

LOS ANGELES: Ralph Panico, Western Advertising Director, 8833 Sunset Blvd., Los Angeles, CA 90069; (213) 657-5100. **NEW YORK:** James J. Rainford, Eastern Advertising Director, 437 Madison Avenue, New York, NY 10022; (212) 935-9150. **DETROIT:** Edward McLaughlin, Detroit Advertising Director, 333 West Fort St., Building, Suite 1800, Detroit, MI 48226; (313) 964-6880. **CHICAGO:** Dennis Banner, Chicago Advertising Director, John Hancock Center, 875 N. Michigan Avenue, Suite 3131, Chicago, IL 60611; (312) 222-1920. **CLEVELAND:** Dewey F. Patterson, Branch Mgr., Three Commerce Park Square, 23200 Chagrin Boulevard, Suite 605, Cleveland, Ohio 44122; (216) 464-1522. **ATLANTA:** Richard E. Holcomb, Branch Mgr., Four Piedmont Center, Suite 601, Atlanta, GA 30305; (404) 231-4004. **DALLAS:** Jeff Young, Branch Mgr., 800 West Airport Freeway, Suite 201, Irving, TX 75061; (214) 579-0454.

PETERSEN ACTION GROUP

LOS ANGELES: Ralph Panico, Western Advertising Director. **NEW YORK:** James J. Rainford, Eastern Advertising Director. **DETROIT:** Edward McLaughlin, Detroit-Cleveland Advertising Director. **CHICAGO:** Dennis Banner, Advertising Director. **CLEVELAND:** Dewey F. Patterson. **ATLANTA:** Richard E. Holcomb. **DALLAS:** Jeff Young.

GUNS & AMMO Magazine, combined with **Guns & Hunting**. Copyright 1981 by Petersen Publishing Company, 8490 Sunset Blvd., Los Angeles, Calif. 90069. Phone 867-9100, all rights reserved. Controlled Circulation Postage Paid at Los Angeles, CA 90052, and at Additional Mailing Offices. Subscription rates: U.S. Possessions—1 yr. \$11.94, 2 yrs. \$19.94, \$1.50 per copy. All others—1 yr. \$17.94. Change Of Address: Give six weeks notice for change of address. Please supply both old and new address and an address label. Mail to P.O. Box 3292, Los Angeles, CA 90028.

CONTRIBUTIONS: Should be mailed to post office box 3292, Los Angeles 90028. They must be accompanied by return postage and we assume no responsibility for loss or damage. Any material accepted is subject to such revision as is necessary in our sole discretion to meet the requirements of this publication. Upon publication payment will be made at our current rate, which covers all authors and/or contributors' right, title, and interest in and to the material mailed including, but not limited to, photos, drawings, charts and designs, which shall be considered as text. The act of mailing a manuscript and/or material shall constitute an express warranty by the contributor that the material is original and is in no way an infringement upon the rights of others.

GUNS & AMMO Magazine (ISSN0017-5684). POSTMASTER: Please send form 3579 to GUNS & AMMO, P.O. Box 3205, Los Angeles, CA 90028.



GUNS & AMMO

JULY 1981 • VOLUME 25, NUMBER 7 • PUBLISHED MONTHLY

HANDGUNS

Handloading Tips for the .44 Magnum Sixgun: by Bob Milek.....	34
Vintage Loads for Vintage Peacemakers: by Mike Venturino.....	58
The Ruger .22 Automatic: by Dave Arnold.....	68

RIFLES

Tomorrow's State-of-the-Art Sporting Rifle: by Art Blatt.....	48
Personalize Your Rifle with a Custom-Finished Stock: by Jon Sundra.....	62

SHOTGUNS

Mannlicher/Gamba "Edinburgh" Trap Combo: by Art Blatt.....	70
--	----

GENERAL

The Rifle Cartridges of Paul Mauser: by John Wootters.....	40
Crosman American Classic Airgun: by Craig Boddington.....	71

RKBA

The Bloody Trail of Gunless Murderers! by Jan Libourel.....	31
---	----

DEPARTMENTS

Washington Report: by Reid Andrews.....	6
Letters.....	8
Gunnotes: by Elmer Keith, Executive Editor.....	10
Gunsmith: by J.B. Wood.....	22
What's New.....	28
Gun-E-Sack: by Jon Sundra.....	30
Black Powder: by Phil Spangenberg.....	38
Reloading: by John Wootters.....	44
Jordan on Handguns: by Bill Jordan.....	46
Hunting Wheels: by John Jelinek.....	67
Classified.....	96
Parting Shot: by Dick Wolff.....	98



HOWARD FRENCH, Editor

E. G. BELL, Jr., Managing Editor
CAROL WINET, Art Director
CONNIE KELLEY, Art Assistant

DAVE HETZLER, Senior Staff Editor

PHIL SPANGENBERGER, Associate Editor
JAN LIBOUREL, Associate Editor
CRYSTAL CHOW, Copy Editor
LAURIE SAMMERS, Editorial Assistant

BOB ELLISON, Western Ad Mgr. (Los Angeles)
EVERETT O'BRYAN, Midwestern Ad Mgr. (Chicago)
JEFF YOUNG, Dallas Ad Mgr.
JANET BOZEMAN, Sportsman's Directory

WILLIAM LIGHT, Detroit Ad Mgr. (Michigan, Ontario)
BROWNIE FISHER, N.Y. Eastern Ad. Representative
JAY HARD, N.Y. Eastern Ad. Representative
KRIS O'NEILL, Advertising Services

ELMER KEITH, Executive Editor

CHUCK ADAMS, Hunting
BILL JORDAN, Sr. Field Editor
JOHN WOOLTERS, Shooting Editor
JOHN LACHUK, Special Projects

BOB MILEK, Field Editor
REID ANDREWS, Legislation

ART BLATT, Field Editor
JON SUNDRA, Eastern Field Editor
J.B. WOOD, Gunsmith
ALEX KERR, Shotguns

THOMAS J. SIATOS, Vice President, Executive Publisher

RICHARD S. FAY, Publisher

ACKNOWLEDGEMENTS: The Brass Rail, Los Angeles, CA; Pachmayr Gun Works, Los Angeles, CA; Bob's Military Antiques, Santa Monica, CA; Pony Express Sport Shop, Encino, CA; Martin B. Retting, Culver City, CA; London Guns, Santa Monica, CA; The Eagle's Nest Militaria, Los Angeles, CA; The Old West Gun Room, El Cerrito, CA; Reloading Bench, Panorama City, CA.

GUNS & AMMO/JULY 1981 5

4454

Spawned in the crucible of war a new breed of rifles challenges the legendary Mauser bolt gun as...

TOMORROW'S STATE-OF-THE-ART SPORTING RIFLE

By Art Blatt



Colt's AR-15 is among the most popular autoloading rifles. It is chambered for the .223 Remington, which, properly handloaded, is a fine varmint cartridge.

Added firepower cannot be a replacement for proven hunting techniques. Hunters still must use traditional stalking skills and binoculars, even when utilizing an "unconventional" twenty-shot autoloader like this AR-15 from Colt.

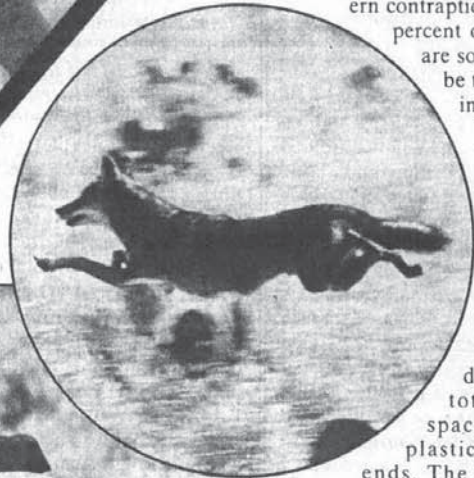


■ You say there's no place for "military-style" arms in the world of sporting firearms? Granted, today's service look-alikes are less stylish and graceful than a Remington Model 700BDL or one of Roy Weatherby's colorful creations; however, these autoloading rifles from around the world are on the brink of revolutionizing the world of rifle shooting.

In 1939, when Oldsmobile first introduced the automatic transmission, auto buffs were very skeptical about this modern contraption. Today, nearly 75 percent of all American cars are so equipped. So it will be the way of autoloading rifles.

Most shooters and veteran riflemen look down their noses at these steel-stamped rifles as remnants from an erector set. The turn-bolt aficionado looks with a great deal of disdain at anybody totting one of these space-age rifles with plastic stocks and fore-ends. The dyed-in-the-wool deer hunter watching his domain being infiltrated by these black and gray guns assumes that these "new generation" hunters are merely fantasizing "war games" and are playing "soldier." How soon we forget.

Practically all of today's "modern" bolt-action rifles can trace their "roots" back to Paul Mauser's development—the fabled Model 98 bolt rifle. Unquestionably, this was the finest military turnbolt ever invented. And, how about the American-bred Springfield? How many thousands of these service rifles are still in the hands of "civilian" shooters and hunters? Remington Arms, in 1921 after their mil-





To those purists who state that there's no place in the sporting world for "military"-type rifles—how can we forget that practically all of today's "modern" bolt guns originated from the German 1898 Mauser?

tary contracts had expired for the 1917 Enfield, simply sold off their remaining inventory—to the civilian market—as the Model 30. Thousands of hunters snapped up these rifles, realizing that a piece of ordnance produced to U.S. Government specifications had to be a first-class piece of machinery—and they were right!

So before pooh-poohing these military-type rifles of today and categorizing all who use these guns as people who wear camouflage underwear, let's find out who is purchasing these much-maligned rifles, and what they are using them for.

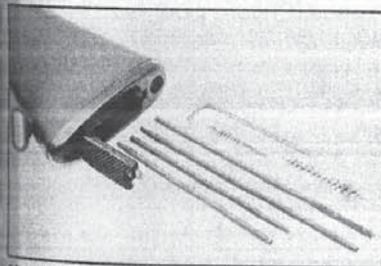
We asked Barry Kahn, owner of B&B Sales in North Hollywood, California—who is a major gun dealer in all types of military look-alikes—just who is snapping up these rifles in huge quantities. We'd half expected his answer to be a segment from the "cult of preachers of doom." To our surprise Barry informed us that those



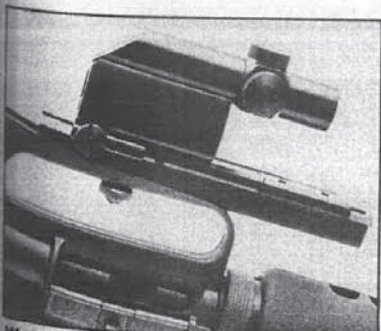
The Colt AR-15 can provide the hunter with better accuracy than he'd imagine, as this five-shot, 100 yard group is a little under two inches.

purchasing these "assault"-type rifles are from all walks of life and income groups. Although relatively high-priced—compared to typical sporting rifles—FN-LARs, H&Ks and Colt AR-15s are equally divided among doctors, lawyers, truck drivers and businessmen—a typical cross section of shooters everywhere.

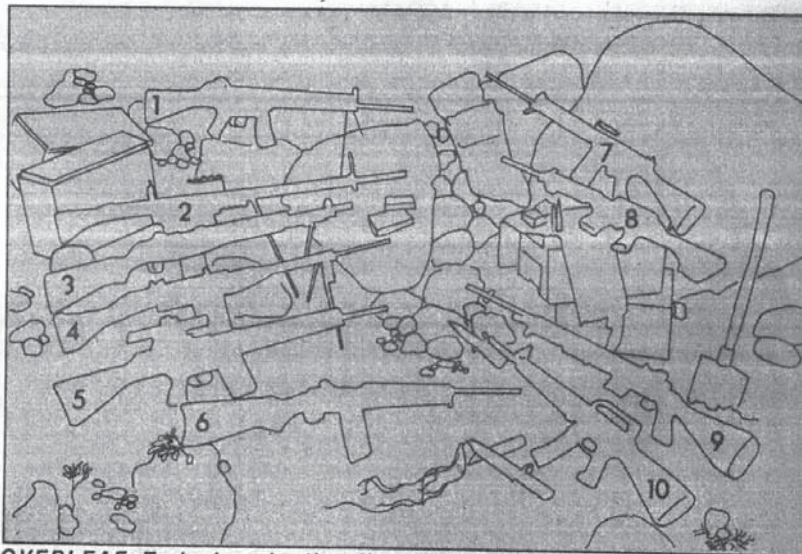
To back up Barry Kahn's claim, we went to various rifle ranges and "plinking palaces" around Southern California to seek out and talk to owners of these ultra-modern rifles. We talked to benchrest shooters using the Armalite AR-180 chambered for the .223 Remington cartridge. We asked them why they bought their AR-180s and what they used them for. To a man, they all stated that the AR-180 was merely an addition to their existing battery of "sporting" rifles. Sure, there was a secondary reason and—they purchased a bit of military history—after all, the AR-180 was developed from the military M-16 (full-auto version of the Colt AR-15).



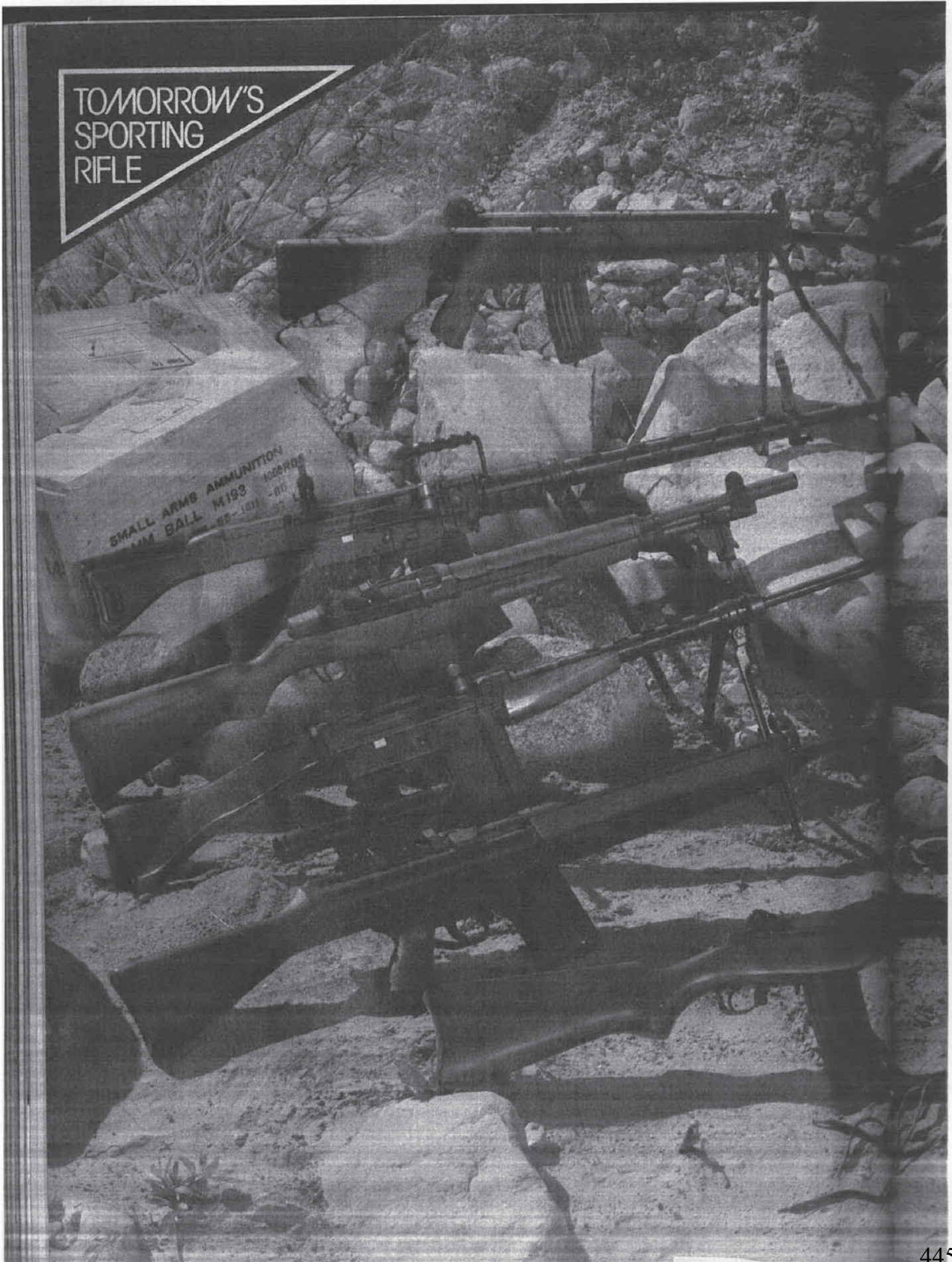
Nestled inside the stock of the AR-15 is a complete cleaning kit that includes bore and chamber brushes.

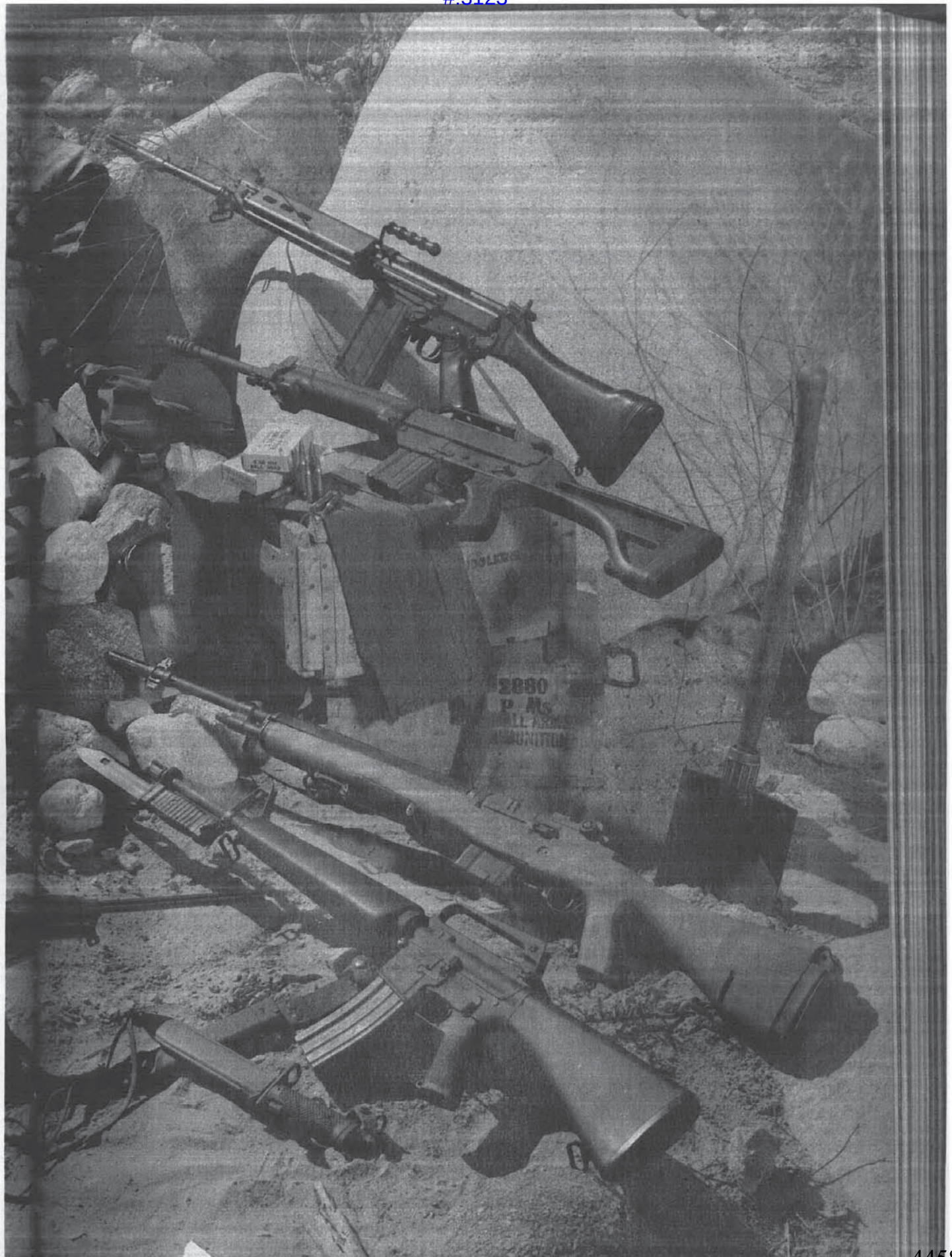


Weaver's Quick-Point in a B-Square mount turns the AR-15 into an excellent combo for elusive "jacks."



OVERLEAF: Today's selective-fire military rifles have given rise to a number of semi-auto sporters, either directly adapted from, or inspired by, these military rifles. The sampling shown here includes: (1) Heckler & Koch HK-93 .223 Rem. (2) SIG PE 7.5x55 mm (3) Beretta BM 62 .308 WCF (4) SIG AMT .308 (5) Heckler & Koch HK-91 .308 (6) Ruger Mini-14 .223 (7) FN-FAL (LAR) .308 (8) Australian Leader .223 (9) Springfield Armory M1A in .308 with combat-styled stock (10) Colt AR-15 in .223 Remington.





4458

TOMORROW'S SPORTING RIFLE

All of these military-type rifles chambered for the .223 Remington round are certainly sporters in their own right. Used for long-range varminting, especially at a galloping coyote going uphill some 300 yards distant, these rifles enable the hunter to make instant corrections on this elusive target. Turn-bolt gunners wouldn't



This Mini-14 replacement stock has a hand-actuated "slide" action that can quickly clear any malfunctions.

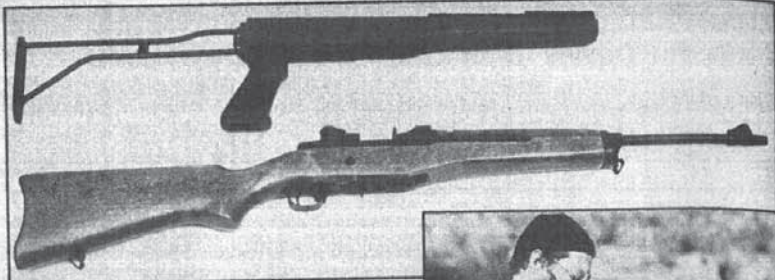
B-Square offers a wide variety of scope mounts; this version for the Ruger Mini-14 is easily bolted on.

have a chance under these circumstances, but an autoloading-armed rifleman greatly increases his odds of hitting a running target.

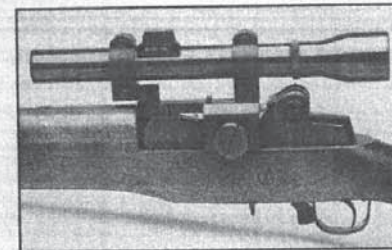
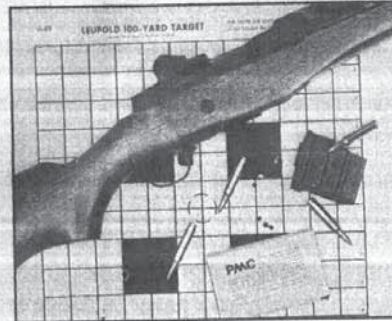
We also interviewed many owners of FN-LARs (FAL), Springfield M1As, Beretta Model 62s and H&K 91s. All of these quality arms are chambered for the potent .308 Winchester cartridge. Long known for its inherent accuracy, this NATO-inspired round is truly a versatile and magnificent cartridge. Nearly as powerful as the tried-and-true .30-06 Springfield, the .308's shorter overall length and lighter overall weight has proved itself in military conflict, benchrest shooting, and recently chambered in handguns, for Metallic Silhouette shooting.

What do we call this special breed of rifles? When do they lose their military connotation and stand on their own name or marque? We don't know when the Colt Model 1911 shed its military stigma nor when the Garand and .30 carbine were elevated to collector's status. But all of these military autoloading rifles have unique features and are capable of double or even triple-duty.

Let's take a closer look at some of them and see why they offer the sportsman/



There are a gaggle of accessories for Ruger's Mini-14, including this plastic, folding replacement stock.



Magazines of various capacities are available for the Mini-14, ranging from five-shot mags to 30-rounders.

The .223 PMC ammunition we used in this test proved to be very accurate and dependable in all the test guns.

could pass the grueling and exhaustive tests that all of these rifles must brush aside easily? Not many. We doubt that most popular autoloading "sporting rifles" could shoot two-inch groups at 100 yards after a rapid-firing session of 500 rounds—the H&K 91 will. With minimal care, any of these military-type rifles will outlast, and often outshoot, a wide variety of "sporting rifles." H&K recommends

hunter/shooter more features—dollar for dollar—than most "sporting rifles." Aesthetically, we'd have to rate most of these pistol-gripped guns a four on a scale of ten. None of them has the sleek styling of a Mannlicher-style carbine. The mini-wood stocks appear to be remnants off a school desk. They cannot be described as having a brightly polished blued look. But, as with all mechanical contrivances, form follows function and to a "gun" all of these autoloaders share a common adjective—reliable. How many civilian rifles



The FN-LAR (FAL) in 7.62 NATO is perhaps the most accurate (and expensive) rifle of its kind. With the iron sights we were able to fire groups that measured under two inches at the customary 100-yard range.

that
plac
most
ally
How
D
know
ly th
com
and
over
Any
the
cour
a be
one
Mod
cal
and
rifle
that
accu
T
and

Th
of
fo

L
B

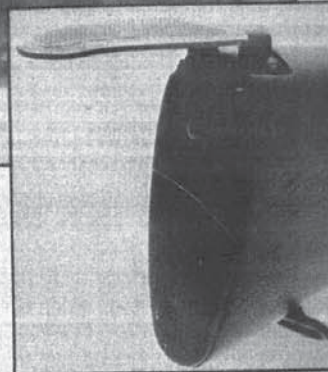
the barrel on their Model 91 be replaced after 75,000 rounds! Typically, most hunting or varmint barrels are usually shot-out after seven to 10,000 rounds. How's that for longevity?

Disassembly of these rifles, when one knows how, is exceedingly simple. Usually the only tool required to dissect a rifle completely is the tip of a cartridge. Pins and spring-loaded latches predominate over traditional screws and hex-nuts. Another plus is parts interchangeability—the FN-LAR is the issue rifle for over 90 countries in the world. One would stand a better chance of finding a firing pin for one in Mozambique than a Winchester Model 70 floorplate in Venezuela. Critical tolerances are held on all these rifles and one could easily make up a complete rifle from a parts bin—and be assured that it would function properly and shoot accurately.

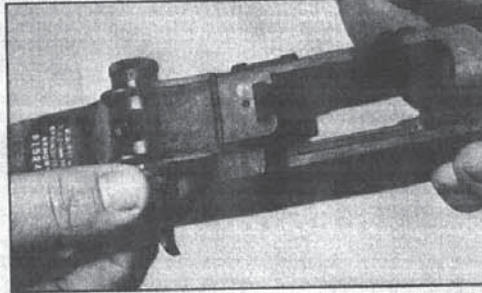
The Swiss SIGs, both the AMT (.308) and the PE (7.5 Swiss) boast integral fold-



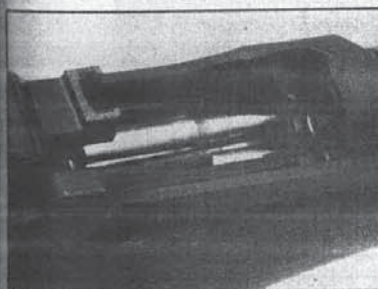
Springfield Armory's M1A chambered for the 7.62 NATO (.308 Winchester) cartridge is a prized piece and is eagerly sought by both shooters and military equipment enthusiasts. The "combat"-type stock features a hinged buttplate which helps stabilize the rifle—especially when used in the prone position. A 20-round magazine is standard although five and 10 round magazines are available.



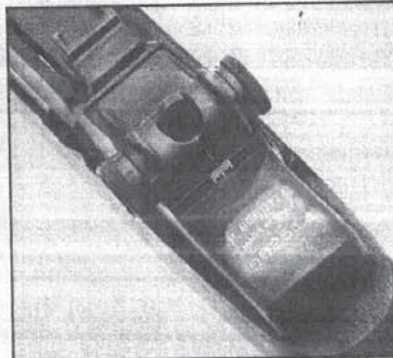
The Beretta Model 62 is a near-copy of the old Garand and is chambered for the .308 Winchester cartridge.



The Beretta Model 62's sights are typically military—rugged, dependable and adjustable. The rear can be adjusted from 100 through 500 meters and the "wings" on the front sight protects the blade from bumps and bruises.



Like its predecessor—the Garand—straight-line feeding is one of the Beretta's best points. Jams are few.



Beretta's Model 62 was developed from their Model 59—a selective fire version used by the Italian army for over ten years.



In firing over 100 rounds from each rifle tested, we found that all of them were extremely reliable with a variety of types of reloads and factory ammo.

ing bipods. Again purists rap this feature, but how many civilian products like the Harris Bi-Pod are regularly purchased every year? Without the aid of a natural rest like a tree, large boulder or fence post, the bipod is the most convenient and possibly the greatest aid to pinpoint accuracy ever devised. Remember the buffalo hunters with their crossed sticks? Nearly all manufacturers offer bipods as accessories and they all share a common design that enables the legs to fold flat against the fore-arm for easy storage.

Another cause for attack on these rifles' aesthetics is the built-in muzzle brakes that are often referred to as "flash-hiders." Over the years countless numbers of commercial devices have been offered to the "sportsman" to reduce recoil and muzzle flip by adding one of these appendages. And isn't the Mag-na-ported® principle nothing more than a built-in muzzle brake?

Pistol grips are also assailed, yet many custom rifle and shotgun stock makers will build thumbhole models, which is a first cousin to the pistol grip design. Yet, there are those who maintain that a traditional grip design—which is like grasping

TOMORROW'S SPORTING RIFLE

the top edge of a 2x4—is more in keeping with the rifle's good looks. Appearances aside, the pistol grip is comfortable and adaptable to a wider range of shooters' hands. Everybody's hands are a different size, yet pistol grips do seemingly "fit-all"! These vertical handholds afford greater control of the rifle during firing and enable the shooter to absorb more of the rifle's recoil in the hands instead of at a more tender part of the body, the shoulder and upper arm.

Speaking of recoil, all of these guns generate less recoil than manually-operated rifles. Why? First, most of these autoloaders are gas-operated. Remember back in 1963 when Remington Arms introduced their popular Model 1100 shotgun? The boys from Bridgeport proved to the shooting world that gas-operated guns greatly reduced "kick" by spreading recoil out over a longer period of time.

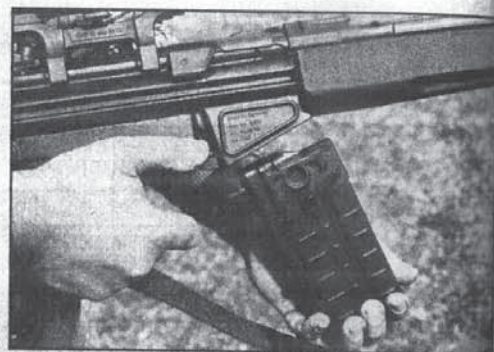
With minor variances, most of these autoloading rifles work on the same principle. Just the correct amount of gas pressure is metered to operate the rifle's mechanism while the excess is exhausted into the air. Many of these rifles have a built-in adjustable gas piston enabling both light loads, like the .308 Remington Accelerators, and "hot" G.I. ammunition to properly cycle the action. The FN-

LAR features a knurled knob near the muzzle enabling the shooter to dial in the correct amount of gases easily and efficiently. The Colt AR-15 generates so little recoil that a shooter could place the buttstock against the bridge of his nose with little regard to facial damage—try that with any boltgun chambered for the .223 round.

All these military autoloaders share an



The Heckler & Koch HK93 shown above is wearing B-Square's scope mount, one that's much less expensive than the factory unit. A simple push of the button drops the 20-rd. magazine; a five-shot is available.



Instead of the cocking lever being on the bolt itself, H&K locates it over the barrel on the left side.



Even though the .308 version of the H&K (shown here) is a bit much for prairie dogs, the HK93 in .223 Rem. is perfect with a scope in place.

The accuracy displayed by all the test rifles is demonstrated by the HK91's 100-yd. ability shown here.



interesting characteristic—stock design and its relationship to the axis of the bore. All of these rifles possess elevated sights that demand that the shooter place his head in a more erect position. This different shooting and head placement position helps to reduce felt recoil and places less strain and stress on the shooter's neck. The rifle is merely brought "to" the shooter's cheek instead of the shooter having to assume a cramped position to "get into the gun." This stock design and placement of the sights provides an inline direction of recoil which is predominantly straight-back, instead of up and towards the shooter's face. Recoil is best described as a shove rather than a blow to the shoulder.

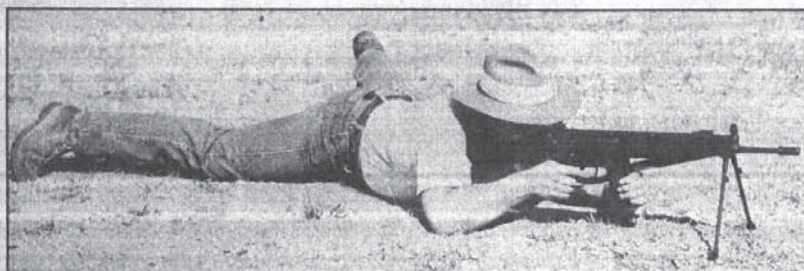
And on the subject of sights, all of these military-type rifles boast excellent

TOMORROW'S SPORTING RIFLE

aperture-type rear sights and are quickly and easily adjustable for shooting from 100 to 1,200 meters. Some use a flip-flop arrangement which either doubles or halves the sight range. Others, like the Swiss SIG PE boast a highly refined micrometer sight that is infinitely adjustable out to 1,500 meters, and as a bonus feature, both sights—front and rear—fold flat against the barrel and receiver. All of



H&K's M-93 is chambered for the .223 Remington round and this autoloading rifle is a durable, rugged performer. The folding bipod is a worthwhile accessory for varmint shooting.



The H&K Model 93, fired with factory ammo from the prone position, turned in some impressive groups.

MILITARY-TYPE SEMI-AUTOMATIC SPORTING RIFLE SPECIFICATIONS

NAME	MODEL	CALIBER	MAGAZINE CAPACITY (S)	RETAIL PRICE	IMPORTER AND/OR SALES COMPANY
Beretta	Model 62	.308 Win.	5/20 rounds	\$985.00	Beretta USA, 17601 Indian Head Hwy., Accokeek, MD 20607
Colt	AR-15 Sporter	.223 Rem.	5/20/40 rounds	\$479.95	Colt Firearms, 150 Huyslope Ave., Hartford, CT 06102
Fabrique Nationale	LAR Match	.308 Win.	10/20 rounds	\$1,975.00	Steyr, Daimler Puch of America, 85 Metro Way, Secaucus, NJ 07094
Heckler & Koch	HK91A2	.308 Win.	5/20 rounds	\$656.00	Heckler & Koch, 933 N. Kenmore St., Arlington, VA 22201
Heckler & Koch	HK93A2	.223 Rem.	5/20 rounds	\$638.00	Heckler & Koch, 933 N. Kenmore St., Arlington, VA 22201
Leader Dynamics	Mark 5	.223 Rem.	10/20 rounds	\$480.00	World Public Safety, 5855 Green Valley Circle, Culver City, CA 90230
Ruger	Mini-14	.223 Rem.	5/10/20 rounds	\$269.50	Sturm, Ruger & Co., Southport, CT 06490
SIG	AMT-308	.308 Win.	5/10/20 rounds	\$2,400.00	Mandall Shooting Supplies, P.O. Box 2327, Scottsdale, AZ 85251
SIG	PE-57	7.5x55 Swiss	24 rounds	\$2,000.00	Mandall Shooting Supplies, P.O. Box 2327, Scottsdale, AZ 85251
Springfield	M1A	.308 Win.	5/10/20 rounds	\$850.00	Springfield Armory, Geneseo, IL 61254

these rugged and dependable sighting systems are fully protected by "dog-ears" which deflect casual bumps and deter even the most damaging blows. Even if one of these rifles is dropped on a hard surface and lands on the sights, it is very unlikely that either sight will be damaged. Borrowing a page from the military manual—Smith & Wesson's new Models 439 and 459 autoloading pistols have an identical sight-protection set of dog-ears.

Another common blemish is that all military-type rifles aren't accurate and their inherent inaccuracy is compensated for by their ability to belch out great quantities of ammunition in a short period of time. Only half of that statement is correct. The semi-auto cyclic rate is as fast as the shooter can manipulate his trigger finger. We were able to fire 20-



The newest of these rifles is the Australian-made Leader autoloading carbine in .223 Remington caliber. It borrows some of its design features from the Colt AR-15 and the ArmaLite AR-180. This rifle from "Down Under" is a six-pound lightweight. It is businesslike in appearance and performance and costs about \$400.

ambush magazines with reasonable accuracy in time periods of less than five seconds. We selected the FN-LAR and from a bench position poured 20 rounds into a 12x18-inch steel plate 200 meters downrange and made it sound like the bells of St. Mary's. Test after test with all the rifles in this roundup proved that these guns were exceptionally rugged and dependable—but how about their ability to place five shots inside a water glass at 100 yards? Could they pass this "sporting"-arms type test? Only one of our rifles was equipped with a scope—the Heckler & Koch Model 91—all the others were "iron" sight versions. We decided to shoot what we had and rounded up a supply of PMC ammunition in both NATO calibers, .223 and .308, and trudged out to Angeles Shooting Range in San Fernando, California. We proceeded to set up our bench with our shooting paraphernalia, spotting scope, shooting coat, chronograph and cleaning equipment. No sooner had we laid out ten rifles on an adjacent bench than we were suddenly besieged by every other shooter on the line. These autoloaders are great conversation pieces and are magic to strike up new friendships. However, with all these interested spectators constantly kibbitzing, our one-day shooting test was stretched out to almost three days of benchrest work.

We didn't have the time to "zero-in" each rifle to print its five-shot group in the bullseye, but rather elected to shoot
continued on page 78

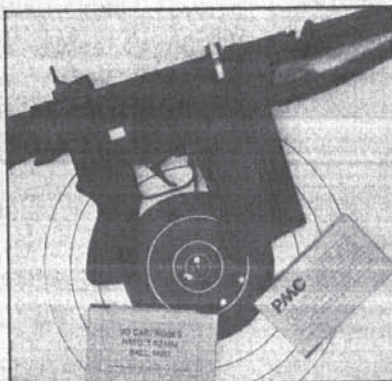
On the SIG 7.5x55 Swiss, besides the rear sight being adjustable in the same manner as a micrometer, both the front and rear sight fold down out of the way so they can't be damaged during transport, or when being carried in a rough manner in the field.



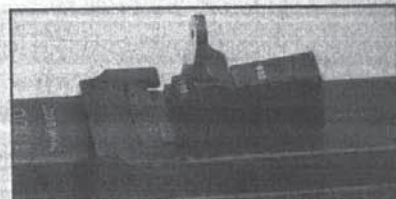
Accuracy of the SIG 7.5x55 Swiss when fired from the prone position, was outstanding. One-hundred-yard groups hovered around the 1 3/4-inch mark, and these were fired after already emptying a full magazine as fast as the trigger could be pulled.



The SIG .308 AMT, like the other arms in the test, featured an easily detachable multi-round magazine.



The SIG AMT, again like the other rifles in this test, was capable of outstanding accuracy once the military trigger pull was overcome.



Two accessories that the possessor of the SIG AMT needn't purchase as after-market add-ons are the carrying handle and the bipod that folds up out of the way on top of the barrel shield.

An interesting feature of the SIG AMT is the sight arrangement. The rear sight is adjustable only for distance in meters, while the front sight is fully adjustable for both elevation and windage, the latter being handled by the tried-and-true method of drifting in the dovetail.

ese rifle
made L
carbine
caliber
its des
Colt A
e AR-1
Down U
nd ligh
nessil
l perform
out \$40

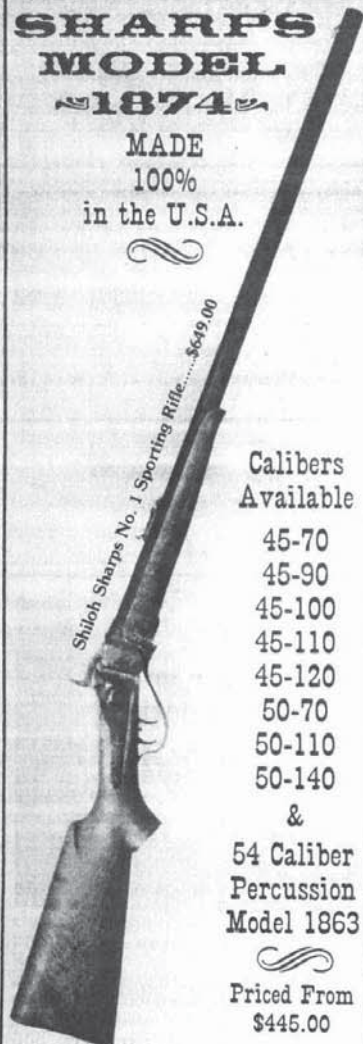


C. SHARPS ARMS

OLD RELIABLE

SHARPS
MODEL
1874

MADE
100%
in the U.S.A.



Calibers
Available

45-70
45-90
45-100
45-110
45-120
50-70
50-110
50-140

&
54 Caliber
Percussion
Model 1863

Priced From
\$445.00

The **SHILOH SHARPS**, the world's finest Black Powder Cartridge Rifle is available in nine traditional models plus variations. Sharps, an American tradition of the highest quality since patented in 1849. For information see your local dealer or send for current brochure. Please enclose \$1.00 to cover postage and handling.

C. SHARPS ARMS CO.
P.O. Box 885 B
Big Timber, Montana
59011

SEMI-AUTO RIFLES

continued from page 57

only for groups as the guns were sighted and sent out by the various factories. Our ammunition, PMC, was strictly "military issue" with "ball" variety bullets. The .308 was loaded with ball powder and a 147-grain FMJ while the .223 was equipped with a 55-grain FMJ slug. We fired a few rounds through each rifle for familiarization and to learn how to overcome the military-type trigger. All the triggers were two-stage variety, and once the slack was taken up, the triggers were all crisp, but very, very heavy. Eight to 12-pound pulls were recorded with a trigger scale.

None of these rifles should be readjusted to provide lighter trigger pulls because premature firing could occur when the bolt slams forward. And, after one gets used to these heavy triggers, they can be handled nicely as they all break very cleanly. Only one rifle had a glitch—the M1A initially presented a minor problem as the trigger blade did not always return to its forwardmost position, which necessitated a gentle prodding. However, after about 40 rounds of firing, this gremlin disappeared.

At the conclusion of these accuracy tests, we were frankly astonished at the results. Five-shot groups with most of the iron-sighted rifles were on a par with many of today's scope-sighted turn-bolt rifles. The scope-sighted H&K Model 91, time after time, recorded groups hovering around the 1¼-inch mark. The FN-LAR was able to chip in with 1½-inch groups using PMC ammunition, and with open sights. All of the rifles chambered for the .308 Winchester cartridge shot sub-two-inch, five-shot groups at 100 yards. Our four test guns chambered for the .223—the Australian Leader, the Colt AR-15, H&K Model 93 and the superlative Ruger Mini-14—are all capable of excellent accuracy, with this group's leader being the H&K Model 93, as it produced the tightest five-shot group, measuring a tad over 1¼ inches on a 100-yard target.

Okay, now that we've established that this special breed of rifles is rugged, dependable and accurate, what does one do

with them? Southern California is a shooter's Shangri-la as there are many "special purpose" shooting clubs. Combat pistol shooters have their own following, metallic silhouette shooters are a tightly-knit group and now on the scene is a group of dedicated riflemen who dream up riflemen's games. To find out what these games are all about, we entered a match which was named a "sniper course." Ten silhouette-type camouflage targets were placed randomly on the course ranging from 200 to 225 meters. An 11th shot was needed to hit a steel plate—300 meters distant—which stopped the clock. A two-minute time limit was placed on the shooter, during which he had to fire at all ten targets and then ring the gong. This was a small match, as inclement weather took its toll, but over 20 hearty riflemen entered. Most of the shooters were using auto-loading rifles—H&Ks, MIAs and the FN-LARs. Two Ruger Mini-14s were also spotted and two shooters tried to run the course with Steyr bolt-action rifles. Now, two minutes may seem to be a long time, especially if your pants are on fire or you're holding your breath, but in an 11-shot rifle match, if you're not carrying an auto-loader, you'll run out of time. The bolt-action boys couldn't reload and fire fast enough to complete this assignment in the time frame. Another contributing factor to their failure was taking their eyes off the targets while cycling the bolt. All contestants fired from the prone position, and scopes and bipods were used by the top four finishers.

Another popular pastime with these autoloading is balloon-busting. A gaggle of balloons are released, preferably on a windy day, and shooting against a safe backdrop, these bouncing targets are fired at from a minimum of 100 yards. The competitor who bursts the most balloons with a single magazine loading of 20 rounds is declared the winner of the match. Try that game sometime with your favorite "thutty-thutty"!

If casual jackrabbit hunting is your bag, then wouldn't you rather have the convenience of a 20-shot magazine hanging between your hands when ole bre'r rabbit decides to do his famous bunny hop? Follow-up shots are much more ef-



For all-out enjoyment at bargain-basement prices the Ruger Mini 14 gives top value for dollars spent.

The F
amaze
group

fective
follow
Manua
and cu
not, th
just pe
the she
the sec

How
of the
Winch
get son
guides
in the
come

to let a
rounds
won't
will. If
these

files, ch
sion as
capabl
shots a
able fr
azines,
five an

How
market
Square
makers
mounts
these r
tube so
can be
we fou
Leupol
remely

igned
to 1.000

can wri
So b

one of
sugges
range a
will let
longarm
Model
then ag
tures at
and lig
find a v
just wa
pleasan



The FN LAR's long-range accuracy amazed the author even after he had grouped it off a bench at 100 yards.

fective when all the shooter has to do is follow the target and pull the trigger. Manually working any rifle action is slow and cumbersome, and more often than not, the critter being hunted seemingly just pops over the top of the ridge when the shooter is ready to pull the trigger for the second or third time.

How about big-game hunting with any of these rifles chambered for the .308 Winchester round? Why not! Sure, you'll get some guffaws from outfitters and guides and maybe you won't be welcome in the cook tent—initially. But to overcome these unfounded prejudices, offer to let any interested shooter shoot a few rounds with your military-type rifle. You won't make them a convert—your rifle will. If you do decide on packing one of these double-digit magazine capacity rifles, check with your local game commission as many states mandate only rifles capable of accommodating up to five shots as legal. All of these rifles are available from the factory with five-shot magazines, and some are equipped with both five and 20-round magazines.

How about scopes and mounts? After-market accessories are numerous. B-Square and a host of other scope mount makers offer inexpensive and reliable mounts, rings and bases for nearly all these rifles. Any high-quality one-inch tube scope found on a conventional rifle can be utilized on these autoloaders. But we found that variable scopes, like the Leupold 2-7X or Redfield's 3x9, were extremely versatile. All these rifles were designed for long-range shooting, even out to 1,000 meters, and a high-power scope can wring out the last drop of accuracy.

So before you rush out and purchase one of these multi-purpose rifles, we'd suggest that you go to your local rifle range and seek out a fellow shooter who will let you try one of these marvelous longarms. The FN-LAR or the Beretta Model 62 might be just your choice, but then again the H&Ks offer a lot of features and the Ruger Mini-14 is so nice and light to tote about . . . anyways, you'll find a whole new world of rifles out there just waiting for you. Try 'em, you'll be pleasantly surprised.



OUR BLUE IS THE BASIC POLICY

Small caliber, pocket automatics designed for personal protection, as back-up or off-duty police arms or for fishermen and campers. American made of ordnance steel. Rugged, reliable and easy to clean. Fast action thumb safeties.

THE STAINLESS GIVES YOU A RIDER AGAINST RUST AND CORROSION

The same lightweight, dependable arms are available with stainless steel finish for those who want that extra edge against moisture.



.22 and .25 caliber models available with Blue, Stainless or Nickel finish. All with 6-round magazine capacity. Extra magazines available.

STERLING
ARM CORP.

211 Grand Street, Lockport, N.Y. 14094

INSURANCE

At your firearms dealer. Or write for new catalog of all Sterling autoloaders. Please send 25 cents.

Exhibit 36



New Zealand to Ban Military-Style Semiautomatic Guns, Jacinda Ardern Says

By Damien Cave and Charlotte Graham-McLay

March 20, 2019

CHRISTCHURCH, New Zealand — Prime Minister Jacinda Ardern of New Zealand on Thursday announced a national ban on all military-style semiautomatic weapons, all high-capacity ammunition magazines and all parts that allow weapons to be modified into the kinds of guns used to kill 50 people at two mosques in Christchurch last week.

“What we’re banning today are the things used in last Friday’s attack,” she said, adding: “It’s about all of us, it’s in the national interest and it’s about safety.”

Ms. Ardern is expected to encounter little resistance to the weapons ban in Parliament; the largest opposition party quickly said it supported the measures.

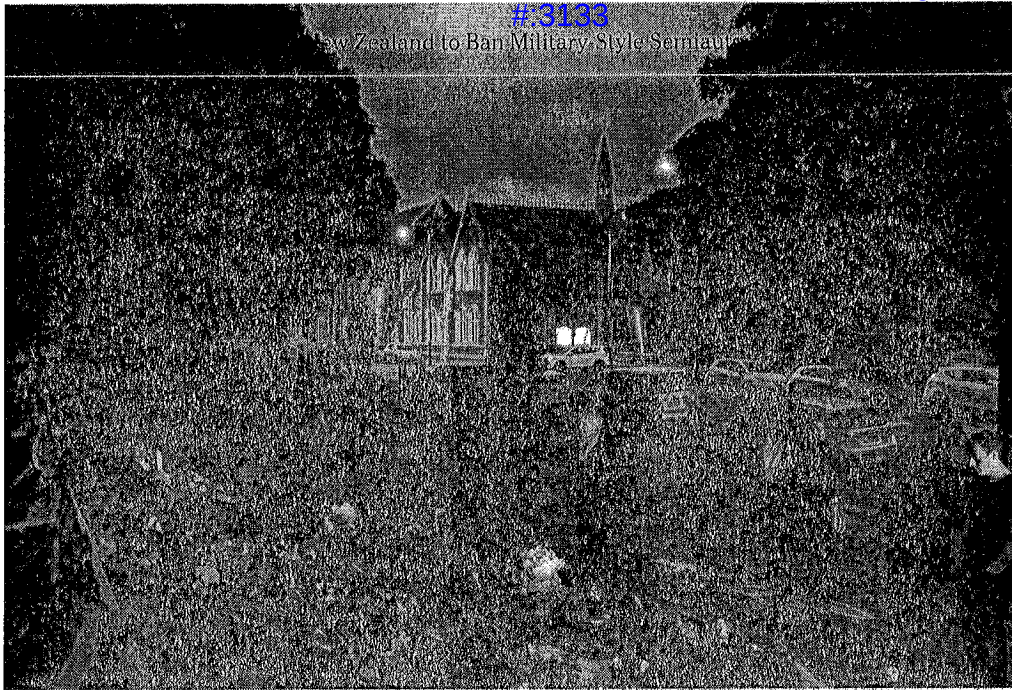
Ms. Ardern said her goal was to eliminate from New Zealand the weapons that the killer used in Christchurch. She emphasized that it would require a buyback of banned weapons in circulation now, plus regulation around firearms and ammunition.

“The guns used in these terrorist attacks had important distinguishing features,” she said at a news conference at Parliament in Wellington, the capital. “First, big capacity, and also their delivery. They had the power to shoot continuously, but they also had large capacity magazines.”

**This is your last free article.
Subscribe to The Times**

Ms. Ardern’s plan for immediate gun policy changes, announced six days after a mass shooting, stands in stark contrast to the stalemate and resistance to change that has stymied similar calls for restrictions on firearms in the United States.

6



A makeshift memorial in Christchurch on Thursday. Adam Dean for The New York Times

Ms. Ardern's handling of the massacre and its aftermath have resonated around the world and thrust her into the spotlight as a force on the issue of guns.

The shooting in New Zealand comes after the United States has experienced an alarming number of mass shootings in recent years, including the Sandy Hook, Conn., school shooting that took 27 lives in 2012; the Orlando nightclub shooting in 2016, which killed 49; the Las Vegas concert shooting in 2017 that left 58 dead; and the Parkland, Fla., school shooting, which killed 17 people in 2018.

Gun policy experts called Ms. Ardern's plans to restrict access to certain forms of guns and ammunition far-reaching in scope.

"It's a very bold move," said Philip Alpers, a University of Sydney academic who runs GunPolicy.org, an international clearinghouse for gun research.

[Read more about the victims of the attack, who spanned generations and nationalities, and their families' struggle for closure.]

Chris Cahill, the president of the Police Association, the union representing New Zealand's police officers, praised Ms. Ardern's plan, saying that his group had been calling for such measures for years.

"This addresses the key concerns we have," he said. "It's hitting those military-style semiautomatics. It's exactly what we wanted."

The overhauls, Ms. Ardern said, are inspired partly by what Australia set in motion after a mass shooting there in 1996: a mix of buybacks, registration and outright bans that severely reduced mass shootings.

But experts said there were some key differences.

"In Australia, it was a very simple definition, all semiautomatic rifles and shotguns, full stop," Mr. Alpers said. "Here I can see a few gray areas."

New Zealand's plan takes aim at capability, not just a particular class of weapons.

Gun owners in New Zealand, responding online to the announcement, said it was confusing and began asking which of their weapons would be banned or exempted. Others seemed more resigned to giving up their guns.

"Glad I took my ar15 for a walk up the range today," one commenter wrote, referring to a type of firearm. "We had a blast could be the last time."

The "capability" approach — which is likely to lead to a list of banned items, Mr. Alpers said — could be watered down through furious lobbying. But it could also amount to a new global standard, broad enough to go beyond Australia's because it could include weapons and accessories not yet developed.

That seemed to be Ms. Ardern's intent.

"Today, I'm announcing New Zealand will ban all military-style semiautomatic weapons," Ms. Ardern said in outlining the changes. "We will also ban all assault rifles. We will ban all high-capacity magazines. We will ban all parts with the ability to convert semiautomatic or any other type of firearm into a military-style semiautomatic weapon."

"We will ban parts that cause a firearm to generate semiautomatic, automatic or close-to-automatic gunfire," she added. "In short, every semiautomatic weapon used in the terror attack on Friday will be banned in this country."

Mr. Alpers said the challenge for New Zealand would mainly be getting the ammunition and guns that already exist out of circulation. Half of Australia's states had some kind of gun registration plan in place before the 1996 reforms, making it easier for the authorities to know

what weapons were out there and what needed to be brought in.

ASIA PACIFIC | New Zealand to Ban Military-Style Semiautomatic Gun...

New Zealand only registers 4 percent of its weapons. According to the police, about 250,000 people in the country own an estimated 1.2 million to 1.5 million firearms. It is unclear how many of them would be affected by the ban.

“New Zealand is at a considerable disadvantage to countries that have had registries, because there’s no way of tracing the firearms because they don’t know who’s got them,” Mr. Alpers said. “We’re relying entirely on the honesty of the gun owner to turn it in.”

Ms. Ardern said that fair compensation would be paid to all those who participate.

Noting that there would be some limited exceptions for specific purposes, especially in rural areas, she said she expected the new law to be in place by April 11, the end of Parliament’s next session.

In the interim, as of Thursday afternoon, a change in regulations would alter the licensing rules for the weapons that would eventually be banned. To avoid a rush on purchases, weapons that now require a basic A Class license will fall under an E Class gun license, which is already much harder to obtain, and which the prime minister said would now be impossible to get.

“I can assure people there is no point in applying for such a permit,” she said.

The suspect in the shootings, Brenton H. Tarrant, 28, was a licensed gun owner and member of a local gun club. An official with one gun retailer said his company had sold Mr. Tarrant four firearms along with ammunition between December 2017 — a month after Mr. Tarrant received his gun license — and March 2018.

But officials still do not know the source of a semiautomatic rifle that can be seen in a video of the attack on Al Noor Mosque, one of the two mosques the gunman targeted. The authorities say that five guns acquired legally, including two semiautomatic assault weapons, were used in the assault.



Gun City, New Zealand's largest gun seller, has a retail store in Christchurch.
Adam Dean for The New York Times

On Wednesday, the authorities said that when the suspect was arrested, he had two weapons with him along with explosives and that he was planning to continue his attack.

His efforts were optimized for internet fame and to broadcast a message of white supremacy. Minutes before the attacks started, he published a manifesto to message boards where white supremacists gather, and included a link to the page where the streaming video of the shooting would appear.

In addition to gun policy, Ms. Ardern has been arguing nearly every day since the attacks that there is a need for the world's most powerful tech platforms to take responsibility for spreading messages of hate that lead to violence.

Leaders in many countries, she said, need to be united in making clear that with profit comes responsibility.

"There are some things we need to confront collectively as leaders internationally," she said at a news conference in Christchurch on Wednesday. "We cannot, for instance, allow some of the challenges we face with social media to be dealt with on a case-by-case basis."

For now, though, she has made clear that her focus will be on another international industry that her government can regulate immediately — guns.

The goal, she said on Thursday, is simple: "to prevent an act of terror from happening in our country ever again."

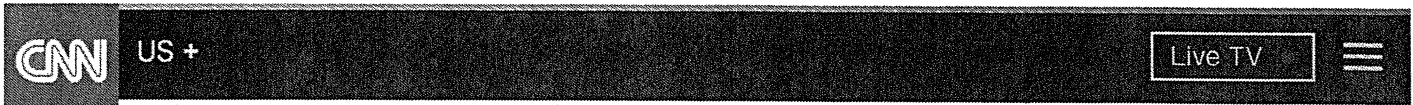
A version of this article appears in print on March 20, 2019, on Page A1 of the New York edition with the headline: Grieving, New Zealand Bans Military-Style Arms



ASIA PACIFIC | New Zealand to Ban Military-Style Semiautomatic Gun...
READ 749 COMMENTS

Exhibit 36 page numbers 1476-1490 are intentionally omitted.

Exhibit 37



Stoneman Douglas shooting. Now parents are urged to be alert

By Kaylee Hartung, Susannah Cullinane and Holly Yan, CNN

🕒 Updated 10:37 AM ET, Mon March 25, 2019



Source: CNN

Second Parkland student dies in apparent suicide 01:09

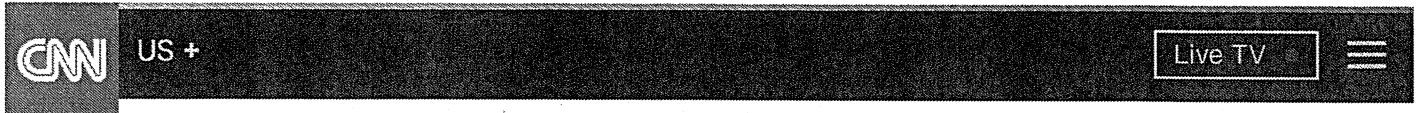
(CNN) — The grief that still envelops Parkland after last year's school massacre is now compounded by the recent suicides of current or former students.

Community leaders are urging parents everywhere to be vigilant and proactive in talking to their kids about trauma.



Sydney Aiello, a 2018 graduate of Marjory Stoneman Douglas High School, died by suicide last week. She survived the attack on Valentine's Day 2018 that killed 17 people at the Florida school -- including 14 students and three staff members.

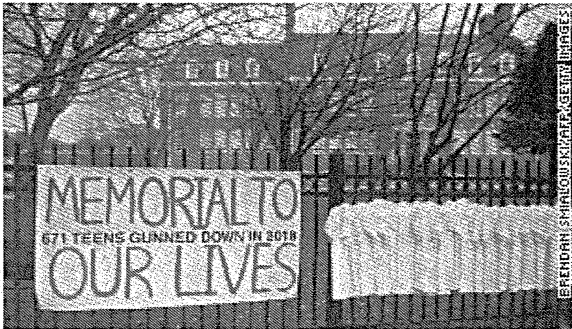
Aiello, a Florida Atlantic University student, suffered from survivor's guilt and had been diagnosed with post-traumatic stress disorder, her mom told CNN affiliate WFOR.



The student, who has not been publicly identified, was a student at Stoneman Douglas High. It's not clear under what circumstances the student died, or whether the apparent suicide was related to last year's massacre.

Parents: 'We have to take this seriously'

"Unfortunately, what we've learned is that the survivors of a traumatic event like a school shooting carry with them a lot of guilt, anxiety, pressures, depression even," said Ryan Petty, whose daughter Alaina Petty was killed in last year's shooting.



Related Article: Study: More US school-age children die from guns than on-duty US police or global military deaths



Related Article: How to get help for someone who might be suicidal

Petty, who has another child who survived the attack, established the WalkUp Foundation after the shooting with a focus on preventing suicide.

"We just have to assume as a parent that your child is not immune for that. Your child is at risk, and you need to take that seriously," he said.

Petty said the school district, community leaders, law enforcement and concerned parents met Sunday to discuss how to address the trauma survivors are facing.

"Even if everything appears to be OK, you need to take that seriously," he said. "You need to ask them the questions. Have you thought about killing yourself? Have you thought about ways you might do that?"

Petty said students had been offered resources after the shooting, including counseling options. But he said sometimes there are stigmas associated with getting help, or that students just pretended that they were OK.

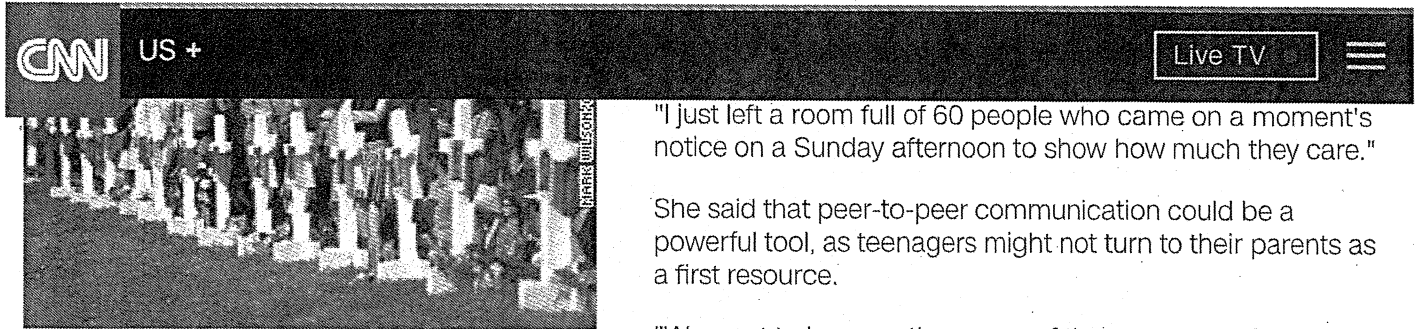
"So unfortunately some students are not availing themselves of those opportunities, and some parents are not understanding that the risks of anxiety and depression in a post-traumatic environment like a school shooting," Petty said.

"So our message is parents we have to take this seriously. We have to take this into our own hands. ... Regardless of your proximity to the building and whether or not you saw the horrific events of that day that took 17 lives and injured 17 others, you're part of a school community and that community is suffering."

The power of peer-to-peer communication

Cindy Arenberg Seltzer, the president of Children's Services Council of Broward County, also attended Sunday's meeting.

"One of the things that I have heard parents and children say is that nobody cares, and they just want us to get on with our



Related Article: 1 year after Parkland, parents and teachers are still grieving. These are their stories

"I just left a room full of 60 people who came on a moment's notice on a Sunday afternoon to show how much they care."

She said that peer-to-peer communication could be a powerful tool, as teenagers might not turn to their parents as a first resource.

"We want to harness the power of the young people to speak to each other," she said. That may include using Instagram, Snapchat or any other method that could "yield huge benefits."

MSD students use their experience to help others

In an example of such networking, MSD students have themselves been reaching out beyond their own community to help other people experiencing trauma.



Related Article: Parkland students comfort families in New Zealand

Survivors began a letter-writing campaign last week to help heal families and communities affected by the March 15 shootings at two mosques in Christchurch, New Zealand.

The Parkland students grew connected to the Christchurch community when they visited New Zealand last July on a learning and healing trip.

"We got letters after our tragedy. That was something that really surprised us," said Kai Koerber, a Stoneman Douglas senior who went on last year's trip.

"It's something that really warmed the hearts of people in my community. I think it will warm the hearts of people in Christchurch as well."

If you or someone you know might be at risk of suicide, here's how to get help: In the US, call the National Suicide Prevention Lifeline at 1-800-273-8255. The International Association for Suicide Prevention and Befrienders Worldwide also can provide contact information for crisis centers around the world.

CNN's Dakin Andone and Kevin Conlon contributed to this report.

**Exhibit 37 page numbers 1404-1502 are
intentionally omitted.**

Exhibit 38

HOSTED BY



Contents lists available at ScienceDirect

Journal of Acute Disease

journal homepage: www.jadweb.org



Document heading doi: 10.1016/S2221-6189(14)60041-X

Gunshot wounds: A review of ballistics related to penetrating trauma

Panagiotis K. Stefanopoulos^{1*}, Georgios F. Hadjigeorgiou², Konstantinos Filippakis³, Dimitrios Gyftokostas⁴

¹Colonel (Ret.), Private practice (maxillofacial surgery), Athens, Greece

²Resident, Department of Neurosurgery, Red Cross Hospital, Athens, Greece

³Brigadier, Department of ENT–Head and neck surgery, 401 Army Hospital, Athens, Greece

⁴Vascular surgeon

ARTICLE INFO

Article history:

Received

Received in revised form

Accepted

Available online

Keywords:

Wound ballistics

Gunshot wounds

Penetrating trauma

Firearms

ABSTRACT

Civilian gunshot injuries from handgun and rifle ammunition vary in severity depending on the anatomic location involved and the different effects from the ballistic properties of the penetrating projectiles. Ballistic factors such as the impact velocity and energy should not be considered in isolation, as their specific effects are determined by the interaction between the projectile and tissues. Increased tissue damage can result from tumbling of non-deforming rifle bullets and deformation of expanding bullets. Both of these mechanisms increase substantially the energy transfer to the wound and its diameter, also producing a pulsating temporary cavity associated with pressure changes within tissue.

1. Introduction

Since the introduction of the term “wound ballistics”^[1,2] indicating the study of the wounding mechanisms of missiles [3], extensive experimental research on this field has been conducted by investigators with a military background [4–7]. In the context of wound ballistics, the term missile is used to denote various types of small projectiles, such as bullets and fragments, that have enough kinetic energy to penetrate a living target [8]. Civilian gunshot injuries have been studied to a lesser

extent in connection to ballistic aspects [9–10], with major contributions by two influential forensic scientists, Beat Kneubuehl [11] in Europe, and Vincent DiMaio [12] in the US.

Whereas the severity of any penetrating injury is eventually related to the vicinity of the wound track to vital organs and large vessels, the nature of gunshot wounds (GSW) is influenced by the dynamics of the projectile and the local reaction of the penetrated tissue [13–16]. These two aspects reflect the complex projectile–tissue interaction which takes place during the penetration process [14,17,18], accounting for the scientific approach to these injuries both from a physical (ballistic) and biological (“wound”) point of view [16]. Therefore, a complete understanding of this process requires a basic knowledge of the ballistic factors implicated in tissue wounding. This paper reviews ballistics of GSW inflicted by handgun and rifle ammunition. Shotgun injuries are not included in the

Corresponding author: Panagiotis K. Stefanopoulos, 88 Pontou Str., Athens 11527, Greece.

Tel: +302710224908, +302107713894

E-mail: pan.stefanopoulos@gmail.com

present discussion as they differ from bullet injuries from a ballistic point of view.

2. Ballistic behavior of the bullet

The common characteristic of all firearms is a tube of variable length called barrel, with a chamber attached that receives the cartridge (the unit of ammunition) containing the bullet, the propellant, and the primer. The bullet is accelerated down the barrel to a final muzzle velocity under the high pressures built up by the expanding gases from the combustion of the propellant [19,20]. During this phase, the bullet attains a simultaneous rotatory movement (spin) as it is engaged by the spiral grooving of the interior of the gun barrel. This is an important feature called rifling, which necessitates that the diameter (caliber) of the bullet matches the internal diameter of the barrel. Since bullets are essentially axisymmetric bodies designed to afford the minimum area of presentation combined with the maximum possible mass, the spin is necessary for appropriate orientation of the bullet during flight with its tip (nose) pointing forward [2].

Projectiles are customarily classified as “low-” or “high-velocity”, roughly corresponding to the two main categories of small arms, handguns and rifles [4,21]. While low velocity is generally considered synonymous to subsonic (less than 350 m/s) [4,21], the high velocity range is less well defined. In the context of wound ballistics, high velocity is considered to start approximately at 600–700 m/s, above which “explosive effects” are commonly seen [4]. Medium or intermediate velocities (350–600 m/s) [4] are achieved by more powerful handguns, such as those using Magnum ammunition [21].

The nose contour and the mass of the bullet are important for the maintenance of its velocity and energy during flight [22]. Based on the measurements published in ballistic tables [23], the muzzle energy is considered to decrease significantly beyond 45 m for most handgun bullets, and beyond 100 m for rifle bullets [21]. Unfortunately, most civilian GSW are inflicted from an average of 10 m [24].

Modern military (assault) rifles launch their projectiles at 700–960 m/s. Military rifle bullets have a slender streamlined profile with a so-called spitzer (pointed) nose

(Figure 1), which improves their ballistic performance at the supersonic velocity range. With the exception of the newest lead-free designs, these bullets have the typical composition of a lead (“soft”) core protected against friction from the barrel by a shell (“jacket”) of harder metal such as a copper alloy or plated steel, which completely covers the lead core at the nose (but remains open at the base for manufacturing purposes) in order to prevent deformation during soft tissue penetration, a construction designated as full metal-jacketed (FMJ) [13,20,25]. FMJ handgun bullets have round or flat nose.



Figure 1. Examples of modern military rifle cartridges: 7.62 mm NATO (left), 5.56 mm NATO (chambered in the M16 rifle) (middle), 7.62 × 39AK-47 (Kalashnikov) (right). Military ammunition terminology uses metric system with bullet diameter expressed in mm.

During flight, bullets are subjected initially to the destabilizing effects of the escaping gases from the muzzle of the gun [26], and thereafter to the drag forces from the air resistance which increase with bullet velocity [4]. Because these forces concentrate on the anterior part of the bullet while its center of mass is located towards its rear, an overturning moment emerges, most prominent on spitzer bullets, which causes the bullet’s longitudinal axis to diverge from the line of trajectory [13,26–28]. This divergence is called yaw and is expressed by the angle between the bullet’s axis and the velocity vector [2,19,25,29,30]. Because of the spin, yawing results in a complex spiral revolution of the bullet’s tip in space about its center of mass, which

is known as precession, similar to the disturbance of a spinning top knocked sideways^[26] (Figure 2). However, under the gyroscopic stabilization by the spinprecession displays a declining amplitude with distance ^[26].



Figure 2. Condensed drawing demonstrating bullet yaw with precession (left),proceeding to tumbling (right). Arrow indicates direction of bullet movement.

When an FMJ bullet penetrates tissue, the resistance encountered resulting in its retardation affects its stability and occasionally its integrity, because tissue density is about 800 times greater than that of air and the spin can no longer maintain the bullet’s previous orientation ^[29]. Over a certain distance, which varies depending on the type of the bullet, yawing becomes irreversible, and within a sufficiently long path tumbling eventually occurs, thereafter the bullet advancing base–forward ^[16,17,30] (Figure 2).



Figure 3. Different handgun bullet construction: semi-jacketed hollow–point (SJHP) on the left, and full metal–jacketed round nose (FMJ RN) on the right. Both cartridges are 9 mm Luger.

The other major type of bullet construction is the deforming or expanding bullet which sustains an increase in diameter within the target. This includes solid lead bullets, and the specifically designed partially jacketed bullets which have the tip of the lead core either simply left exposed (jacketed soft–point bullets, JSP) or hollowed (semi-jacketed hollow–point bullets, SJHP). Upon impact

tissue resistance causes these bullets to become flattened or deform into a mushroom shape ^[13]. Deformed bullets do not yaw ^[16].Hollow–point rifle bullets are mandatory for hunting purposes in order to produce instant “humane” killing of the animal ^[13], but are strictly prohibited for military purposes under the Hague Convention of 1899 as they cause “excessive” wounding ^[14].Hollow–point handgun bullets (Figure 3) are in use by some police forces, because deformation of a low–velocity projectile prevents over penetration of the target, which otherwise could result in accidental wounding of bystanders.

3. Energy transfer characteristics of gunshot wounds

Several authors ^[13,15,18,31] have discussed the fallacy of describing the severity of GSW by means of the velocity characteristics of the penetrating missile. In the context of wound ballistics, “low–velocity” and “high–velocity” can only refer to the circumstances of wounding, indicating wounds from handguns and rifles respectively ^[32]. However, the use of such terms as estimates of the wound itself is inaccurate and potentially misleading, as it is based on the erroneous impression that the extent of wounding is directly proportional to the impact energy of the projectile, which is greatly influenced by its velocity according to the familiar kinetic energy formula ($KE=1/2mv^2$) ^[33]. In fact, it is only the energy deposited to the tissues that is transformed to work resulting in tissue disruption ^[8,14,28]. Although the effects of rifle bullets can be far more destructive compared to handguns because of their higher energy^[32], almost all of these so–called “explosive” effects can be traced to the phenomenon of cavitation ^[3], a prominent manifestation of high–energy transfer, as described below. At the other extreme, a non–deforming(FMJ) rifle bullet traversingin stable flight a limited width of soft tissue will spend only a small fraction of itsenormous kinetic energy ^[4]. Therefore, it is more appropriate to think in terms of energy transfer (or deposition)to the wound in order to outline its extent and severity rather than concentrating on the physical properties of the missile ^[4,15,29]. Moreover, the extent of tissue damage along the wound track may varyas a result of non–linear energy deposition ^[14,34]. The rate of energy transfer to the wound

is determined by the tissue resistance to penetration, which is affected by the frontal surface area of the bullet “presented” to the tissue^[14,30]. The critical factor leading to higher amounts of energy deposition along the missile track is any increase in the presented area, which invites drag forces of greater magnitude. There are two main mechanisms responsible for such an occurrence. With yawing, the presented area of the bullet can only enlarge; as the yaw angle approaches 90 degrees both the energy transfer and the resulting wounding effect increase markedly^[35], as the bullet essentially severs tissue with all its length^[13,36]. The small-caliber bullets of the M16 and Kalashnikov AK–74 assault rifles yaw and tumble significantly earlier than the twice heavier bullet used by the ubiquitous AK–47 rifle, thus creating large wounds early in their path^[13]. The other mechanism increasing the presented area of the projectile, and also the diameter of the wound track, is bullet deformation^[15,37].

4. Mechanisms of gunshot injuries

A bullet retained within the tissues has delivered all its energy, creating a blind wound with only an entrance aperture. Alternatively, a perforating (through-and-through) wound may be produced, with the bullet leaving the body through an exit wound^[4]. Although a low-velocity bullet may exit the wound depending on the width and density of the tissues traversed, it has been stated that at high impact velocities, above 550 m/s, a military rifle bullet will always exit an animal the size of a man, following a relatively straight course^[38]. Exit wounds tend to be larger and more irregular than entrance wounds, typically as a result of bullet tumbling^[18,30].

GSW are considered a special form of blunt trauma^[39]. They do not consist simply in plain tissue penetration, since they involve crushing due to overpressure in front of the projectile, and also indirect damage from temporary cavity formation in its wake region^[4,12,15,18,34,40,41]. These mechanisms can be interpreted as a sequence of fluid dynamic phenomena^[40], with the bullet viewed as an immersed body and the surrounding tissue with its high water content as “flowing” backwards around the

projectile’s surface^[41,42]. In addition, in contact or close range GSW, the injury is aggravated by the blast effect of the escaping propellant gases into the tissue^[12,31,43]. Tissue burning^[4] also occurs with bullets retained in the wound.

4.1. Direct tissue damage

Crush injury followed by rupture of the tissue encountered by the leading edge of the advancing bullet leads to the formation of the wound track^[4,7,13,18,41,43]. This combination has been called prompt damage as it occurs immediately in the direct vicinity of the projectile^[44] representing the predominant mechanism of tissue injury in low-energy GSW.

The residual wound track which remains after the passage of the projectile is commonly referred to as the permanent cavity^[2,4,7], although the term “cavity” should probably be reserved for the temporary cavitation phenomenon. The more comprehensive terms “permanent wound channel”^[16] and “permanent wound tract”^[7] have been used indicating the central defect (permanent “cavity”) together with any surrounding area of irreversible tissue damage^[7], the latter resulting from the crushing effect of the overpressure mechanism and the potential disruption from cavitation. Irreversibly damaged tissue subsequently undergoes necrosis and slough contributing to the permanent “cavity” formation^[4]. It is surrounded by an outer hemorrhagic area termed the extra vasation zone, which is characterized by interstitial bleeding but absence of macroscopically evident tissue destruction^[4,16].

4.2. Cavitation

As the projectile is moving forward, tissue detaches from the projectile–tissue interface, as a result of boundary flow separation, and is subsequently accelerated radially, the same way as a speedboat displaces water^[30], while the momentum imparted to tissue particles results in the formation of a vacuum^[3,16,41,42]. The underlying process called cavitation becomes clinically important at impact velocities exceeding 600 m/s^[45], thus considered the most important feature in wound ballistics of high-velocity projectiles^[15,16,25]. Cavitation is an extremely dynamic

phenomenon, which exceeds the capacity of the soft tissue to yield to the pressure changes created by the penetrating missile. Because of this inertia, tissue displacement lags behind the bullet, and the resultant deformity, known as the temporary cavity, reaches maximum size within several milliseconds after its passage [3,4,34,45]. Subsequently, the energy stored in any displaced tissue with enough elasticity cause the cavity walls to collapse, with a few cycles of expansion and contraction (“pulsations”) following in a waning fashion, until tissue settles in the form of the residual wound track. This short-lived character of the cavity is emphasized by the name “temporary”[16,40].

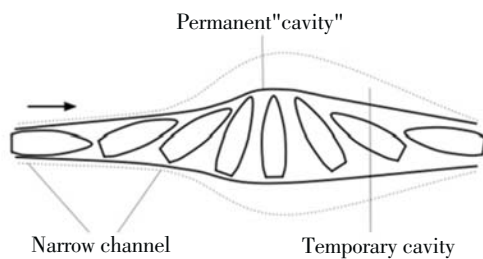


Figure 4. Idealized drawing of temporary cavity formation (dotted line) by military rifle bullet. The cavity expands in spindle-shaped fashion as the bullet yaws and tumbles, after the initial narrow channel. The residual wound track (permanent “cavity”) appears in solid line. Arrow indicates direction of bullet movement.

The magnitude of the cavitation phenomenon is related to the rate of energy deposition. The study of military rifle bullets in synthetic materials simulating muscle tissue suggests that as long as the bullet moves within the target without significant yawing, thus sustaining little retardation, the wound track remains “narrow”, a little wider than the bullet diameter [16]. Although this so-called narrow channel also involves a minor temporary cavitation effect [46], an expanding spindle-shaped cavity becomes evident as the yaw angle increases irreversibly, and becomes maximum in cross section when the bullet yaws at 90 degrees causing wide separation of tissue “flow” (Figure 4), consistent with a dramatic increase in energy transfer. FMJ handgun bullets may also yaw within tissue but do not elicit significant cavitation because these bullets are shorter than rifle bullets and their presented area increases only negligibly with yawing [16]. On the other hand, deforming handgun bullets depending on their velocity give rise to relatively large temporary cavities [9,47].

The damage produced by cavitation results from

stretching due to tensile strain, but also from compression of the surrounding tissue as well as shearing of fascial interfaces within it [3,40]. Although controversy still exists regarding the relative importance of these effects and the extent of the resultant necrosis in muscle tissue [4,7,34,35,48], cavitation is clearly devastating in susceptible organs such as the brain and liver [4,7]. In the extravasation zone tissue injury results from tearing of the elements most sensitive to tensile forces, namely the capillaries [4,16], and there is a direct relationship between the size of the temporary cavity and the width of the extravasation zone [16]. Moreover, the vacuum created during the expansion of the cavity causes suction of foreign material and debris into the wound [49], on top of the contamination already present from the bullet surface, which is not sterilized from heating as commonly believed [13,26]. The clinical picture of a wound channel which is bordered by contused and potentially necrotizing tissue inoculated with bacteria represents the hallmark of high-energy gunshot injury [25,37,50]. The external appearance of such a wound may be deceptive with respect to the damage produced deep in the tissues. As previously mentioned, however, a military rifle bullet may induce a low-energy wound in case of a perforating wound track no longer than the narrow channel simulated for that type of bullet [46].

4.3. Bone injuries

Ballistic bone injury is a more complex process than penetration of soft tissue [51]. In general, bone tissue causes marked retardation of the penetrating bullet [4,15,18], as expected by its greater density compared to soft tissue and its related mechanical properties, particularly its hardness [52,53], which may also cause the bullet to deform or break up [18,54].

Drill-hole defects, which are characteristic of low-energy ballistic penetration, are more common in the metaphyseal region of long bones because of the greater proportion of cancellous bone and the associated energy absorptive capacity which limits the extension of fracture lines [55,56]. High-energy ballistic impacts typically produce comminuted fractures [56,57] from the explosive effects of cavitation associated with the fluid properties of bone marrow [3,16,52]. Bone comminution is not uncommon with

handgun injuries [56,57] and may resemble radiologically a high-energy fracture, but the latter involves a much more severely damaged zone of soft tissue [58].

4.4. Head injuries

The impact energy of the projectile, the angle of interaction with the bony surface, and the underlying bone thickness are important determinants of skull penetration [12,20]. Tangential bullet wounds of the skull are known as “gutter” wounds; they may involve only the outer table or the full thickness of the bone [30]. Bullets capable of entering the skull usually have enough remaining energy to reach the opposite side either perforating through it or becoming arrested without exiting [20]. This is commonly associated with early destabilization or deformation of the penetrating projectile, and also creation of bone fragments which may act as secondary missiles [40]. FMJ bullets are more likely to perforate the skull and this likelihood increases with the caliber. However, the size of the permanent wound channel in the brain bears no relationship to the caliber or muzzle energy of the bullet [12].

The head represents a particular structure from a wound ballistics point of view [59]. The pressure buildup by the expansion of the temporary cavity within it can only be relieved by bursting of the skull [30], as demonstrated with high-velocity projectiles penetrating either intact animal heads [3] or human skulls filled with gelatin to simulate the brain substance [50]. By contrast, in the absence of a non-compressible content with fluid properties to transmit the pressure to the braincase, the only defects produced by the same types of projectiles in the empty skull were neat entrance and exit holes with no shattering of bone [3,50]. The same mechanism of hydraulic pressure is responsible for indirect fractures of the thin orbital plates almost invariably produced by handgun bullets penetrating the head [16,30,40].

Brain tissue has little tolerance to sudden increases in pressure as it is firmly enclosed within an unyielding case, and this appears to enhance the consequences of cavitation produced even by low-velocity projectiles. Parenchymal changes extending for some distance around the permanent wound channel have been observed with fatal handgun injuries, most likely attributed to temporary cavitation [60].

Large temporary cavities from FMJ handgun bullets have been demonstrated in experimental models of ballistic brain injury [61]. Moreover, autopsy findings [62] and previous animal studies suggest that the “ordinary” pressure waves [63] associated with cavitation, rather than the early ballistic pressure wave (“shock wave”), may be important causes in the pathogenesis of respiratory arrest following low-velocity ballistic trauma of the head, in the absence of significant mass effect or direct involvement of brainstem structures by the missile track.

5. Conclusion

The damage produced by penetrating bullets depends on the amount of their impact energy that is delivered to the tissues, the rate at which this occurs, and the local response of the tissue zone subjected to cavitation effects from high-energy injuries. Although the complex interactions of the projectile with the various tissues result in a wide range of ballistic injury patterns, awareness of the specific mechanisms that cause increased tissue destruction, namely bullet tumbling and deformation, will assist recognition of the less common injuries involving high energy transfer, which are also associated with a higher risk of infectious complications.

Conflict of interest statement

We declare that we have no conflict of interest

References

- [1] Callender GR, French RW. Wound ballistics: studies in the mechanism of wound production by rifle bullets. *Mil Surg* 1935;77(4):177–201.
- [2] French RW, Callender GR. Ballistic characteristics of wounding agents. In: Beyer JC.(ed.) *Wound ballistics*. Washington, D.C.: Office of the Surgeon General, *Department of the Army*; 1962, p. 91–141.
- [3] Harvey EN, McMillen JH, Butler EG, Puckett WO. Mechanism

- of wounding. In: Beyer JC. (ed.) *Wound ballistics*. Washington, D.C.: Office of the Surgeon General, *Department of the Army*;1962,p.143–235.
- [4] Bellamy RF, Zajchuk R. *Conventional warfare:ballistic, blast, and burn injuries*. Washington, DC: Walter Reed Army Medical Center, *Office of the Surgeon General*; 1991, p.107–162.
- [5] Wang ZG, Jiang J. Thinking on wound ballistics research. *Int Rev Armed Forces Med Serv* 2000;**73**(1): 3–6.
- [6] Payne LD. Military wound ballistics: history and renaissance. *J R Army Med Corps* 2013; **159**(4): 256–258.
- [7] Breeze J, Sedman AJ, James GR, Newbery TW, Hepper AE. Determining the wounding effects of ballistic projectiles to inform future injury models: a systematic review. *J R Army Med Corps* 2014;**160**(4):273–278.
- [8] Haywood IR. Missile injury. *Probl Gen Surg* 1989;**6**(2):330–347.
- [9] Yoganandan N, Pintar FA, Kumaresan S, Maiman DJ, Hargarten SW. Dynamic analysis of penetrating trauma. *J Trauma* 1997;**42**(2):266–272.
- [10] Zhang J, Yoganandan N, Pintar FA, Genarelli TA. Temporary cavity and pressure distribution in a brain simulant following ballistic penetration. *J Neurotrauma* 2005; **22**(11): 1335–1347.
- [11] Kneubuehl BP, Coupland RM, Rothschild MA, Thali MJ. *Wundballistik: Grundlagen und Anwendungen*.3rd ed.Heidelberg:Springer; 2008.
- [12] DiMaio VJ. *Gunshot wounds: practical aspects of firearms, ballistics, and forensic techniques*. 2nd ed. Boca Raton, FL: CRC Press; 1999.
- [13] Hollerman JJ, Fackler ML, Coldwell DM, Ben–Menachem Y. Gunshot wounds: 1. Bullets, ballistics, and mechanisms of injury. *AJR Am J Roentgenol*1990;**155**(4): 685–690.
- [14] Coupland RM, Kneubuehl BP, Rowley DI, Bowyer GW. Wound ballistics, surgery and the law of war. *Trauma* 2000; **2**(1): 1–10.
- [15] Griffiths D, Clasper J. Bullet and blast injuries: (iii) Military limb injuries/ballistic fractures. *Curr Orthop* 2006; **20**(5): 346–353.
- [16] Kneubuehl BP. General wound ballistics.In: Kneubuehl BP, Coupland RM, Rothschild MA, Thali MJ. (eds.) *Wound ballistics: basics and applications*(Translation of the revised 3rd German edition). Berlin: Springer;2011,p.87–161.
- [17] Fackler ML, Malinowski JA. The wound profile: a visual method for quantifying gunshot wound components. *J Trauma* 1985; **25**(6): 522–529.
- [18] Janzon B, Hull JB, Ryan JM. Projectile–material interactions: soft tissue and bone. In: Cooper GJ, Dudley HA, Gann DS, Little RA, Maynard RL. (eds.) *Scientific foundations of trauma*. Oxford: Butterworth–Heinemann;1997,p.37–52.
- [19] Moss GM, Leeming DW, Farrar CL. *Military ballistics: a basic manual*. London: Brassey’s; 1995,p.9–22.
- [20] Jandial R, Reichwage B, Levy M, Duenas V, Sturdivan L. Ballistics for the neurosurgeon. *Neurosurgery* 2008; **62**(2): 472–480.
- [21] Gugala Z, Lindsey RW. Classification of gunshot injuries in civilians. *Clin Orthop Relat Res* 2003; **408**: 65–81.
- [22] DeMuth WE, Jr. Bullet velocity as applied to military rifle wounding capacity. *J Trauma* 1969; **9**(1): 27–38.
- [23] Appendix A. Tables. In: Kneubuehl BP, Coupland RM, Rothschild MA, Thali MJ. (eds.) *Wound ballistics: basics and applications*(Translation of the revised 3rd German edition). Berlin: Springer; 2011, p. 345–404.
- [24] Ordog GJ, Balasubramaniam S, Wasserberger J, Kram H, Bishop M, Shoemaker W. Extremity gunshot wounds: Part one – identification and treatment of patients at high risk of vascular injury. *J Trauma* 1994; **36**(3): 358–368.
- [25] Gyftokostas D, Komborozos B. The mechanism of firearm injury [article in Greek]. *Iatrika Chronika* 1986; **9**(1): 17–26.
- [26] Hopkinson DA, Marshall TK. Firearm injuries. *Br J Surg* 1967; **54**(5): 344–353.
- [27] Peters CE, Seaborn CL, Crowder HL. Wound ballistics of unstable projectiles. Part I: projectile yaw growth and retardation. *J Trauma* 1996; **40**(Suppl 3): S10–S15.
- [28] Kneubuehl BP. Basics. In: Kneubuehl BP, Coupland RM, Rothschild MA, Thali MJ. (eds.) *Wound ballistics: basics and applications*(Translation of the revised 3rd German edition). Berlin: Springer; 2011, p. 3–85.
- [29] Janzon B. Projectile–material interactions: simulants. In: Cooper GJ, Dudley HA, Gann DS, Little RA, Maynard RL. (eds.) *Scientific foundations of trauma*. Oxford: Butterworth–Heinemann; 1997, p. 26–36.
- [30] DiMaio VJM, Dana SE. *Handbook of forensic pathology*. 2nd ed. Boca Raton, FL:CRC Press; 2006, p. 121–154.
- [31] Fackler ML. Civilian gunshot wounds and ballistics: dispelling the myths. *Emerg Med Clin North Am* 1998; **16**(1): 17–28.
- [32] Kneubuehl BP. Wound ballistics of bullets and fragments. In: Kneubuehl BP, Coupland RM, Rothschild MA, Thali MJ. (eds.) *Wound ballistics: basics and applications*(Translation of the revised 3rd German edition). Berlin: Springer; 2011, p. 163–252.
- [33] Santucci RA, Chang YJ. Ballistics for physicians: myths about wound ballistics and gunshot injuries. *J Urol* 2004; **171**(4):


- 1408–1414.
- [34] Janzon B, Seeman T. Muscle devitalization in high-energy missile wounds, and its dependence on energy transfer. *J Trauma* 1985; **25**(2): 138–144.
- [35] Dziemian AJ, Mendelson JA, Lindsey D. Comparison of the wounding characteristics of some commonly encountered bullets. *J Trauma* 1961;**1**: 341–353.
- [36] Bono CM, Heary RF. Gunshot wounds to the spine. *Spine J* 2004; **4**(2): 230–240.
- [37] Bellamy RF. The medical effects of conventional weapons. *World J Surg* 1992; **16**(5): 888–892.
- [38] DeMuth WE, Jr, Smith JM. High-velocity bullet wounds of muscle and bone: the basis of rational early treatment. *J Trauma* 1966; **6**(6): 744–755.
- [39] Pollak S, Saukko PJ. Gunshot wounds. In: Jamieson A, Moenssens A. (eds.) Wiley encyclopedia of forensic science. West Sussex: Wiley; 2009, p. 1380–1401.
- [40] Karger B. Forensic ballistics. In: Tsokos M. (ed.) Forensic pathology reviews. Volume 5. Totowa, NJ: Humana Press; 2008,p.139–172.
- [41] Davidson PL,Taylor MC,Wilson SJ,Walsh KAJ,KieserJA. Physical components of soft-tissue ballistic wounding and their involvement in the generation of blood backspatter. *J Forensic Sci* 2012; **57**(5): 1339–1342.
- [42] Felsmann MZ, Szarek J, Felsmann M, Babinska I. Factors affecting temporary cavity generation during gunshot wound formation in animals – new aspects in the light of flow mechanics: a review. *Veterinarni Medicina* 2012; **57**(11): 569–574.
- [43]Dougherty PJ, Fackler ML. Wound ballistics: the pathophysiology of wounding. In: Dougherty PJ. (ed.) Gunshot wounds. Rosemont, IL: AAOS; 2011, p. 11–18.
- [44] Peters CE, Sebourn CL. Wound ballistics of unstable projectiles. Part II: temporary cavity formation and tissue damage. *J Trauma* 1996; **40**(Suppl 3): S16–S21.
- [45] Scott R. Pathology of injuries caused by high-velocity missiles. *Clin Lab Med* 1983; **3**(2): 273–294.
- [46] Giannou C, Baldan M. War surgery: working with limited resources in armed conflict and other situations of violence. Volume 1. Geneva: International Committee of the Red Cross; 2009,p.53–78.
- [47] Bolliger SA, Thali MJ, Bolliger MJ, Kneubuehl BP. Gunshot energy transfer profile in ballistic gelatin, determined with computed tomography using the total crack length method. *Int J Legal Med* 2010; **124**(6): 613–616.
- [48] Fackler ML, Breteau JP, Courbil LJ, Taxit R, Glas J, Flevet JP. Open wound drainage versus wound excision in treating the modern assault rifle wound. *Surgery* 1989; **105**(5): 576–584.
- [49] Große Perdekamp M, Kneubuehl BP, Serr A, Vennemann B, Pollak S. Gunshot-related transport of micro-organisms from the skin of the entrance region into the bullet path. *Int J Legal Med* 2006; **120**(5): 257–264.
- [50] Owen-Smith MS. High velocity missile wounds. London: Edward Arnold; 1981, p. 15–42.
- [51] Molde Å, Gray R. Letter to the editor. *Injury* 1995; **26**(2): 131.
- [52] Huelke DF, Buege LJ, Harger JH. Bone fractures produced by high velocity impacts. *Am J Anat* 1967; **120**(1): 123–131.
- [53] Bartlett CS. Clinical update: gunshot wound ballistics. *Clin Orthop Relat Res* 2003;**408**: 28–57.
- [54] Stefanopoulos PK, Filippakis K, Soupiou OT, Pazarakiotis VC. Wound ballistics of firearm-related injuries–Part 1: missile characteristics and mechanisms of soft tissue wounding. *Int J Oral Maxillofac Surg* 2014; **43**(12): 1445–1458.
- [55]Huelke DF, Harger JH, Buege LJ, Dingman HG, Harger DR. An experimental study in bio-ballistics: femoral fractures produced by projectiles. *J Biomech* 1968; **1**(2): 97–105.
- [56]Rose SC, Fujisaki CK, Moore EE. Incomplete fractures associated with penetrating trauma: etiology, appearance, and natural history. *J Trauma* 1988; **28**(1): 106–109.
- [57]Leffers D, Chandler RW. Tibial fractures associated with civilian gunshot injuries. *J Trauma* 1985; **25**(11): 1059–1064.
- [58]Bowyer GW, Rossiter ND. Management of gunshot wounds of the limbs. *J Bone Joint Surg Br* 1997; **79**(6): 1031–1036.
- [59]Rothschild MA. Wound ballistics and forensic medicine. In: Kneubuehl BP, Coupland RM, Rothschild MA, Thali MJ. (eds.) Wound ballistics: basics and applications. Translation of the revised 3rd German edition. Berlin: Springer; 2011, p. 252–303.
- [60]Oehmichen M, Meissner C, König HG. Brain injury after gunshot wounding: morphometric analysis of cell destruction caused by temporary cavitation. *J Neurotrauma* 2000; **17**(2): 155–162.
- [61]Zhang J, Yoganandan N, Pintar FA, Guan Y, Gennarelli TA. Experimental model for civilian ballistic brain injury biomechanics quantification. *J Biomech* 2007; **40**(10): 2341–2346.
- [62]OehmichenM, Meissner C, König HG, Gehl HB. Gunshot injuries to the head and brain caused by low-velocity handguns and rifles: a review. *Forensic Sci Int* 2004; **146**(2–3): 111–120.
- [63]Carey ME. Experimental missile wounding of the brain. *Neurosurg Clin North Am* 1995; **6**(4): 629–642.

Exhibit 39

QuickFacts California

QuickFacts provides statistics for all states and counties, and for cities and towns with a population of 5,000 or more.

Table

ALL TOPICS	California
Population estimates, July 1, 2018, (V2018)	39,667,045
 PEOPLE	
Population	
Population estimates, July 1, 2018, (V2018)	39,667,045
Population estimates, July 1, 2017, (V2017)	39,536,853
Population estimates base, April 1, 2010, (V2018)	37,254,523
Population estimates base, April 1, 2010, (V2017)	37,254,518
Population, percent change - April 1, 2010 (estimates base) to July 1, 2018, (V2018)	6.2%
Population, percent change - April 1, 2010 (estimates base) to July 1, 2017, (V2017)	6.1%
Population, Census, April 1, 2010	37,253,956
Age and Sex	
Persons under 5 years, percent	▲ 6.3%
Persons under 18 years, percent	▲ 22.9%
Persons 65 years and over, percent	▲ 13.9%
Female persons, percent	▲ 50.3%
Race and Hispanic Origin	
White alone, percent	▲ 72.4%
Black or African American alone, percent (a)	▲ 6.5%
American Indian and Alaska Native alone, percent (a)	▲ 1.6%
Asian alone, percent (a)	▲ 15.2%
Native Hawaiian and Other Pacific Islander alone, percent (a)	▲ 0.5%
Two or More Races, percent	▲ 3.9%
Hispanic or Latino, percent (b)	▲ 39.1%
White alone, not Hispanic or Latino, percent	▲ 37.2%
Population Characteristics	
Veterans, 2013-2017	1,661,433
Foreign born persons, percent, 2013-2017	27.0%
Housing	
Housing units, July 1, 2017, (V2017)	14,176,870
Owner-occupied housing unit rate, 2013-2017	54.6%
Median value of owner-occupied housing units, 2013-2017	\$443,400
Median selected monthly owner costs -with a mortgage, 2013-2017	\$2,206
Median selected monthly owner costs -without a mortgage, 2013-2017	\$542
Median gross rent, 2013-2017	\$1,358
Building permits, 2017	114,780
Families & Living Arrangements	
Households, 2013-2017	12,888,120
Persons per household, 2013-2017	2.96
Living in same house 1 year ago, percent of persons age 1 year+, 2013-2017	88.2%
Language other than English spoken at home, percent of persons age 5 years+, 2013-2017	44.0%
Computer and Internet Use	
Households with a computer, percent, 2013-2017	90.2%
Households with a broadband Internet subscription, percent, 2013-2017	82.6%
Education	
High school graduate or higher, percent of persons age 25 years+, 2013-2017	82.5%
Bachelor's degree or higher, percent of persons age 25 years+, 2013-2017	32.6%
Health	
With a disability, under age 65 years, percent, 2013-2017	6.9%
Persons without health insurance, under age 65 years, percent	▲ 8.1%

Is this page helpful? X
☒ Yes ☐ No

Economy	
In civilian labor force, total, percent of population age 16 years+, 2013-2017	63.0%
In civilian labor force, female, percent of population age 16 years+, 2013-2017	57.1%
Total accommodation and food services sales, 2012 (\$1,000) (c)	90,830,372
Total health care and social assistance receipts/revenue, 2012 (\$1,000) (c)	248,953,592
Total manufacturers shipments, 2012 (\$1,000) (c)	512,303,164
Total merchant wholesaler sales, 2012 (\$1,000) (c)	666,652,186
Total retail sales, 2012 (\$1,000) (c)	481,800,461
Total retail sales per capita, 2012 (c)	\$12,665
Transportation	
Mean travel time to work (minutes), workers age 16 years+, 2013-2017	28.8
Income & Poverty	
Median household income (in 2017 dollars), 2013-2017	\$67,169
Per capita income in past 12 months (in 2017 dollars), 2013-2017	\$33,128
Persons in poverty, percent	▲ 13.3%
BUSINESSES	
Businesses	
Total employer establishments, 2016	922,477 ¹
Total employment, 2016	14,600,349 ¹
Total annual payroll, 2016 (\$1,000)	886,643,923 ¹
Total employment, percent change, 2015-2016	1.9% ¹
Total nonemployer establishments, 2016	3,277,415
All firms, 2012	3,548,449
Men-owned firms, 2012	1,852,580
Women-owned firms, 2012	1,320,085
Minority-owned firms, 2012	1,619,857
Nonminority-owned firms, 2012	1,819,107
Veteran-owned firms, 2012	252,377
Nonveteran-owned firms, 2012	3,176,341
GEOGRAPHY	
Geography	
Population per square mile, 2010	239.1
Land area in square miles, 2010	155,779.22
FIPS Code	06

Is this page helpful? ^x
☒ Yes ☐ No

About datasets used in this table

Value Notes

1. Includes data not distributed by county.

▲ Estimates are not comparable to other geographic levels due to methodology differences that may exist between different data sources.

Some estimates presented here come from sample data, and thus have sampling errors that may render some apparent differences between geographies statistically indistinguishable. Click the Q1 left of each row in TABLE view to learn about sampling error.

The vintage year (e.g., V2018) refers to the final year of the series (2010 thru 2018). *Different vintage years of estimates are not comparable.*

Fact Notes

- (a) Includes persons reporting only one race
- (b) Hispanics may be of any race, so also are included in applicable race categories
- (c) Economic Census - Puerto Rico data are not comparable to U.S. Economic Census data

Value Flags

- Either no or too few sample observations were available to compute an estimate, or a ratio of medians cannot be calculated because one or both of the median estimates falls in the interval of an open ended distribution.
- D Suppressed to avoid disclosure of confidential information
- F Fewer than 25 firms
- FN Footnote on this item in place of data
- NA Not available
- S Suppressed; does not meet publication standards
- X Not applicable
- Z Value greater than zero but less than half unit of measure shown

QuickFacts data are derived from: Population Estimates, American Community Survey, Census of Population and Housing, Current Population Survey, Small Area Health Insurance Estimates, Small Area Poverty Estimates, State and County Housing Unit Estimates, County Business Patterns, Nonemployer Statistics, Economic Census, Survey of Business Owners, Building Permits.

ABOUT US	FIND DATA	BUSINESS & INDUSTRY	PEOPLE & HOUSEHOLDS	SPECIAL TOPICS	NEWSROOM
Are You in a Survey?	QuickFacts	Help With Your Forms	2020 Census	Advisors, Centers and Research Programs	News Releases
FAQs	American FactFinder	Economic Indicators	2010 Census	Statistics in Schools	Release Schedule
Director's Corner	2010 Census	Economic Census	American Community Survey	Tribal Resources (AIAN)	Facts for Features
Regional Offices	Economic Census	E-Stats	Income	Emergency Preparedness	Stats for Stories
History	Interactive Maps	International Trade	Poverty	Statistical Abstract	Blogs
Research	Training & Workshops	Export Codes	Population Estimates	Special Census Program	
Scientific Integrity	Data Tools	NAICS	Population Projections	Data Linkage Infrastructure	
Census Careers	Developers	Governments	Health Insurance	Fraudulent Activity & Scams	
Diversity @ Census	Catalogs	Longitudinal Employer-Household Dynamics (LEHD)	Housing	USA.gov	
Business Opportunities	Publications	Survey of Business Owners	International		
Congressional and Intergovernmental			Genealogy		
Contact Us					

CONNECT WITH US

Accessibility | Information Quality | FOIA | Data Protection and Privacy Policy | U.S. Department of Commerce

Is this page helpful? Yes No

**Exhibit 39 page numbers 1514-1515 are
intentionally omitted.**

Exhibit 40




Two Mass Shootings that Changed California

In 1989, a catastrophic event changed the perception of gun violence in California. A gunman took an assault rifle to Cleveland Elementary School in Stockton, where he killed five children and wounded 29 other children as well as one teacher.

The parallels between the Stockton shooting and the shooting at Sandy Hook Elementary School in Newtown, Connecticut are startling. As one news report observed, "Except for the fatal scale of the Connecticut shooting[,] the assault at

Californians were thrust back into tragedy a few years later, in the summer of 1993, when a man entered the law firm of Pettit & Martin in downtown San Francisco armed with military-style assault weapons, and walked through the office on a shooting rampage. Within minutes, he had killed eight people and wounded six more before taking his own life.

In the days following, devastated members of the San Francisco legal community joined together to find solutions to prevent future

 In the early 1990s, California's gun laws were weak and full of gaps, and the toll of gun violence across the state rose to unprecedented levels - at one point 15% higher than the national average.¹ California was facing epidemic proportions of gun violence and the impact was being felt by every community, from Redding to San Diego.

Cleveland Elementary School here featured near-identical and tragic themes: young victims, a troubled gunman and a military-style rifle."²

The Stockton shooting shocked California and the nation, igniting calls for change. Then, as now, change was not quick to come from Congress. Instead, it was California's legislature that responded to the demand for action, adopting the first assault weapons ban in the country that same year.

tragedies by forming Legal Community Against Violence, now known as the Law Center to Prevent Gun Violence.

The shooting at Pettit & Martin galvanized the resolve of legislators and supporters of commonsense gun regulation in California. In the last two decades, with the Law Center's dedicated team of attorneys leading the way, California has become a national leader in the movement for effective gun laws.

AG00018322

The Law Center: Twenty Years of Improving Safety in California

Over the last twenty years, the Law Center has been instrumental in making California safer through an innovative mix of work at the state and local levels. At the state level, we have assisted countless legislators in the development of smart legislation to protect our communities, providing research and drafting assistance, and testifying at public hearings.

With our support, California cities and counties have pioneered legislative efforts to reduce gun-related deaths and injuries and adopted over 300 innovative firearm ordinances since the mid-1990s. Significantly, this local regulatory activity has provided the catalyst for the enactment of many state laws: those to ban “junk guns,” require firearms dealers to equip



Through our extensive work and partnerships, California’s gun laws are now the strongest in the nation, and, as discussed inside, the state’s gun death rate has plummeted over the last two decades. Still, with thousands injured or killed by guns statewide every year, the Law Center’s work is far from over.

To date, we have supported the adoption of over 30 significant laws, including those to ban military-style weapons and ammunition magazines, create strong safety standards for handguns, prohibit the open carrying of unloaded firearms in public, and help law enforcement get guns out of the hands of felons, domestic abusers and other dangerous people. The state’s comprehensive and cogent gun laws place California at the forefront of gun violence prevention.

Our legal team has also been deeply involved at the local level, offering a wide variety of services to legislators and advocates looking to prevent gun violence in communities across California.

all firearms with a child-safety lock, limit handgun purchases to one per person per month, and ban 50-caliber rifles.

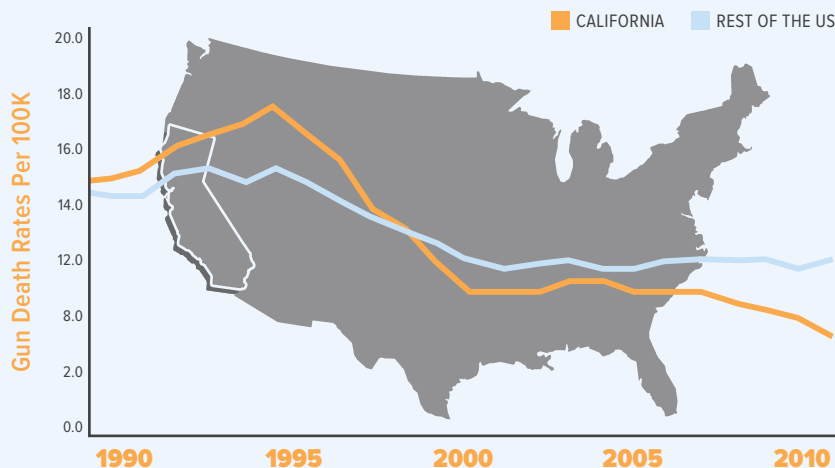
In addition to championing smart approaches to reducing gun violence, we’ve also worked to defeat gun lobby-sponsored legislation attempting to weaken California’s gun laws. Having repeatedly failed in Sacramento, the gun lobby is increasingly trying to attack California’s laws in the courts. We support jurisdictions statewide in their efforts to successfully defend good laws against these meritless legal challenges with the assistance of pro bono counsel from top national law firms.

AG00018323

Proof in the Data: Thousands of Lives Saved

Over the last twenty years, the number of people injured or killed by guns in California has decreased dramatically. In 1993, 5,500 Californians were killed by gunfire; by 2010, the most recent year for which data is available, that number had dropped to 2,935.³ In just two decades, the state's gun death rate has been cut by 56%, a reduction that translates to thousands of lives saved every single year.⁴

Gun Death Rates in California and the Nation



The rate of gun violence in California has also fallen notably compared to rest of the country. Today, California has the ninth lowest gun death rate of any state nationwide when twenty years ago, it had the thirty-fifth lowest rate.⁵

California has taken a comprehensive and courageous approach to addressing the epidemic of gun violence, and that approach has succeeded. The state's strong gun laws not only help save lives, but also reduce the trafficking of illegal guns to other states and to Mexico, protecting lives in neighboring communities.⁶

AG00018324

California: A Leader in Adopting Smart Gun Laws

The Law Center has supported numerous bills in the California Legislature to reduce gun violence, over 30 of which have been enacted into law. Some significant highlights include:



Standards for Gun Safety

- 1999** - Prohibited the manufacture or sale of handguns that lack design safety standards.
- 1999** - Required the Department of Justice to develop standards for firearm safety devices to keep children safe and prevent unauthorized access to firearms.
- 2001** - Established the Handgun Safety Certificate Requirement, requiring individuals to pass a written test and demonstrate safe handling before purchasing a handgun.
- 2003** - Required new handgun models to include "chamber load indicators" to help prevent accidental shootings.



Access to Weapons by Domestic Violence Abusers

- 1994** - Prohibited individuals subject to a domestic violence restraining order from possessing a firearm while the order is in effect.
- 2012** - Required domestic violence abusers to relinquish firearms when a protective order is served.



Guns in Public Places

- 1997** - Expanded the scope of the crime of carrying a concealed firearm in vehicles to also include people who are not driving the vehicle.
- 2011** - Prohibited individuals from openly carrying unloaded handguns in public, which was previously allowed even if the person was also carrying ammunition.
- 2012** - Expanded the ban on openly carrying unloaded guns in public to include long guns.



Preventing Gun Trafficking and Solving Gun Crimes

- 1998** - Provided comprehensive regulation of gun manufacturers to empower law enforcement in their efforts to curb trafficking.
- 1999** - Prohibited individuals from purchasing more than one handgun in a 30-day period to fight gun trafficking.
- 2001** - Established a first-of-its-kind database of individuals who legally purchased firearms but subsequently became prohibited from possessing them – empowering law enforcement to disarm dangerous people.
- 2007** - Imposed a first-in-the-nation requirement that all new handgun models manufactured for sale in California be equipped with "microstamping" technology that imprints identifying information on each cartridge case when the firearm is fired to help law enforcement to solve gun crimes.
- 2009** - Required retention of handgun ammunition sales records, and the completion of sales in a face-to-face transaction.⁷
- 2011** - Required retention of records of all rifle and shotgun sales.



Dangerous Military-Style Weapons in Our Communities

- 2000** - Prohibited the sale and manufacturing of large capacity ammunition magazines (those capable of holding more than 10 rounds).
- 1999** - Strengthened the 1989 state assault weapon ban to require a one-feature test, becoming the first state in the nation to do so, and making it harder for the gun industry to evade the law by modifying a banned weapon.
- 2004** - Became the first state to ban the manufacture, sale, and possession of massive, military-style 50-caliber firearms.

AG00018325

California as a Model for Gun Safety

California has created an impressive model of strong and effective gun regulation as well as pioneered innovative approaches to this problem. In the aftermath of the shooting at Sandy Hook Elementary, state legislators across the country seeking to adopt smart new laws looked to California's example and the Law Center's expert legal support.

In the first quarter of 2013, our legal team worked with 24 states interested in new gun safety legislation and six of these states successfully implemented new firearms laws

Gun violence is not a problem without solutions. We know what works, we've seen the difference it has made in California, and we are already seeing the same success in other states. We've come a long way since 1993, and we're only getting started.

before the six month anniversary of the shooting at Sandy Hook. Connecticut, Maryland, and New York passed comprehensive packages that include laws to expand and improve background checks, limit the sale or transfer of military-style assault weapons and large-capacity ammunition magazines, require safety training and improve systems for keeping guns away from domestic violence abusers and the dangerously mentally ill. Delaware and Colorado passed laws requiring background checks on all gun sales and California immediately added enforcement teeth to its law to confiscate guns from criminals and the mentally ill.

There is still so much more we can do to prevent gun deaths and injuries in America. California will continue to lead the country in the effort to prevent gun violence, and the Law Center will continue to support efforts to implement smart gun laws in California and across the nation.

AG00018326

A Unique Approach To Saving Lives

Today, the Law Center remains dedicated to preventing the loss of life caused by gun violence through a variety of unique services. The Law Center helps keep communities safe through our work with cities, counties, and states across the nation, by:

- Tracking state gun laws and all Second Amendment litigation nationally – research and analysis that is unavailable elsewhere;
- Providing trusted legal expertise on America's gun laws to legislators and advocates looking to improve the laws in their communities;
- Educating the public on the effectiveness of smart gun laws; and
- Analyzing policy strategies to empower communities and governments to pursue effective measures that are legally defensible.

The Law Center to Prevent Gun Violence exists because we believe that none of us has to live in a society where so many lives are lost to gunfire. Our twenty years of success shows that it's possible, and **that we know how to do it.**

STAND WITH US:

Together, we can prevent the loss of countless lives to gun violence. Stand up for our right to live in safe communities.

Become a Member

Your support is critical to the Law Center's efforts and helps us promote smart laws that keep guns out of the wrong hands.

Spread the Word

You understand that smart gun laws make you and your family safer, but does your neighbor? Help us by spreading the word to your friends and family. Join us on Facebook and Twitter @smartgunlaws, host a house party, or ask your employer to sponsor one of our events.

Volunteer

The Law Center needs a strong group of volunteers to assist us with gun violence prevention projects. All types of volunteers are needed if we are to bring an end to gun violence in America. Your skills are vital to this movement – **pitch in today!**

For more information or an annotated copy of this publication visit smartgunlaws.org.

June 18, 2013

Copyright © by Law Center to Prevent Gun Violence. All Rights Reserved.



268 Bush Street, #555
San Francisco, CA 94104
(415) 433-2062
www.smartgunlaws.org

AG00018327

Endnotes

¹ U.S. Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, *Web-Based Injury Statistics Query & Reporting System (WISQARS), 1981-1998 Fatal Injury Report, 1981-1998*, <http://webappa.cdc.gov/sasweb/ncipc/mortrate9.html> (accessed on July 11, 2013).

² *Stockton school massacre: A tragically familiar pattern*, USA Today (Apr. 1, 2013), <http://www.usatoday.com/story/news/nation/2013/04/01/stockton-massacre-tragically-familiar-pattern-repeats/2043297/>.

³ *WISQARS, 1981-1998*, *supra*, note 1; Nat'l Ctr. for Injury Prevention & Control, U.S. Centers for Disease Control and Prevention, *Web-Based Injury Statistics Query & Reporting System (WISQARS) Injury Mortality Reports, 1999-2010, for National, Regional, and States* (Feb. 2013), http://webappa.cdc.gov/sasweb/ncipc/dataRestriction_inj.html. 2010 age-adjusted rate is 7.70 per 100k; 1993 age-adjusted rate is 17.48 per 100k.

⁴ *WISQARS, 1981-1998*, *supra*, note 1; *WISQARS, 1999-2010*, *supra*, note 3.

⁵ See *id.* These observations based on to research initially completed by Griffin Dix, Ph.D. Note: age-adjusted rates used for CA-to-CA comparisons, but for national comparisons, crude rates were used.

⁶ According to a survey conducted by Mayors Against Illegal Guns, California is the fifth lowest supplier (per capita) of guns recovered in crimes in other states. *Trace the Guns: The Link Between Gun Laws and Interstate Gun Trafficking*, Mayors Against Illegal Guns, 9 (Sept. 2010), available at www.tracetheguns.org (follow "Download the Full Report" hyperlink). In addition, California supplies crime guns to Mexico at a far lower rate than the other states along the Mexican border. Issue Brief: *The Movement of Illegal Guns Across the U.S.-Mexico Border*, Mayors Against Illegal Guns, 3 (Sept. 2010), available at www.tracetheguns.org (follow "Learn how American guns are fueling the Mexican drug war" hyperlink).

⁷ In 2010, a Superior Court in Fresno issued an order finding that the definition of "handgun ammunition" in this law was ambiguous, and prevented it from being implemented. That ruling is on appeal, however, and proposals are before the State Legislature that would address the ruling. *Parker v. California*, No. F062490 (Cal. Ct. App. argued July 10, 2013).

AG00018328

Exhibit 41

JUSTICE NEWS

Department of Justice

Office of Public Affairs

FOR IMMEDIATE RELEASE

Thursday, December 17, 2015

California Man Charged with Conspiring to Provide Material Support to Terrorism and Being 'Straw Purchaser' of Assault Rifles Ultimately Used in San Bernardino, California, Attack

Enrique Marquez Jr., 24, of Riverside, California, a longtime friend of Syed Rizwan Farook, the male shooter in the San Bernardino, California, terrorist attack, was charged today with conspiring to provide material support to terrorists based upon his role in terrorist plotting with Farook in 2011 and 2012, the unlawful purchase of the two assault rifles used in the deadly shooting two weeks ago and defrauding immigration authorities by entering into a sham marriage with a member of Farook's family.

Marquez was arrested today by the FBI and is expected to make his initial court appearance later today in federal court in Riverside. Marquez was charged in a three-count criminal complaint filed in the U.S. District Court for the Central District of California with conspiring to provide material support – including personnel, firearms and explosives – to terrorists in 2011 and 2012; with making a false statement in connection with acquisition of firearms; and immigration fraud.

"Enrique Marquez Jr. is charged with conspiring to provide material support to terrorists for his role in plotting attacks on American soil in 2011 and 2012, attacks which were, fortunately, not carried out. He is also charged with a firearms violation for making a straw purchase of weapons for Syed Rizwan Farook – weapons that were eventually used to carry out the recent terrorist attack in San Bernardino," said Assistant Attorney General Carlin. "We will continue to investigate, and seek to hold accountable anybody found to be involved in, that heinous act. I would like to extend my gratitude to all the members of law enforcement involved in this ongoing investigation."

"Mr. Marquez conspired with Mr. Farook to commit vicious attacks, as set forth in today's charges," said U.S. Attorney Eileen M. Decker of the Central District of California. "Even though these plans were not carried out, Mr. Marquez's criminal conduct deeply affected San Bernardino County, Southern California, and the entire United States when the guns purchased by Marquez were used to kill 14 innocent people and wound many others. While there currently is no evidence that Mr. Marquez participated in the Dec. 2, 2015 attack or had advance knowledge of it, his prior purchase of the firearms and ongoing failure to warn authorities about Farook's intent to commit mass murder had fatal consequences. Today's charges are the result of exceptional work by many prosecutors and law enforcement agencies, and I thank them for their tremendous effort so far in this case."

"Many dedicated law enforcement personnel have worked around the clock and side by side with their Joint Terrorism Task Force partners to gather evidence and build a solid terrorism case against Mr. Marquez over the past two weeks," said Assistant Director in Charge David Bowdich of the FBI's Los Angeles Field Office. "As we will continue to investigate the facts surrounding the terrible shooting in San Bernardino, we will leave no stone unturned in an effort to deliver answers and justice to the murdered victims and the families they left behind."

The affidavit in support of the complaint provides details into parts of the exhaustive and ongoing investigation into the attack on Dec. 2, 2015, that killed 14 people at the Inland Regional Center (IRC). The complaint does not allege that Marquez was involved in the terrorist attack at the IRC. The complaint does allege that Marquez purchased the AR-15-style rifles that were ultimately used in the shooting, that Marquez previously purchased explosive material that was ultimately used to construct a pipe bomb that was found at the IRC and that in 2011 and 2012, Marquez and Farook planned terrorist attacks in the Inland Empire, California, that ultimately were not carried out.

According to the affidavit, in approximately 2005, Marquez moved to Riverside, where he met Farook, who was his next-door neighbor. After their initial meeting, Farook introduced Marquez to Islam, and, in 2007, Marquez converted to Islam. Farook later introduced Marquez to radical Islamic ideology, which included expressing disdain towards Muslims in the U.S. military who killed other Muslims, as well as discussing the extremist views of the now-deceased imam and Islamic lecturer Anwar al-Aulaqi. Over the next few years, Farook provided Marquez with radical Islamic materials, and by 2011, Marquez spent most of his time at Farook's residence listening to lectures and watching videos involving radical Islamic content. Those materials included *Inspire*

Magazine, the official publication of Al-Qaeda in the Arabian Peninsula (AQAP), and videos produced by Al-Shabaab. In August 2011, Farook informed Marquez of his interest in joining AQAP in Yemen.

In late 2011, according to the affidavit, Marquez and Farook started planning to use firearms and explosives to carry out terrorist acts – attacks that Marquez told investigators were designed to maximize the number of casualties that could be inflicted. The affidavit recounts a recent interview with Marquez in which he admitted making plans with Farook to attack the library or cafeteria at Riverside Community College (RCC), where both men had been students. The plan allegedly was to throw pipe bombs into the cafeteria area from an elevated position on the second floor, and then to shoot people as they fled.

Marquez and Farook also planned to attack eastbound lanes of State Route 91 (SR-91) during afternoon rush hour, the affidavit states. Marquez told investigators that they chose a particular section of the freeway because there were no exits, which would increase the number of targets in the eastbound lanes. The plan was for Farook to throw pipe bombs on to the freeway, which they believed would disable vehicles and stop traffic. Farook allegedly planned to then move among stopped vehicles, shooting into them, while Marquez shot into vehicles from a position on a nearby hillside. Marquez allegedly said that he would watch for law enforcement and emergency vehicles, and his priority was to shoot law enforcement before shooting life-saving personnel.

According to the affidavit, Marquez and Farook took steps to carry out their plans by purchasing firearms, ammunition and other tactical gear, as well as going to local firing ranges. In late 2011 and 2012, Marquez allegedly purchased two firearms and portrayed himself as the actual purchaser of the rifles, when he was in fact buying the weapons for Farook as part of the plan to attack RCC and SR-91. According to the affidavit, Marquez told investigators that he agreed to purchase the weapons because “his appearance was Caucasian, while Farook looked Middle-Eastern.” Investigators have determined that on Nov. 14, 2011, Marquez purchased a Smith and Wesson M&P-15 Sport rifle for Farook. On Feb. 22, 2012, Marquez purchased a DPMS model A-15 rifle, according to records in the affidavit, which states that each rifle cost approximately \$750.

Around the same time as he purchased the firearms for Farook, Marquez purchased explosives – specifically smokeless powder – “in furtherance of his and Farook’s plans to create bombs and commit mass killings,” according to the affidavit.

In the first half of 2012, Marquez and Farook allegedly continued to prepare for terrorist attacks by going to firing ranges to practice shooting guns and further discussing extremist ideologies. After 2012, Marquez allegedly distanced himself from Farook and ceased plotting with Farook for a variety of reasons, including the arrest of Ralph DeLeon and others on material support for terrorism charges in November 2012.

The complaint affidavit alleges the following timeline of events based on the investigation to date. On the morning of Dec. 2, 2015, shortly after 9:00 a.m., Farook went to an event at the IRC and placed an item on a table. Following the shooting at the IRC, investigators discovered a remote-controlled improvised explosive device (IED) on a table – a pipe bomb constructed out of three galvanized steel pipes and smokeless powder that was armed and ready to detonate. A subsequent search of Farook’s residence led to the discovery of smokeless powder that Marquez allegedly admitted purchasing in 2011 while planning terrorist acts with Farook. In addition, a remote control was found in the sports utility vehicle after Farook and his wife Tafsheen Malik were killed. In his interview with investigators, Marquez allegedly stated that the smokeless powder was purchased to be used in the construction of an “explosive device.” Marquez described his familiarity with the use of remote-control devices to detonate IEDs, and said he and Farook reviewed instructions on how to make IEDs that were in *Inspire Magazine*, according to the affidavit.

According to the affidavit, subsequent investigation determined that on the morning of the shooting, a Facebook account associated with Malik searched for materials related to the Islamic State of Iraq and the Levant (ISIL). Shortly after the shooting, a post on a Facebook page associated with Malik said, “We pledge allegiance to Khalifa bu bkr al bhaghdadi al quraishi” which the affidavit alleges is a reference to the leader of ISIL.

After Farook and Malik were killed in the shooting that ended the pursuit, authorities recovered four firearms and thousands of rounds of ammunition. Among the firearms recovered were the two rifles that Marquez allegedly purchased for Farook several years earlier. Forensic testing has confirmed that the two rifles were used in the attack on the IRC.

Four days after the attack on the IRC, Marquez met with law enforcement officials investigating the incident. Marquez admitted a series of statements that are detailed in the affidavit.

In addition to the charges related to the straw purchase of the rifles and the plans to commit terrorist attacks, Marquez is charged with defrauding U.S. Citizenship and Immigration Services in relation to a sham marriage with a member of Farook’s extended family so that she could obtain legal status in the United States. In return for his participation in the fraud, she paid Marquez \$200 per month.

The charge of conspiring to provide material support to terrorists carries a maximum sentence of 15 years in prison. The charge of making a false statement in connection with the acquisition of firearms carries a statutory maximum sentence of 10 years in prison. The charge of immigration fraud carries a statutory maximum sentence of 10 years in prison. If convicted, any potential sentence will be determined by the court after review of factors unique to this case, including the defendant's prior criminal history, if any, the defendant's role in the offense and the characteristics of the violation.

A criminal complaint is not a finding of guilt. An individual charged by complaint is presumed innocent unless and until proven guilty.

This investigation is being conducted by several partner agencies that are part of the Los Angeles FBI's Inland Empire Joint Terrorism Task Force. Several agencies are providing considerable assistance to the investigation, including the San Bernardino County District Attorney's Office and detectives with the Chino Police Department; the Redlands Police Department; and the Corona Police Department. In addition, investigators have collaborated with sister task forces in the region and throughout the country, as well as with the intelligence community; foreign law enforcement partners; and various FBI Legal Attachés located overseas. The case is being prosecuted by the U.S. Attorney's Office of the Central District of California and the National Security Division's Counterterrorism Section.

Marquez Complaint

Topic(s):

Counterterrorism
National Security

Component(s):

National Security Division (NSD)
USAO - California, Central

Press Release Number:

15-1555

Updated August 22, 2016

Exhibit 42

NSSF® REPORT

MODERN SPORTING RIFLE (MSR)

COMPREHENSIVE CONSUMER REPORT 2013

Ownership, Usage and Attitudes
Toward AR- and AK-Platform
Modern Sporting Rifles



Conducted for National Shooting Sports Foundation
by Sports Marketing Surveys

SPORTS MARKETING SURVEYS USA.

NSSF.ORG



Table of Contents

1	METHODOLOGY	4
2	EXECUTIVE SUMMARY	5
3	FAST FACTS	7
4	SAMPLE PROFILE	9
4.1	Overall profile of MSR owners	9
4.2	Geo-Analysis	10
4.3	Range Membership	11
4.4	Military / Law Enforcement Background	12
5	MSR BUYING PROCESS	13
5.1	Number of MSRs owned	13
5.2	First MSR purchased	14
5.3	Firearms owned prior to MSR ownership	15
5.4	Interest gained in MSRs	16
5.5	Most Recent Purchase	17
5.6	Year of purchase	18
5.7	Price paid	19
5.8	Place of purchase	20
5.9	Reasons for purchase	21
6	MSR AND ACCESSORY SPECIFICATION	23
6.1	MSR Caliber	23
6.2	Level of accessories	24
6.3	When accessorized	25
6.4	Amount spent on accessories	26
6.5	Optics	27
6.6	Scope	27
6.7	Magazine capacity	28
6.8	Stock type	29
6.9	Upper receiver	29
6.10	Hand guard	30
6.11	Finish color	30
6.12	Barrel and Operation	31
7	FUTURE PURCHASE INTENTIONS	32
7.1	Likelihood of buying a new MSR in next 12 months	32

7.2	Currently own and likely to buy	33
8	MSR USAGE	34
8.1	Reasons for owning a MSR.....	34
8.2	Usage	37
8.3	Frequency of usage.....	38
8.4	Able to Use as Often as Like.....	39
8.5	Year/Year MSR Usage	41
8.6	Venues used MSR	42
8.7	MSR Storage	46
8.8	Ammo used	47
8.9	Number of rounds fired in last 12 months and projected use	47
8.10	Ammo buying	48
8.11	Reloading	49
8.12	Ammunition storage	50
8.13	MSR shooting distance	54
8.14	Who do you MSR shoot with	55
8.15	Other firearm shooting activity.....	55
9	PROFILES	56
9.1	Single MSR owners vs multiple MSR owners.....	56
9.2	Range Member vs Non-Range Member	57
9.3	Infrequent MSR User vs Avid User	58
9.4	Target Shooters vs Hunters.....	59
9.5	Owners who haven't use their MSRs	60
9.6	Premium Buyers	61
9.7	Owners of Heavily Accessorized MSR Owners.....	62
9.8	Likely MSR Buyers.....	63
9.9	Likely Accessory Buyers	64
9.10	Military vs Non-Military	65
10	CLUSTER ANALYSIS/MARKET SEGMENTATION	66
10.1	Cluster 1 - Young and Infrequent	67
10.2	Cluster 2 – Law Enforcement and Competition	68
10.3	Cluster 3 – The Affluent Gun Enthusiast.....	69
10.4	Cluster 4 – Low Use Home Defenders	70
10.5	Cluster 5 – Low Use Military Vets.....	71
11	CROSS-TABULATION DATA	72

1 METHODOLOGY

The MSR Consumer Study employed an online survey methodology. With no database available of known MSR owners, NSSF promoted participation in this study via online banner ads on various websites, blogs and e-newsletters geared toward firearms ownership and hunting such as:

- AR-15.com e-newsletter
- Bushmaster Website and Facebook page
- DPMS Website and Facebook page
- Field & Stream blog
- Gun Digest website
- Guns and Ammo website
- NSSF Facebook page & Twitter post
- NSSF/GunBroker *Pull the Trigger* e-newsletter
- Remington Facebook page
- Smith & Wesson Facebook page & Twitter post
- 3-Gun Nation website and Facebook page
- Tapco website and Facebook page
- Winchester ammunition e-newsletter

A contest to win one of three \$500 Cabela's gift cards was included as an incentive to complete the survey in full. The term "Modern Sporting Rifle" was clearly defined as AR- or AK-platform rifles such as an AR-15, AR-10, AK-47 or other semi-automatic rifles with detachable magazines. Photographs of both AR- and AK-platform MSR's were shown on the survey landing page. To further pair down response to those that would correctly complete the survey, the survey's initial question asked "Do you own at least one Modern Sporting Rifle? (If you do not own a MSR but would still like to be entered in the contest, select "No".) These safeguards narrowed the usable responses from 26,719 to 21,942.

This gives a very high confidence level. The Confidence Interval for the full "MSR Owner" sample ranges from +/- 0.29 percentage points to +/- 0.68 percentage points at the 95% confidence level. So, for example, if the survey shows 50% of MSR owners shoot at ranges, we can be confident 95 times out of 100 that the real value lies within +/- 0.68 percentage points so between 49.32% and 50.68%. Or to put it another way: Less than 5 times out of 100 would we expect to find a difference of more than 0.68 percentage points due to sampling.

Survey was live April and May 2013.

2 EXECUTIVE SUMMARY

In the spring of 2013, The National Shooting Sports Foundation (NSSF) contracted with Sports Marketing Surveys (SMS) of Jupiter, Florida to conduct a large consumer study to learn more about the growing category of MSR Modern Sporting Rifle (MSR) ownership. This survey was formatted to follow the 2010 MSR Consumer Report from NSSF and SMS first collaboration in 2010. In the 2013 survey, MSRs were specified as either an AR platform, AK platform or other semi-automatic rifle with a detachable magazine. Prior to the start of the survey, the NSSF gathered together a panel of industry leaders and experts from the manufacturing, retailing and law enforcement/military backgrounds to ensure that right questions were asked to provide the most amount of information possible.

The survey was conducted using an Internet based methodology. Links were posted on many of the popular consumer oriented web sites in the industry in order to solicit responses. An incentive was used in order to facilitate this process. At the end of the fielding period, well over 26,000 total responses were received of which over 21,942 came from MSR owners. This response was a significant increase from the 2010 study of 11,400 respondents. This large sample meant that we were able to perform a number of very specific survey cross tabs to look at some differences among MSR owners.

MSRs owners are predominantly male (99%). Over 75% of male MSR owners are married, of those married, more than half indicated their wife went target shooting with them and 14% own her own MSR. Even though only 1% of respondents were female, there appeared to be a large interest in MSRs and MSR related recreational shooting activities within the female population.

Most owners are older, with 61% over the age of 45 and most don't have children living in the home (58%). The more MSR's owned, the more likely they are to lock up their weapons.

35% reported having either military or law enforcement background. This is down from the 44% reported in 2010. Although the veteran status has increased slightly, the 2013 survey seemed to tap more into the civilian MSR population.

Although Range membership is down from 51% in 2010 to 48% in 2013, members have increased the usage of their MSRs compared to 2010. Range members tend to be older and have an income greater than \$75,000. In regards to weapon and accessory purchase, the Range and Non-Range member have relatively the same habits with the exception of price. Over 60% are recent MSR buyers and plan on purchasing accessories in the next 12 months.

The rate of ownership has increased dramatically since 2010. Those who only own one MSR, 49% purchased their first in 2012 and 2013. Overall, 2012 was the highest (17%) for new ownership since prior to 1994. 91% of all MSR owners own at least one AR Platform weapon. Just over a quarter of owners report having 4 or more MSR's, with 14% being only AR Platforms. Most own only one AK Platform (67%). Those who own multiple MSR's (2 or more) tend to be more active with almost half of them hunting, 92% target shooting and 19% shoot in competitions with an MSR.

MSR Consumer Report 2013

MSR ownership is not limited to one category of guns. Many MSR owners own at least one other non-MSR weapon. Handguns are the most popular at 90%, followed by the traditional rifle and shotgun (82%). Muzzleloaders (28%) and Paintball guns (15%) are less favorable. Those under the age of 35 are more likely to own a paintball gun and less likely to own a muzzleloader. Only 1% of MSR owners, whether a single or multiple owner, own only MSRs.

Over a third of MSR owners first gain interest in MSRs through a friend and a quarter through the military. Most MSR owners target shoot with at least one other person (84%) which mimics the 2010 report. MSRs are mostly used for rifle target shooting (89%), either at a public range (52%) or private range (51%). Almost half of all MSR owners target shoot on family land, which could indicate target shooting as a family activity. 94% of MSR owners used at least one MSR in the past 12 months. Most (40%) used their MSR on average once a month. Frequency of use increases with number of MSR owned.

Most MSRs were bought from an independent retail store. The average cost of a MSR was \$1,058, \$25 less than the average spent in 2010. .223/5.56mm was the prefer caliber for the AR Platform, where the AK platform was usual 7.62mm x 39mm caliber. Almost two thirds of MSR owners have at least a few accessories, added within 12 months of purchase, on their most recent MSR with an average of \$400 dollars spent.

	2010	2013
Average # MSRs Owned	2.6	3.1
Average \$ Spent on MSRs	\$1,083	\$1,058
Average \$ Spent on MSRs Accessories	\$436	\$381

*NOTE: 2013 NSSF Survey identified AR and AK platforms separately. 2010 NSSF Survey included AK but was tailored more toward the AR platform owner.

3 FAST FACTS

1. The average MSR owner is 35+ years old, married and has at least some college education. 54% have a HH income of \$75,000+ and 57% do not have children living with them.
2. 66% of MSR owners that responded to the study own 2 or more MSRs.
3. Those who shoot more than 24 times a year are much more likely to own multiple MSRs.
4. MSR owners are more likely to own multiple AR platform MSRs than AK MSRs.
5. 26% of MSR owners purchased their first rifle in 2012 or 2013. Over a 1/3 of those who own 4 or more MSRs purchased their first MSR prior to 1994.
6. 9 out of 10 MSR owners owned a handgun prior to owning an MSR.
7. 33% of range members first gained interest in MSRs at a shooting range. Over a quarter of all MSR owners first gained interest in MSRs in the military.
8. 35% of MSR owners are current or former military/law enforcement.
9. Almost half of MSR owners are shooting range members and membership steadily increases with age and income.
10. 8 out of 10 MSR owners purchased their MSR new. Those who own only one MSRs are slightly more likely to purchase used than multiple MSR owners.
11. Showing this is a growth segment, 2/3 of all MSR owners obtained their most recent MSR in 2012 or 2013, while 7% received their most recent MSR in 2005 or earlier.
12. 55% of MSR owners paid under \$1,000 for their MSR. Half of MSR owners who shoot 2+ times/month paid \$1,000 or more for their most recent MSR.
13. 36% of all MSR owners purchased their most recent MSR at an independent retail store or a gun show.
14. Most MSRs recently purchased were chambered in .223/5.56mm.
15. MSR owners consider accuracy and reliability to be the two most important things to consider when buying a MSR. Owners did not consider their friends/family having one to be important.
16. 79% of MSR owners have at least one accessory on their rifle or do not shoot "out of the box." Younger (under 35 years of age) shooters prefer to heavy accessorize their rifle. 62% of owners accessorize their rifle after their purchase but within 12 months after purchasing it.
17. Those most likely to spend \$600+ on aftermarket customizations are: 4+ MSR owners, 2+ times/month shooters, under 35 year olds and those with \$110k+ HH income.
18. 71% of MSR owners use a scope as their primary optic. Older shooters tend to use a scope as their primary optic whereas younger shooters prefer a red dot as a primary optic.
19. About half of all MSR owners use a 30-round magazine the most in their MSR. Younger MSR owners are more likely to use higher capacity magazines than older MSR owners.
20. 66% of MSR owners use a collapsible/folding stock but this usage rate decreases with age.
21. 3 out of 4 of the most recent MSRs purchased had flat top upper receivers.
22. MSR owners are pretty evenly split on having rails or not having rails on their MSR.
23. Black is the most popular finish color with 80% of owners saying their most recent MSR is black.
24. Of the most recent MSRs purchased, 62% had a threaded barrel, 57% had a flash hider, 58% had a 16" barrel, and 51% operate on a direct gas impingement.

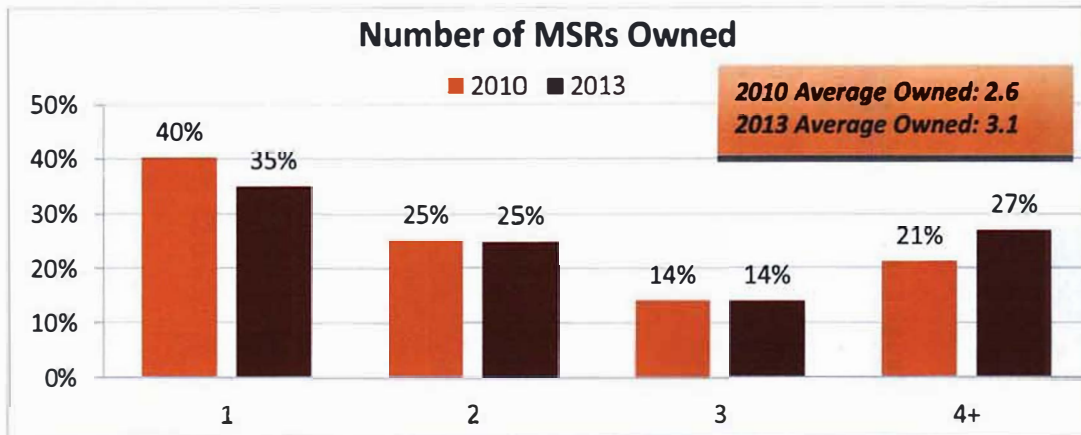
MSR Consumer Report 2013

25. Those most likely to purchase a MSR in the next 12 months are: 4+ MSR owners, 2+ times/month shooters, and between the ages of 45 to 54.
26. The 3 most owned accessories are: gun cleaning kit (93%), extra magazine (82%), and targets (81%). The top 3 that MSR owners intend to buy are: extra magazine, trigger upgrades and targets.
27. Recreational target shooting (8.9/10.0) was the #1 rated reason for owning a MSR in terms of importance. Home defense was 2nd at 8.2. Professional use/job related was the least important at 2.9.
28. 94% of owners have used their MSR in the last 12 months. Usage slightly decreases with age going from 96% usage rate for under 35's to 92% for those 65+.
29. 38% of MSR owners shoot their MSRs 12 times or more annually. 36% of reloaders shoot 12 times or more compared to 25% for non-reloaders.
30. 34% of MSR owners shot more than they did the previous year. Half said they shot the same amount compared to the previous year.
31. 26% of MSR owners reported shooting more in the past 12 months which is down from 34% reported in 2010.
32. 52% of owners shoot at a public range and 51% shoot at a private range. Private range usage increases with age, income, number MSRs owned and shooting frequency.
33. 83% of all MSR owner keep their MSRs in a secure box when not in use.
34. MSR owners use "budget" factory loads 43% of the time while premium loads account for 29%, reloads 16%, and import ammo 12%. Those who shoot more often are much more likely to use reload.
35. 21% of owners shot more than 1,000 rounds out of their MSR in the last 12 months. 27% of range members and 16% of non-members shot more than 1,000 rounds in the last 12 months. 26% of all owners anticipate shooting more than 1,000 rounds in the next 12 months.
36. 42% of owners buy 500+ rounds of ammo at one time. Frequent shooters and multiple MSR owners are most likely to buy 500+ rounds at one time.
37. Just over a third of owners reload their ammo. Reloading is more popular with older shooters, range members and multiple MSR owners.
38. 7 out of 10 reloaders reload 40% or more of their ammo; 27% reload 90% or more.
39. The most popular distance to hunt/target shoot with an MSR is 100-300 yards with 58% of owners shooting at those distances. 33% shoot at less than 100 yards. Younger shooters tend to shoot at shorter distances than older shooters.
40. 17% of MSR owners go shooting alone which is down from 20% in 2010. Older (over 35 years of age) shooters are more likely than younger shooters to shoot alone.
41. 8 out of 10 MSR owners feel they have not been able to shoot their MSR as much as they would like in the last 12 months.
42. Lack of ammo available and the cost of ammo are the two main issues preventing MSR owners from shooting as much as they would like. The cost of ammo is much more important to younger shooters than it is to older shooters.

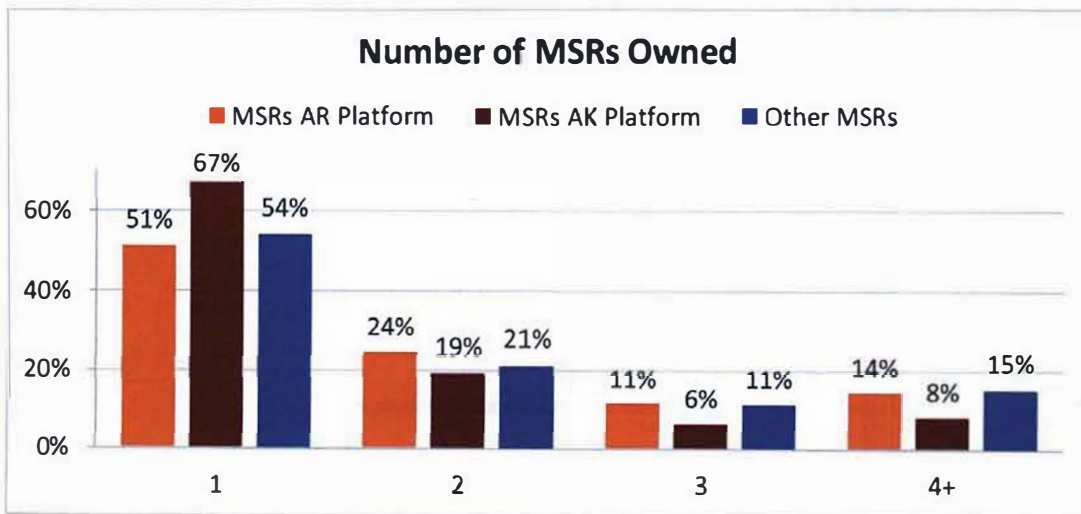
5 MSR BUYING PROCESS

5.1 Number of MSRs owned

- 2010 N= 7,372
- 2012 N=21,942

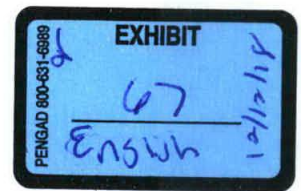


- 35% of MSR owners own a single MSR.
- Over 30% reported owning 3 or more MSRs in both 2010 and 2013.

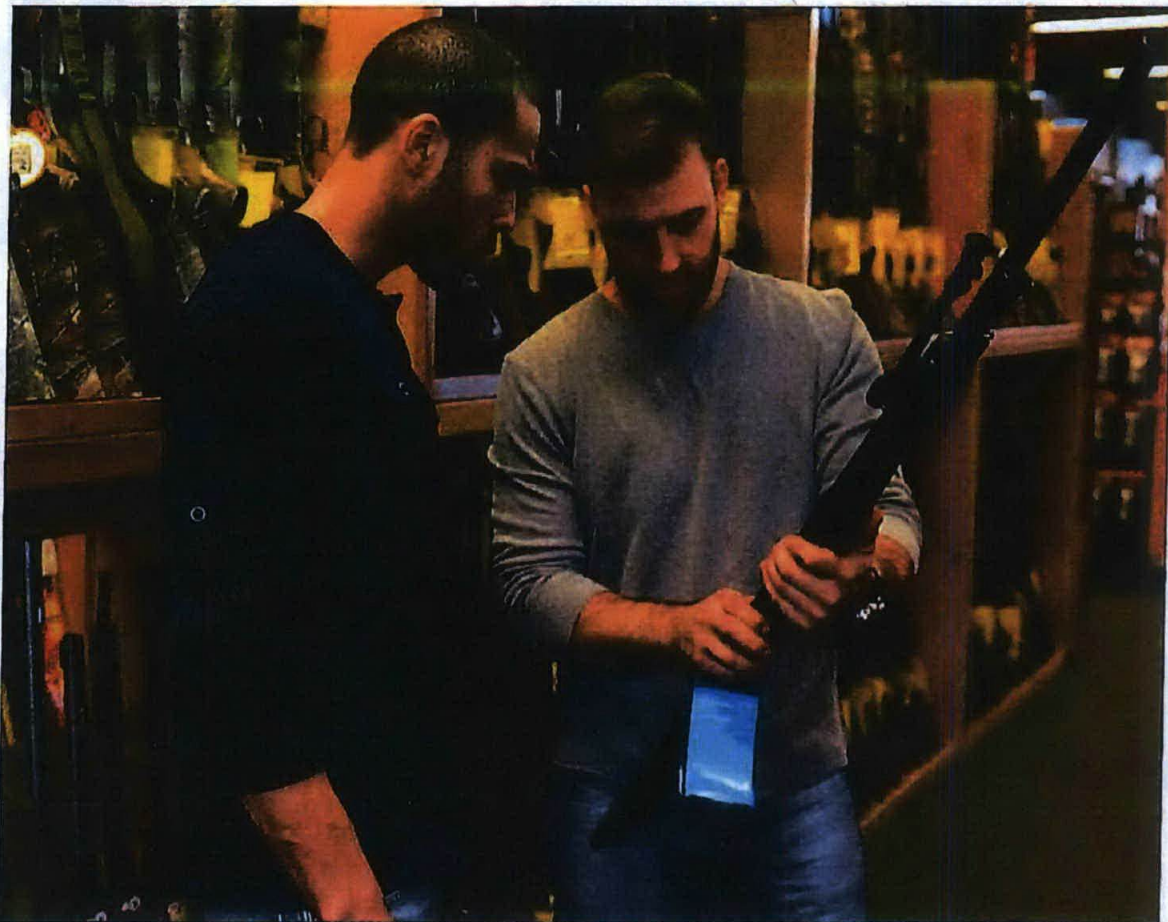


- The average number of AR Platforms owned is 2.12.
- The average number of AK Platforms owned is 1.68.

Exhibit 43



NSSF® REPORT 2017 EDITION
FIREARMS
RETAILER
SURVEY REPORT | TREND DATA 2008-2016



Prepared by: Southwick Associates, P.O. Box 6485,
Fernandina Beach, FL 32035
Phone: (904) 277-9765, Fax: (904) 261-1145

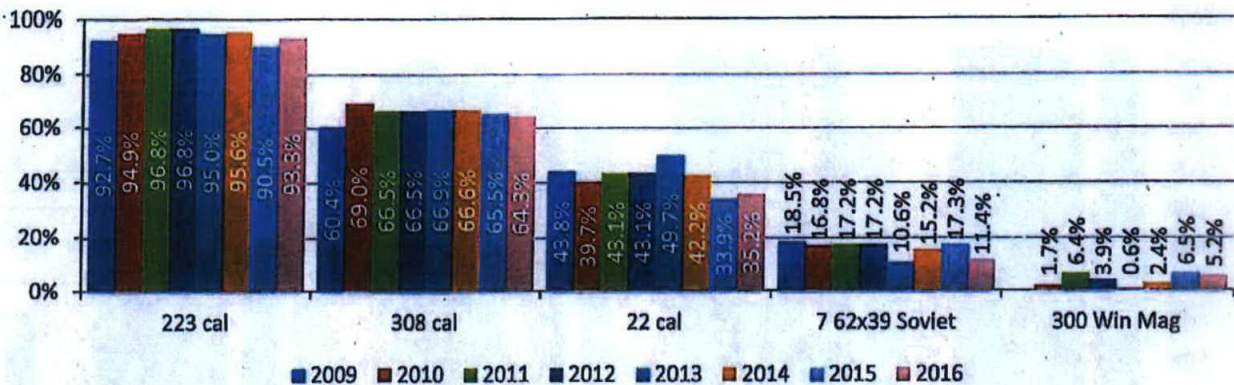


THE FIREARMS INDUSTRY ASSOCIATION

| NSSF.ORG



Please check the top three calibers sold for NEW AR-Style / Modern Sporting Rifles:



	2009	2010	2011	2012	2013	2014	2015	2016	Responses (2016)
223 cal.	92.7%	94.9%	96.8%	96.8%	95.0%	95.6%	90.5%	93.3%	196
308 cal.	60.4%	69.0%	66.5%	66.5%	66.9%	66.6%	65.5%	64.3%	135
22 cal.	43.8%	39.7%	43.1%	43.1%	49.7%	42.2%	33.9%	35.2%	74
7 62x39 Soviet	18.5%	16.8%	17.2%	17.2%	10.6%	15.2%	17.3%	11.4%	24
300 Win Mag	n/a	1.7%	6.4%	3.9%	0.6%	2.4%	6.5%	5.2%	11
30-06 Springfield	10.0%	9.8%	9.2%	9.2%	4.4%	5.5%	8.3%	4.8%	10
300 WSM	n/a	n/a	2.1%	1.3%	0.6%	1.3%	1.2%	2.4%	5
not sure	n/a	n/a	1.7%	n/a	n/a	0.7%	1.2%	2.4%	5
17 cal.	3.8%	3.4%	0.6%	2.8%	3.1%	1.5%	0.6%	2.4%	5
204 Ruger	6.9%	7.4%	0.4%	2.6%	4.0%	1.5%	0.6%	1.9%	4
300 Rem. Magnum	n/a	1.3%	n/a	n/a	n/a	n/a	n/a	1.9%	4
243 cal.	3.8%	7.4%	3.4%	6.4%	6.1%	5.1%	3.0%	1.4%	3
30-30 cal.	0.8%	1.3%	3.9%	2.1%	1.1%	1.5%	2.4%	1.4%	3
7mm Remington Mag	1.5%	1.7%	2.1%	1.7%	1.1%	1.3%	1.8%	1.0%	2
270 Winchester	n/a	3.0%	1.3%	1.3%	0.3%	0.7%	1.2%	1.0%	2
270 Remington	n/a	n/a	n/a	n/a	n/a	n/a	n/a	1.0%	2
35 Remington	n/a	n/a	n/a	n/a	n/a	n/a	n/a	1.0%	2
300 Rem Ultra Magnum	n/a	n/a	1.3%	0.4%	0.9%	0.7%	0.6%	0.5%	1
300 Savage	n/a	n/a	1.3%	0.4%	0.3%	0.4%	0.0%	0.5%	1
300 Weatherby Magnum	n/a	n/a	n/a	n/a	n/a	n/a	n/a	0.5%	1
22-250 cal.	3.8%	2.7%	2.8%	2.1%	1.1%	1.3%	2.4%	n/a	n/a
7 mm-08	n/a	1.3%	2.6%	1.3%	0.6%	0.4%	2.4%	n/a	n/a
30 Carbine	n/a	n/a	n/a	0.2%	0.3%	0.4%	0.6%	n/a	n/a
270 WSM	0.8%	1.3%	n/a	0.6%	0.0%	0.2%	0.6%	n/a	n/a
44 Rem	n/a	n/a	n/a	0.6%	0.3%	1.1%	0.0%	n/a	n/a
303 British	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
Other	10.4%	7.1%	12.0%	12.0%	16.1%	18.9%	24.4%	27.1%	57

Total number of responses for 2016: n = 210

Exhibit 44

May 6, 2014

FBI Training Division: FBI Academy, Quantico, VA

Executive Summary of Justification for Law Enforcement Partners

- Caliber debates have existed in law enforcement for decades
- Most of what is "common knowledge" with ammunition and its effects on the human target are rooted in myth and folklore
- Projectiles are what ultimately wound our adversaries and the projectile needs to be the basis for the discussion on what "caliber" is best
- In all the major law enforcement calibers there exist projectiles which have a high likelihood of failing LEO's in a shooting incident and there are projectiles which have a high likelihood of succeeding for LEO's in a shooting incident
- Handgun stopping power is simply a myth
- The single most important factor in effectively wounding a human target is to have penetration to a scientifically valid depth (FBI uses 12" – 18")
- LEO's miss between 70 – 80 percent of the shots fired during a shooting incident
- Contemporary projectiles (since 2007) have dramatically increased the terminal effectiveness of many premium line law enforcement projectiles (*emphasis on the 9mm Luger offerings*)
- 9mm Luger now offers select projectiles which are, under identical testing conditions, outperforming most of the premium line .40 S&W and .45 Auto projectiles tested by the FBI
- 9mm Luger offers higher magazine capacities, less recoil, lower cost (both in ammunition and wear on the weapons) and higher functional reliability rates (in FBI weapons)
- The majority of FBI shooters are both FASTER in shot strings fired and more ACCURATE with shooting a 9mm Luger vs shooting a .40 S&W (*similar sized weapons*)
- There is little to no noticeable difference in the wound tracks between premium line law enforcement projectiles from 9mm Luger through the .45 Auto
- Given contemporary bullet construction, LEO's can field (*with proper bullet selection*) 9mm Lugers with all of the terminal performance potential of any other law enforcement pistol caliber with none of the disadvantages present with the "larger" calibers



Justification for Law Enforcement Partners

Rarely in law enforcement does a topic stir a more passionate debate than the choice of handgun caliber made by a law enforcement organization. Many voice their opinions by repeating the old adage "bigger is better" while others have "heard of this one time" where a smaller caliber failed and a larger caliber "would have performed much better." Some even subscribe to the belief that a caliber exists which will provide a "one shot stop." It has been stated, "Decisions on ammunition selection are particularly difficult because many of the pertinent issues related to handguns and ammunition are firmly rooted in myth and folklore." This still holds as true today as it did when originally stated 20 years ago.

Caliber, when considered alone, brings about a unique set of factors to consider such as magazine capacity for a given weapon size, ammunition availability, felt recoil, weight and cost. What is rarely discussed, but most relevant to the caliber debate is what **projectile** is being considered for use and its terminal performance potential.

One should never debate on a gun make or caliber alone. The projectile is what wounds and ultimately this is where the debate/discussion should focus. In each of the three most common law enforcement handgun calibers (9mm Luger, .40 Smith & Wesson and .45 AUTO) there are projectiles which have a high likelihood of failing law enforcement officers and in each of these three calibers there are projectiles which have a high likelihood of succeeding for law enforcement officers during a shooting incident. The choice of a service projectile must undergo intense scrutiny and scientific evaluation in order to select the best available option.

Understanding Handgun Caliber Terminal Ballistic Realities

Many so-called "studies" have been performed and many analyses of statistical data have been undertaken regarding this issue. Studies simply involving shooting deaths are irrelevant since the goal of law enforcement is to stop a threat during a deadly force encounter as quickly as possible. Whether or not death occurs is of no consequence as long as the threat of death or serious injury to law enforcement personnel and innocent third parties is eliminated.

"The concept of immediate incapacitation is the only goal of any law enforcement shooting and is the underlying rationale for decisions regarding weapons, ammunition, calibers and training."¹

Studies of "stopping power" are irrelevant because no one has ever been able to define how much power, force, or kinetic energy, in and of itself, is required to effectively stop a violent and determined adversary quickly, and even the largest of handgun calibers are not capable of delivering such force. **Handgun stopping power is simply a myth.** Studies of so-called "one shot stops" being used as a tool to define the effectiveness of one handgun cartridge, as opposed to another, are irrelevant due to the inability to account for psychological influences and due to the lack of reporting specific shot placement. In short, extensive studies have been done over the years to "prove" a certain cartridge is better than another by using grossly flawed methodology and or bias as a precursor to manipulating statistics. In order to have a meaningful understanding of handgun terminal ballistics, one must only deal with facts that are not in dispute within the medical community, i.e. medical realities, and those which are also generally accepted within law enforcement, i.e. tactical realities.

Medical Realities

Shots to the Central Nervous System (CNS) at the level of the cervical spine (neck) or above, are the only means to reliably cause immediate incapacitation. In this case, any of the calibers commonly used in law enforcement, regardless of expansion, would suffice for obvious reasons. Other than shots to the CNS, the most reliable means for affecting rapid incapacitation is by placing shots to large vital organs thus causing rapid blood loss. Simply stated, shot placement is the most critical component to achieving either method of incapacitation.

Wounding factors between rifle and handgun projectiles differ greatly due to the dramatic differences in velocity, which will be discussed in more detail herein. The wounding factors, in order of importance, are as follows:

A. Penetration

A projectile must penetrate deeply enough into the body to reach the large vital organs, namely heart, lungs, aorta, vena cava and to a lesser extent liver and spleen, in order to cause rapid blood loss. It has long been established by expert medical professionals, experienced in evaluating

¹ Handgun Wounding Factors and Effectiveness: Firearms Training Unit, Ballistic Research Facility, 1989.

gunshot wounds, that this equates to a range of penetration of 12-18 inches, depending on the size of the individual and the angle of the bullet path (e.g., through arm, shoulder, etc.). With modern properly designed, expanding handgun bullets, this objective is realized, albeit more consistently with some law enforcement projectiles than others.

B. Permanent Cavity

The extent to which a projectile expands determines the diameter of the permanent cavity which, simply put, is that tissue which is in direct contact with the projectile and is therefore destroyed. Coupled with the distance of the path of the projectile (penetration), the total permanent cavity is realized. Due to the elastic nature of most human tissue and the low velocity of handgun projectiles relative to rifle projectiles, it has long been established by medical professionals, experienced in evaluating gunshot wounds, that the damage along a wound path visible at autopsy or during surgery cannot be distinguished between the common handgun calibers used in law enforcement. That is to say an operating room surgeon or Medical Examiner cannot distinguish the difference between wounds caused by .35 to .45 caliber projectiles.

C. Temporary Cavity

The temporary cavity is caused by tissue being stretched away from the permanent cavity. If the temporary cavity is produced rapidly enough in elastic tissues, the tensile strength of the tissue can be exceeded resulting in tearing of the tissue. This effect is seen with very high velocity projectiles such as in rifle calibers, but is not seen with handgun calibers. For the temporary cavity of most handgun projectiles to have an effect on wounding, the velocity of the projectile needs to exceed roughly 2,000 fps. At the lower velocities of handgun rounds, the temporary cavity is not produced with sufficient velocity to have any wounding effect; therefore any difference in temporary cavity noted between handgun calibers is irrelevant. "In order to cause significant injuries to a structure, a pistol bullet must strike that structure directly."²

D. Fragmentation

Fragmentation can be defined as "projectile pieces or secondary fragments of bone which are impelled outward from the permanent cavity and may sever muscle tissues, blood vessels, etc.,

² DiMaio, V.J.M.: Gunshot Wounds, Elsevier Science Publishing Company, New York, NY, 1987, page 42.

apart from the permanent cavity”³. Fragmentation does not reliably occur in soft tissue handgun wounds due to the low velocities of handgun bullets. When fragmentation does occur, fragments are usually found within one centimeter (.39”) of the permanent cavity.⁴ Due to the fact that most modern premium law enforcement ammunition now commonly uses bonded projectiles (copper jacket bonded to lead core), the likelihood of fragmentation is very low. For these reasons, wounding effects secondary to any handgun caliber bullet fragmentation are considered inconsequential.

Psychology

Any discussion of stopping armed adversaries with a handgun has to include the psychological state of the adversary. Psychological factors are probably the most important relative to achieving rapid incapacitation from a gunshot wound to the torso.⁵ First and foremost, the psychological effects of being shot can never be counted on to stop an individual from continuing conscious voluntary action. Those who do stop commonly do so because they *decide* to, not because they *have* to. The effects of pain are often delayed due to survival patterns secondary to “fight or flight” reactions within the body, drug/alcohol influences and in the case of extreme anger or aggression, pain can simply be ignored. Those subjects who decide to stop immediately after being shot in the torso do so commonly because they know they have been shot and are afraid of injury or death, *regardless of caliber, velocity, or bullet design*. It should also be noted that psychological factors can be a leading cause of incapacitation *failures* and as such, proper shot placement, adequate penetration, and multiple shots on target cannot be over emphasized.

Tactical Realities

Shot placement is paramount and law enforcement officers on average strike an adversary with only 20 – 30 percent of the shots fired during a shooting incident. Given the reality that shot placement is paramount (and difficult to achieve given the myriad of variables present in a deadly force encounter) in obtaining effective incapacitation, the caliber used must maximize the likelihood of hitting vital organs. Typical law enforcement shootings result in only one or two solid

³ Fackler, M.L., Malinowski, J.A.: “The Wound Profile: A Visual Method for Quantifying Gunshot Wound Components”, Journal of Trauma 25: 522-529, 1958.

⁴ Handgun Wounding Factors and Effectiveness: Firearms Training Unit, Ballistic Research Facility, 1989.

⁵ Ibid.

torso hits on the adversary. This requires that any projectile which strikes the torso has as high a probability as possible of penetrating deeply enough to disrupt a vital organ.

The Ballistic Research Facility has conducted a test which compares similar sized Glock pistols in both .40 S&W and 9mm calibers, to determine if more accurate and faster hits are achievable with one versus the other. To date, the majority of the study participants have shot more quickly and more accurately with 9mm caliber Glock pistols. The 9mm provides struggling shooters the best chance of success while improving the speed and accuracy of the most skilled shooters.

CONCLUSION

While some law enforcement agencies have transitioned to larger calibers from the 9mm Luger in recent years, they do so at the expense of reduced magazine capacity, more felt recoil, and given adequate projectile selection, no discernible increase in terminal performance.

Other law enforcement organizations seem to be making the move back to 9mm Luger taking advantage of the new technologies which are being applied to 9mm Luger projectiles. These organizations are providing their armed personnel the best chance of surviving a deadly force encounter since they can expect faster and more accurate shot strings, higher magazine capacities (similar sized weapons) and all of the terminal performance which can be expected from any law enforcement caliber projectile.

Given the above realities and the fact that numerous ammunition manufacturers now make 9mm Luger service ammunition with outstanding premium line law enforcement projectiles, the move to 9mm Luger can now be viewed as a decided advantage for our armed law enforcement personnel.

Exhibit 45



Violence Policy Center

Key Points About Assault Weapons

1. Semiautomatic assault weapons like Sig Sauer's MCX are civilian versions of military assault weapons. Even though the gun industry prefers to call semiautomatic assault weapons "modern sporting rifles," there are no significant differences between them and military assault weapons.

2. Military assault weapons are selective-fire. That is, they are capable of fully automatic fire—or three-shot bursts—as well as semiautomatic fire.

3. Civilian assault weapons are *not* machine guns. They are semiautomatic weapons. (Since 1986 federal law has banned the sale to civilians of new machine guns.) The trigger of a semiautomatic weapon must be pulled separately for each round fired. A machine gun will continue to fire as long as the trigger is held down until the ammunition magazine is empty. It is a mistake to call civilian assault weapons "automatic weapons" or "machine guns."

4. This is a distinction without a difference in terms of killing power. Civilian semiautomatic assault weapons incorporate all of the functional design features that make assault weapons so deadly. They are arguably more deadly than military versions, because most experts agree that semiautomatic fire is more accurate than automatic fire. As the U.S. Army's *Rifle and Carbine Training Circular* notes, "Automatic or burst fires drastically decrease the probability of hit due to the rapid succession of recoil impulses and the inability of the Soldier to maintain proper sight alignment and sight picture on the target."

5. The distinctive "look" of assault weapons is not cosmetic. It is the visual result of specific functional design decisions. Military assault weapons were designed and developed for a specific military purpose—laying down a high volume of fire over a wide killing zone.

6. Civilian assault weapons keep the specific functional design features that make this anti-personnel function easy. These functional features also distinguish assault weapons from traditional sporting guns.

7. The most significant assault weapon functional design features are: (1) ability to accept a detachable high-capacity ammunition magazine, (2) a rear pistol or thumb-hole grip, and, (3) a forward grip or barrel shroud. Taken together, these are the design features that make possible the deadly and indiscriminate "spray-firing" for which assault weapons are designed. None of them are features of true hunting or sporting guns.

8. Although the gun lobby today argues that there is no such thing as civilian assault weapons, the industry, the National Rifle Association, and gun magazines enthusiastically described these civilian versions as "assault rifles," "assault pistols," and "military assault" weapons to boost civilian sales throughout the 1980s. The industry and its allies only began to use the semantic argument that a "true" assault weapon is a machine gun after civilian assault weapons turned up in large numbers in the hands of drug traffickers, criminal gangs, mass murderers, and other dangerous criminals.

XAVIER BECERRA
Attorney General of California
MARK R. BECKINGTON
Supervising Deputy Attorney General
JOHN D. ECHEVERRIA
Deputy Attorney General
PETER H. CHANG
Deputy Attorney General
State Bar No. 241467
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3776
Fax: (415) 703-1234
E-mail: Peter.Chang@doj.ca.gov
Attorneys for Defendant Xavier Becerra

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

STEVEN RUPP, et al.,

Plaintiffs,

v.

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

Defendants.

8:17-cv-00746-JLS-JDE

**DEFENDANT'S STATEMENT OF
UNCONTROVERTED FACTS IN
SUPPORT OF MOTION FOR
SUMMARY JUDGMENT**

STATEMENT OF UNDISPUTED FACTS

	Uncontroverted Facts	Supporting Evidence
1	2 In 1957, the U.S. Army requested Armalite, a	Def. Exh. 1 at 29, ¶ 68.
2	3 small arms manufacturer, to produce a	
3	4 lightweight, high-velocity rifle that could operate	
4	5 in both semi-automatic and full-automatic	
5	6 modes, with firepower capable “of penetrating a	
6	7 steel helmet or standard body armor at 500	
7	8 yards.”	
8	9 According to one of the designers of the AR-15,	Def. Exh. 1 at 30, ¶ 73.
9	10 the rifle was engineered to generate “maximum	
10	11 wound effect.”	
11	12 After field testing in combat operations in	Def. Exh. 1 at 29, ¶ 68.
12	13 Vietnam, the Advanced Research Projects	
13	14 Agency (“ARPA”) noted that the “lethality of the	
14	15 AR-15 and its reliability record were particularly	
15	16 impressive.”	
16	17 The ARPA found that all casualties inflicted by	Def. Exh. 1 at 29-30,
17	18 the AR-15 in combat were fatal, including hits to	¶¶ 68-69.
18	19 only extremities.	
19	20 In a 1989 report, the Bureau of Alcohol Tobacco	Def. Exh. 22 at 1048-49.
20	21 & Firearms described features such as folding	
21	22 and telescoping stocks, pistol grips, and flash	
22	23 suppressors as “military features and	
23	24 characteristics . . . carried over to the	
24	25 semiautomatic versions of the original military	
25	26 rifle.”	
26	27 In a 1998 study, the Bureau of Alcohol Tobacco	Def. Exh. 21 at 992.
27	28 & Firearms examined semiautomatic assault	

1		rifles with what it described as “distinctive	
2		military configuration,” which incorporated	
3		physical features such as the ability to accept a	
4		detachable magazine, folding/telescoping stocks,	
5		separate pistol grips, and flash suppressors.	
6	7	The AR-15 is the civilian version of the	Def. Exh. 2 at 121-22, ¶
7		military’s M-16.	15; Def. Exh. 16 at
8			818:3-13.
9	8	Rifles restricted by the AWCA appear like their	Def. Exh. 16 at 787:6-10,
10		military counterparts and possess many of the	790:10-22.
11		same features.	
12	9	Rifles restricted by the AWCA are capable of	Def. Exh. 2 at 128, ¶ 34;
13		firing the same centerfire rifle rounds as U.S.	<i>see</i> Def. Exh. 10 at
14		military rifles and “could have the same high	320:3-14.
15		capacity for firepower as the military weapons.”	
16		Civilian assault rifles commonly use ammunition	
17		rounds created mainly for military use. The .223	
18		is the civilian version of 5x56 military round.	
19		The .308 is the civilian version of the 7.62x51	
20		NATO round.	
21	10	The difference between the M-16 and the AR-15	Def. Exh. 45 at 1544;
22		is that the M-16 is a select-fire rifle that allows	Def. Exh. 16 at 818:3-13.
23		the shooter to fire in either automatic or	
24		semiautomatic mode, while the AR-15 fires only	
25		in semiautomatic mode.	
26	11	Semiautomatic weapons can be fired at rates of	Def. Exh. 27 at 1090.
27		300 to 500 rounds per minute. According to a	
28			

1		Congressional report, this makes them “virtually	
2		indistinguishable in practical effect from	
3		machineguns.”	
4	12	A test by the San Jose police showed that a 30-	Def. Exh. 20 at 934.
5		round magazine empties in slightly less than two	
6		seconds on automatic, while the same magazine	
7		empties in just five seconds on semiautomatic.	
8	13	A semiautomatic weapon can be converted to	Def. Exh. 27 at 1090;
9		automatic fire by installing certain parts, such as	Def. Exh. 3 at 140, ¶ 20;
10		bump stocks or multiburst trigger activators.	Def. Exh. 15 at 642:1-10.
11	14	According to a 1989 ATF Report, large-capacity	Def. Exh. 22 at 1048.
12		magazines “are indicative of military firearms,”	
13		and the fact “[t]hat a firearm is designed and sold	
14		with a large capacity magazine, e.g., 20-30	
15		rounds, is a factor to be considered in	
16		determining whether a firearm is a semiautomatic	
17		assault rifle.”	
18	15	AR-platform rifles capable of accepting	Def. Exh. 10 at
19		detachable magazines take 3 to 5 seconds less to	331:7-333:7.
20		reload than the same rifle with a fixed magazine.	
21	16	A protruding pistol grip helps to stabilize the rifle	Def. Exh. 3 at 137-38,
22		during rapid fire and enables a shooter to	¶ 9; Def. Exh. 22 at 1048;
23		maintain accuracy.	Def. Exh. 11 at 349:11-
24			22; Def. Exh. 16 at
25			844:6-15; Def. Exh. 19 at
26			913.
27			
28			

17	An assault rifle with a pistol grip would allow a shooter to shoot more accurately and reload faster.	Def. Exh. 3 at 137-38, ¶ 9.
18	According to a 1989 ATF Report, a pistol grip beneath the action of the rifle can also “be an aid in one-handed firing of the weapon in a combat situation.”	Def. Exh. 22 at 1048.
19	A forward pistol grip on a rifle was a feature of early machineguns; it can help insulate the non-trigger hand from heat during rapid fire.	Def. Exh. 16 at 777:5-11; <i>see id.</i> at 774:7-12.
20	According to a 1989 ATF Report, the “predominant advantage” of a folding or telescoping stock “is for military purposes, and it is not normally found on the traditional sporting rifle.”	Def. Exh. 22 at 1048.
21	A folding or telescoping stock renders the rifle more concealable as would a semiautomatic centerfire rifle that is under 30 inches in length. A semiautomatic centerfire rifle under 30 inches in length is more concealable than the same rifle that is 30 inches or longer.	Def. Exh. 2 at 124, ¶ 21 & 126, ¶ 27.
22	A flash suppressor is a standard feature of the M-16.	Def. Exh. 16 at 773:1-11.
23	Flash suppressors can be affixed to the muzzle of a rifle to reduce the flash emitted upon firing, which can aid a shooter in low-light conditions to maintain accurate fire.	Def. Exh. 2 at 125, ¶ 22; Def. Exh. 3 at 138, ¶ 11; Def. Exh. 16 at 855:3-14; Def. Exh. 22 at 1049.

24	Flash suppressors can help conceal a shooter's position, especially at night.	Def. Exh. 22 at 1049; Def. Exh. 16 at 836:7-15.
25	Manufacturers of assault rifles have marketed the rifles to civilians based on their military features and military design.	Def. Exh. 32 at 1277; <i>see, e.g.</i> , Def. Exhs. 24-25.
26	As of November 2, 2018, there were up to approximately 184,552 assault weapons registered with the Department of Justice, of which approximately 166,640 are assault rifles.	Def. Exh. 18 at 895.
27	There have been up to approximately 194,065 assault weapons that have ever been registered with the Department of Justice, of which up to approximately 175,180 were assault rifles (according to best-available approximately as of November 7, 2018). Many one-time registered weapons may no longer be registered for various reasons including death of the registrant or the registrant became prohibited from possessing the weapon. There are approximately 30.5 million adults in California as of 2018.	Def. Exh. 18 at 895; Def. Exh. 39 at 1511.
29	Gun ownership is becoming more concentrated.	Def. Exh. 15 at 658:12-22; <i>see</i> Def. Exh. 1 at 6-10; Def. Exh. 7 at 252, ¶ 18.
30	66 percent of AR- or AK-rifles owners own two or more such rifles.	Def. Exh. 42 at 1532

31	Over 30 percent of AR- or AK-platform rifle owners own three or more such rifles, and over one quarter of owners report having four or more such rifles.	Def. Exh. 42 at 1531, 1535.
32	The number of fatalities that occur in a mass shooting is correlated with the use of an assault weapon.	Def. Exh. 15 at 728:20-24; Def. Exh. 6 at 232; Def. Exh. 23 at 1067; Def. Exh. 1 at 45, ¶ 109..
33	Rifles will penetrate soft body armor designed to stop common handgun rounds.	Def. Exh. 14 at 123:19-124:1; Def. Exh. 11 at 370:5-18..
34	Between January 1, 1998 and December 31, 2001, at least 41 of the 211 law enforcement officers slain in the line of duty were killed with assault weapons.	Def. Exh. 31 at 1249.
35	When a bullet enters a victim's body, it would create a permanent cavity or a permanent cavity and a temporary cavity. A permanent cavity "is the tissue that is actually crushed or destroyed by the projectile's interaction with it." A temporary cavity is caused by tissue being stretched away from the permanent cavity. Handguns do not typically cause temporary cavity damage.	Def. Exh. 14 at 508:15-19, 511:16-24; Def. Exh. 38 at 1505, 1507; Def. Exh. 44 at 1541; Def. Exh. 14 at 511:16-24.
36	After a rifle round enters the body, it would turn over vertically and exit the body base forward. It would create the greatest permanent wound	Def. Exh. 14 at 504:5-505:5.

1		cavity at the point of the maximum vertical	
2		rotation.	
3	37	The temporary cavity, if one is created, by a	Def. Exh. 14 at 514:4-23;
4		handgun wound is typically not as injurious to	Def. Exh. 44 at 1541.
5		the tissue as the temporary cavity typically from	
6		a rifle wound, and can be more easily treated by a	
7		physician.	
8	38	During the period in which the federal assault	Def. Exh. 15 at 662:14-
9		weapons ban was in effect, the use of banned	663:1.
10		assault weapons in crimes was reduced.	
11	39	The AWCA is broader than the federal assault	Def. Exh. 15 at 610:4-11.
12		weapons ban because, unlike the federal ban's	
13		two-feature test, the AWCA restricts centerfire	
14		rifles capable of accepting a detachable magazine	
15		if it has one of the listed features.	
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			

Dated: March 25, 2019

Respectfully submitted,

XAVIER BECERRA
 Attorney General of California
 MARK R. BECKINGTON
 Supervising Deputy Attorney General
 JOHN D. ECHEVERRIA
 Deputy Attorney General

/s/ Peter H. Chang

PETER H. CHANG
 Deputy Attorney General
Attorneys for Defendant Xavier Becerra

C. D. Michel – SBN 144258
cmichel@michellawyers.com
Sean A. Brady – SBN 262007
sbrady@michellawyers.com
Matthew D. Cubeiro – SBN 291519
mcubeiro@michellawyers.com
MICHEL & ASSOCIATES, P.C.
180 East Ocean Boulevard, Suite 200
Long Beach, CA 90802
Telephone: 562-216-4444
Facsimile: 562-216-4445

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION

STEVEN RUPP, et al.,

Plaintiffs,

vs.

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

Defendant.

Case No.: 8:17-cv-00746-JLS-JDE

**THIRD AMENDED COMPLAINT
FOR DECLARATORY AND
INJUNCTIVE RELIEF**

1 Plaintiffs, Steven Rupp, Steven Dember, Cheryl Johnson, Michael Jones,
 2 Christopher Seifert, Alfonso Valencia, Troy Willis, Dennis Martin, and the
 3 California Rifle & Pistol Association, Incorporated, (“Plaintiffs”) through their
 4 counsel, bring this action against Defendant Attorney General Xavier Becerra, in his
 5 official capacity, and make the following allegations:

6 INTRODUCTION

7 1. Plaintiffs are law-abiding California residents who seek to protect
 8 themselves and their families with rifles owned and in common use by millions of
 9 Americans for self-defense. The Second Amendment squarely protects Plaintiffs’
 10 right to keep and bear arms “typically possessed by law-abiding citizens for lawful
 11 purposes.” *District of Columbia v. Heller*, 554 U.S. 570, 624-25 (2008). And
 12 California plainly infringes that right by completely barring Plaintiffs from
 13 acquiring, transferring, or possessing commonly owned rifles that it pejoratively
 14 labels “assault weapons”—a non-technical, political term of ever-changing
 15 definition and scope with no connection to the public safety interests that the law
 16 purports to serve.¹

17 2. California’s sweeping Assault Weapon Control Act (“the AWCA”)²
 18 prohibits the most popular rifle models in the country, which are lawfully owned and
 19 safely operated by millions of Americans in all but a few states. To achieve such a
 20 broad ban, California classifies as “assault weapons” dozens of specific, popular
 21 rifles by their make and model along with any other rifle having certain common
 22

23 ¹ “ ‘Prior to 1989, the term “assault weapon” did not exist in the lexicon of
 24 firearms. It is a political term, developed by anti-gun publicists to expand the
 25 category of “assault rifles” so as to allow an attack on as many additional firearms as
 26 possible on the basis of undefined “evil” appearance.’ ” *Stenberg v. Carhart*, 530
 27 U.S. 914, 1001 n.16 (2000) (Thomas, J., dissenting) (quoting Bruce H. Kobayashi &
 28 Joseph E. Olson, *In Re 101 California Street: A Legal and Economic Analysis of
 Strict Liability for the Manufacture and Sale of “Assault Weapons”*, 8 Stan. L. &
 Pol’y Rev. 41, 43 (1997)).

² Part 6, Title 4, Division 10, Chapter 2 of the California Penal Code,
 commencing with section 30500.

1 features that are the hallmarks of the most popular rifle models. None of these
2 features that qualify a rifle for the State’s prohibition have anything to do with rate
3 of fire, ammunition capacity, power, or anything else linked to the rifle’s potential to
4 be exploited for crime. To the contrary, their purpose is to promote ergonomic
5 comfort, accuracy, and safe handling—that is, to make the rifles safer and more
6 effective for the core lawful purpose of self-defense. In sum, California’s prohibition
7 of rifles “in common use . . . for lawful purposes like self-defense” is based on
8 distinctions that have nothing to do with public safety or any other valid government
9 objective. *Id.* at 624. That is a policy choice the Second Amendment takes “off the
10 table.” *Id.* at 636.

11 3. The Second Amendment is not the only constitutional provision
12 implicated by the State’s ban. By retroactively criminalizing firearms that were
13 lawful when purchased based on arbitrarily selected features—many of which
14 actually make firearms that are commonly owned and used *safer* and more effective
15 for self-defense—the AWCA violates the Due Process Clause. *See, e.g., Lingle v.*
16 *Chevron U.S.A. Inc.*, 544 U.S. 528, 541 (2005); *id.* at 548-49 (Kennedy, J.,
17 concurring). And by severely constraining the right of firearm owners to transfer
18 lawfully acquired firearms, and eliminating entirely the right of firearms owners “to
19 pass on” their lawfully acquired property to their family members or heirs— “one of
20 the most essential sticks in the bundle of” property rights, which has “been part of
21 the Anglo-American legal system since feudal times”—without compensation, the
22 AWCA violates the Takings Clause. *Hodel v. Irving*, 481 U.S. 704, 716 (1987);
23 *Horne v. Dep’t of Agric.*, 135 S. Ct. 2419, 2425, 2427 (2015).

24 4. Desiring to acquire, possess, use, and/or transfer these constitutionally
25 protected firearms for lawful purposes including self-defense, but justifiably fearing
26 prosecution if they do, Plaintiffs respectfully request this Court: (1) declare that
27 California Penal Code sections 30510(a), 30515(a)(1)(A-C), 30515(a)(1)(E-F),
28 30515(a)(3), 30520, 30600, 30605, , 30925, and 30945, along with California Code

1 of Regulations, title 11, section 5499 (“11 C.C.R. 5499”), infringe Plaintiffs’
2 constitutional rights; and (2) permanently enjoin Defendants from enforcing each of
3 those sections to the extent they prevent law-abiding Californians, like Plaintiffs,
4 from acquiring, possessing, using or transferring constitutionally protected arms.

5 **FACTUAL BACKGROUND**

6 5. This case involves California’s ban on certain commonly owned
7 semiautomatic, centerfire rifles with detachable magazines. “Semiautomatic” means
8 the rifle discharges a single projectile with each pull of the trigger, no matter how
9 long the trigger is depressed.³ “Centerfire” means the rifle uses “centerfire” (as
10 opposed to “rimfire”) ammunition.⁴ And having a “detachable magazine” means that
11 the rifle is fed ammunition via a magazine that is not fixed to the rifle.

12 6. There is nothing new or unusually dangerous about semiautomatic,
13 centerfire rifles with detachable magazines. Such rifles have been in safe and
14 effective use by civilians in this country—including in California—for over a
15 century. As a general matter, they remain lawful in all states today.

16 7. Many semiautomatic, centerfire rifles with detachable magazines come
17 standard with—or can be modified with widely available aftermarket products to
18 include—particular features designed to promote comfort, safe handling, and
19 accuracy. As relevant to this case, those features include a “pistol grip” (including a

20 ³ By contrast, fully automatic weapons—otherwise known as a “machine guns”—
21 are capable of discharging rounds as long as the trigger is depressed. *See Staples v.*
22 *United States*, 511 U.S. 600, 602 n.1 (1994). Fully automatic “machine guns” are
23 generally banned in California by Penal Code section 32625, a section Plaintiffs do
24 not challenge here.

25 ⁴ Ammunition consists of loaded cartridges that have four parts: a primer, case,
26 propellant (gun powder) and a projectile (bullet or shot). *See* Cal. Penal Code §
27 16150. When a firing pin strikes the priming compound of a cartridge placed in a
28 gun’s chamber, the resulting spark ignites the powder charge and the resulting gas
drives the bullet out of the case and then out of the barrel. In a “centerfire” cartridge,
the priming compound is contained in a cup mechanically positioned in a ‘pocket’ in
the center of the back end of the cartridge case. In a “rimfire cartridge,” the priming
compound has been placed on the outside rim of the cartridge case by centrifugal
force. The clear majority of cartridge types are centerfire; rimfire ammunition
generally consists of smaller cartridges, *e.g.*, .22LR.

1 “forward pistol grip”), a “thumbhole stock,” a “flash suppressor,” and an adjustable
2 (“telescoping”) stock. *See* Cal. Penal Code § 30515.

3 8. A “pistol grip” allows for a “grasp in which the web of the trigger hand
4 (between the thumb and index finger) can be placed below the top of the exposed
5 portion of the trigger while firing.” Cal. Code Regs. tit. 11, § 5469(d). In other
6 words, a pistol grip allows for a more comfortable and stable grip, which in turn
7 promotes accuracy when shooting. “By holding the pistol grip, the shooter keeps the
8 barrel from rising after the first shot, and thereby stays on target for a follow-up
9 shot. The defensive application is obvious, as is the public safety advantage in
10 preventing stray shots.” *Kolbe v. Hogan*, 849 F.3d 114, 159 (4th Cir. 2017) (en banc)
11 (Traxler, J., dissenting) (citing David B. Kopel, *Rational Basis Analysis of “Assault*
12 *Weapon” Prohibition*, 20 J. Contemp. L. 381, 396 (1994)). A pistol grip also lessens
13 recoil and, by allowing a user to grip the rifle from below rather than from above,
14 minimizes the chance that a rifle will slip out of the user’s hand while firing, further
15 increasing safety, improving accuracy, and preventing stray shots.⁵

16 9. A “thumbhole stock” allows the thumb of the user’s “trigger hand to
17 penetrate into or through the stock while firing.” Cal. Code Regs. tit. 11, § 5469(e).
18 Like a pistol grip, a thumbhole stock makes it easier for a user to have a more
19 comfortable and stable grip, which provides for greater accuracy and decreases the
20 risk of dropping the weapon or firing stray shots.

21 10. A “flash suppressor” is a device designed to “reduce or redirect muzzle
22 flash”—the sudden flash of light caused by the explosion of gunpowder when a rifle
23 user fires a shot—“from the shooter’s field of vision.” Cal. Code Regs. tit. 11, §
24 5469(b). A “flash suppressor” prevents a rifle user from being blinded in low
25 lighting conditions, such as at dusk or dawn or during the nighttime. Another
26 function of a “flash suppressor” is to reduce recoil and muzzle (tip of the barrel)

27
28 ⁵ A “forward pistol grip” serves the same function for the user’s forward hand.
See Cal. Code Regs. tit. 11, § 5469(c).

1 movement, making the rifle less painful for the user to operate and increasing
2 accuracy.

3 11. An adjustable (“telescoping”) stock permits the rifle’s user to adjust the
4 stock forward or backward, making it shorter or longer, according to his or her
5 specific physical size so that the rifle can be held comfortably.⁶ In other words, its
6 purpose is to fit the particular user’s arm length, making it easier, thus safer, to
7 shoot; particularly if there are multiple users of different sizes using the same rifle.
8 And, “there is essentially no difference between a short standard stock and a
9 shortened retractable stock.” *Murphy v. Guerrero*, No. 14-00026, 2016 WL
10 5508998, at *19 (D. N. Mar. I. Sept. 28, 2016). As long as the rifle does not have an
11 illegally short overall length⁷ when the adjustable stock is at its most compact
12 setting, a non-adjustable stock can lawfully be just as short.

13 12. In sum, a pistol grip, thumbhole stock, flash suppressor, and adjustable
14 (“telescoping”) stock (as those terms are defined by California regulations) are each
15 designed to make a rifle more comfortable or easier for a user to accurately operate,
16 thereby facilitating the rifle’s safe and effective operation when used for a lawful
17 purpose such as self-defense.

18 13. None of these features increases a rifle’s “rate of fire and capacity for
19 firepower.” Cal. Penal Code § 30505(a). To the contrary, they “actually tend to make
20 rifles easier to control and more accurate—making them safer to use.” *Murphy v.*
21 *Guerrero*, No. 14-00026, 2016 WL 5508998, at *18 (D. N. Mar. I. Sept. 28, 2016).

22 14. Rifles with these features are extremely popular with the American
23 public. Between 1990 and 2014, more than 11 million rifles having at least some of
24 these features were manufactured in or imported into the United States. *See Kolbe v.*
25 *Hogan*, 813 F.3d 160, 174 (4th Cir. 2016), *vacated* 849 F.3d 114 (2017). In 2012,

26 _____
27 ⁶ California provides no definition for “telescoping stock.”

28 ⁷ *See* Penal Code §§ 33210-33290, 17170 and 18 U.S.C.A. §§ 921(a)(8),
922(a)(4), 922(b)(4) (heavily restricting any “short-barreled” rifle having an overall
length of less than 26 inches).

1 such rifles accounted for approximately 20 percent of all retail firearm sales. And in
2 2014 alone, approximately 1,228,000 such rifles were manufactured or sold in the
3 United States.⁸

4 15. Purchasers consistently report that one of the most important reasons
5 for their purchase of this class of rifle is self-defense. Other lawful and
6 constitutionally protected purposes for these rifles include hunting, competitive
7 shooting, and target shooting.

8 16. Rifles equipped with the banned features are no more dangerous or
9 susceptible to use for criminal purposes than those without them. In recognition of
10 that fact, the vast majority of States place no special restrictions on semiautomatic,
11 centerfire rifles with a detachable magazine for having a pistol grip, thumbhole
12 stock, flash suppressor, or adjustable stock. Indeed, only five States other than
13 California (plus the District of Columbia) place restrictions on such rifles, and all
14 those restrictions are of recent vintage.⁹

15 CALIFORNIA'S ASSAULT WEAPONS CONTROL ACT

16 A. General Principles

17 17. This case concerns what is known, in relevant part, as the Roberti-Roos
18 Assault Weapons Control Act of 1989, or the AWCA, found at Part 6, Title 4,
19 Division 10, Chapter 2 of the California Penal Code, commencing with section
20 30500.¹⁰

22 ⁸ To put that in perspective, less than 570,000 Ford F-150 trucks—the best-
23 selling vehicle in the United States—were sold in 2014. Warren Clarke, *Top 10*
24 *Best-Selling Vehicles for 2014*, Edmunds (Jan. 15, 2015),
<https://www.edmunds.com/car-reviews/top-10/top-10-best-selling-vehicles-for-2014.html>.

25 ⁹ Connecticut (Conn. Gen. Stat. Ann. §§ 53-202a - 53-2020); Washington D.C.
26 (D.C. Code Ann. § 7-2501.01); Maryland (Md. Code Ann., Crim. Law § 4-301);
Massachusetts (Mass. Gen. Laws Ann. ch. 140, § 121); New Jersey (N.J. Stat. Ann.
27 § 2C:39-1(w)); and New York (N.Y. Penal Law § 265.00(22)).

28 ¹⁰ These statutes are also known as the “.50 Caliber BMG Regulation Act of
2004.” The firearms impacted by the provisions of that Act, although appearing in
the same statutes as “assault weapons,” are not at issue in this litigation.

1 18. The AWCA generally makes it illegal to manufacture or cause to be
2 manufactured, distribute, transport, import into the state for sale, keep for sale, offer
3 or expose for sale, or give, or lend any “assault weapon.” A violation is punishable
4 as a felony by imprisonment for four, six, or eight years. Cal. Penal Code §
5 30600(a).

6 19. The AWCA also generally prohibits the possession of any “assault
7 weapon.” A violation is punishable as either a misdemeanor or felony with potential
8 imprisonment in county jail or state prison. *Id.* § 30605(a); *id.* § 1170(h).

9 20. The AWCA includes a few limited exceptions that apply to specific
10 groups like peace officers, special “dangerous weapons permit” holders,¹¹ executors
11 of estates, and those specifically licensed to engage in the business of firearms
12 restricted under the AWCA. *See id.* §§ 30625-30630, 30645-30655, 31000-31005.
13 The exceptions do not, however, permit possession of an “assault weapon” by a
14 member of the general public.

15 21. As discussed further below, there is an exception to the general
16 restriction on “possessing” an “assault weapon” for anyone who lawfully acquired a
17 firearm prior to the legislature classifying that firearm as an “assault weapon,”
18 provided the firearm was registered with the California Department of Justice (“the
19 California DOJ”) as an “assault weapon” during the statutorily mandated registration
20 period. *Id.* § 30900. Firearms exempted from the ban by these “grandfathering”
21 provisions, however, generally cannot be transferred to ordinary private citizens in
22 California, including members of the owner’s family upon the death of the owner.
23 They can only be transferred to specified law enforcement agencies and personnel,
24 certain “dangerous weapon” permit holders, or those who reside out of state. *Id.* §§
25 30625, 30645, 30650, 31055, 31100. Thus, lawful possession of timely registered
26

27 ¹¹ This permit is generally issued only to those in the business of selling or
28 transferring such firearms, and only upon demonstrating a bona fide market or
public necessity for the issuance of such a permit in their application to the
Department of Justice. *See* Cal. Code Regs., tit. 11, §§ 4132-4137.

grandfathered “assault weapons” is effectively confined to the lifetime of the current owner, after which the executor of the estate must dispose of them as described in the preceding sentence or law enforcement will confiscate them.

B. Definition of “Assault Weapon”

22. The class of firearms that California defines as “assault weapons” has evolved (and expanded) several times since the AWCA was first enacted in 1989.

23. As originally written, the AWCA expressly declared over 55 firearms, listed by make and model, to be “assault weapons.” Those firearms include the “Avtomat Kalashnikovs (AK) series,” the “Colt AR-15 and AR-15 series” rifles, the “SKS with detachable magazine,” and any firearm declared an “assault weapon” by a court under Penal Code section 30520 (former Penal Code section 12276.5).¹² See Assemb. B. 357, 1989-1990 Reg. Sess. (Cal. 1989), 1989 Cal. Stat. 64-65.

Category 1 Assault Weapons

24. In 1991, the Legislature amended the AWCA to add several new firearms to the list of restricted “assault weapons,” including “Made in China AK, AKM, AKS, AK47, AK47S, 56, 56S, 84S, and 86S.” See Cal. Penal Code § 30510 (former Cal. Penal Code § 12276 (1992)) (added by Sen. B. 263, 1991-1992 Reg. Sess. (Cal. 1991), 1991 Cal. Stat. 4440-41). The “Avtomat Kalashnikovs (AK) series” and “CAR-15 series” were removed, while the provision banning the “Colt AR-15 series” remained. See *id.* And “[a]ll AK series” were added to the list. See *id.* This list of firearms commonly became known as “Category 1” “assault weapons.”

25. Category 1 “assault weapons” were required to be registered on or before March 31, 1992, following an extension after the 1991 amendment. See Cal. Penal Code § 30960(a) (former Cal. Penal Code § 12285(f) (1992)). It is no longer possible to register a Category 1 “assault weapon” and, therefore, no longer possible

¹² In 2010, the legislature reorganized without substantive change all the Penal Code sections relating to “deadly weapons,” including those relating to “assault weapons.” See Sen. B. 1080, 2009-2010 Reg. Sess. (Cal. 2010).

1 for the public to acquire one. Individuals who still possess a Category 1 “assault
2 weapon” can only legally do so if the firearm was properly registered by the
3 applicable deadline. And as explained above, registered owners of Category 1
4 “assault weapons” cannot transfer them to ordinary private citizens within
5 California, even their own family members upon their death.

6 ***Category 2 Assault Weapons***

7 26. In 2000, the California Supreme Court explained the legal requirements
8 for adding a firearm to the list of “assault weapons.” *Kasler v. Lockyer*, 23 Cal. 4th
9 472 (2000). Immediately following this decision, the California DOJ added more
10 than 60 AR-15 and AK “series” firearms to that list. These firearms are commonly
11 referred to as “Category 2 assault weapons.”

12 27. The list of rifles that the California DOJ deemed “assault weapons” as
13 “series” makes and models, or Category 2 “assault weapons” can be found at 11
14 C.C.R. § 5499. In 2006, the legislature repealed the California DOJ’s authority to
15 add firearms to the list of “assault weapons” identified in 11 C.C.R. § 5499. *See* Cal.
16 Penal Code § 30520 (former Cal. Penal Code § 12276.5) (added by Assemb. B.
17 2718, 2005-2006 Reg. Sess. (Cal. 2006), 2006 Cal. Stat. 6342-43). Thus, the list of
18 firearms deemed “assault weapons” by make and model in Penal Code section
19 30510 or 11 C.C.R. § 5499 (Category 1 or Category 2 “assault weapons”) is now
20 static.¹³

21 28. Category 2 “assault weapons” were required to be registered on or
22 before January 23, 2001. It is no longer possible to register a Category 2 “assault
23 weapon” and, therefore, no longer possible for the public to acquire one. Individuals
24 who still possess a Category 2 “assault weapon” can only legally do so if it was
25 properly registered by the applicable deadline. And as explained above, registered
26

27 ¹³ *See* Assault Weapons Identification Guide, California Attorney General,
28 <https://oag.ca.gov/sites/all/files/agweb/pdfs/firearms/forms/awguide.pdf> (3d Ed.,
Nov. 2001).

owners of Category 2 assault weapons cannot transfer them to ordinary private citizens within California, even their own family members upon their death.

Category 3 Assault Weapons

29. In 1999, the legislature again amended the AWCA to further expand the definition of “assault weapon.” Unlike Category 1 and Category 2 “assault weapons,” which are expressly listed by make and model, this time the legislature classified a firearm as an “assault weapon” based on its features and configuration. *See* Cal. Penal Code § 30515 (former Cal. Penal Code § 12276.1) (added by Sen. B. 123, 1999-2000 Reg. Sess. (Cal. 1999), 1999 Cal. Stat. 1805-06). Firearms meeting this definition are commonly referred to as “Category 3” “assault weapons.”

30. Category 3 “assault weapons” include:

(a) (1) A semiautomatic, centerfire rifle ***that has the capacity to accept a detachable magazine and any one of the following:***

(A) A pistol grip that protrudes conspicuously beneath the action of the weapon.

(B) A thumbhole stock.

(C) A folding or telescoping stock.

(D) A grenade launcher or flare launcher.

(E) A flash suppressor.

(F) A forward pistol grip.

(2) A semiautomatic, centerfire rifle that has a fixed magazine with the capacity to accept more than 10 rounds.

(3) A semiautomatic, centerfire rifle that has an overall length of less than 30 inches.

(4) A semiautomatic pistol ***that has the capacity to accept a detachable magazine and any one of the following:***

(A) A threaded barrel, capable of accepting a flash suppressor, forward handgrip, or silencer.

(B) A second handgrip.

(C) A shroud that is attached to, or partially or completely encircles, the barrel that allows the bearer to fire the weapon without burning the bearer's hand, except a slide that encloses the barrel.

(D) The capacity to accept a detachable magazine at some location outside of the pistol grip.

(5) A semiautomatic pistol with a fixed magazine that has the capacity to accept more than 10 rounds.

(6) A semiautomatic shotgun that has both of the following:

(A) A folding or telescoping stock.

(B) A pistol grip that protrudes conspicuously beneath the action of the weapon, thumbhole stock, or vertical handgrip.

(7) A semiautomatic shotgun that has the ability to accept a detachable magazine.

(8) Any shotgun with a revolving cylinder.

Cal. Penal Code § 30515.

31. In 2000, the California DOJ promulgated regulations, defining the following key terms for Category 3 "assault weapons": (a) "Detachable magazine;" (b) "Flash suppressor;" (c) "Forward pistol grip;" (d) "Pistol grip that protrudes conspicuously beneath the action of the weapon;" and (e) "Thumbhole stock." Cal. Code Regs. tit. 11, § 5469.

32. Category 3 "assault weapons" were required to be registered on or before December 31, 2000. It is no longer possible to register a Category 3 "assault weapon" and, therefore, no longer possible for the public to acquire one. Individuals who still possess a Category 3 "assault weapon" can only legally do so if it was

properly registered by the applicable deadline. And as explained above, registered owners of Category 3 “assault weapons” cannot transfer them to ordinary private citizens within California, even their own family members upon their death.

Category 4 Assault Weapons

33. Because Category 3 assault weapons must have “the capacity to accept a detachable magazine,” Cal. Penal Code § 30505, rifle owners who preferred to keep safety and accuracy-enhancing features like a pistol grip, thumbhole stock, flash suppressor, or adjustable stock (which would otherwise be banned under the Category 3 definition) could avoid categorization as a Category 3 “assault weapon” by disabling their rifle’s capacity to accept a detachable magazine. To do so, they typically retrofitted their firearms with an aftermarket product generally referred to as a “magazine lock.”

34. Whereas the standard magazine release for a “detachable magazine” operates with the push of a finger, the typical “magazine lock” replaces the standard one-piece magazine release button with a two-piece assembly that cannot be operated with just the push of a finger; rather, a tool is needed to reach the button to release the magazine so it can be removed. The most common “tool” used to remove the magazine is the tip of a bullet, and a bullet is expressly considered a “tool” under California Code of Regulations, title 11, section 5469(a). Because a tool is needed to release the magazine, and because California considers a magazine not to be “detachable” if a “tool” is required to remove it from the firearm, a firearm with a “magazine lock” does not qualify as having “the capacity to accept a detachable magazine.” Therefore, prior to 2017, firearms with a “magazine lock” did not fall within the “assault weapon” definition, and could accordingly be equipped with safety- and accuracy-enhancing features like a pistol grip, thumbhole stock, flash suppressor, or adjustable stock.

35. In 2016, the Legislature introduced Assembly Bill 1135 and Senate Bill 880, which once again changed the “assault weapon” definitions for rifles and

pistols (but not shotguns). The purpose of these bills was to make equipping a pistol or rifle with a “magazine lock” an insufficient alteration to take that firearm outside the definition of an “assault weapon.” *See* Assemb. B. 1135, 2015-2016 Reg. Sess. (Cal. 2016); Sen. B. 880, 2015-2016 Reg. Sess. (Cal. 2016).

36. Specifically, the Legislature amended the definition of “assault weapon” in Penal Code section 30515 as follows:

(a) (1) A semiautomatic, centerfire rifle ***that does not have a fixed magazine but has any one of the following:***

(A) A pistol grip that protrudes conspicuously beneath the action of the weapon.

(B) A thumbhole stock.

(C) A folding or telescoping stock.

(D) A grenade launcher or flare launcher.

(E) A flash suppressor.

(F) A forward pistol grip.

....

(4) A semiautomatic pistol ***that does not have a fixed magazine but has any one of the following:***

(A) A threaded barrel, capable of accepting a flash suppressor, forward handgrip, or silencer.

(B) A second handgrip.

(C) A shroud that is attached to, or partially or completely encircles, the barrel that allows the bearer to fire the weapon without burning the bearer’s hand, except a slide that encloses the barrel.

(D) The capacity to accept a detachable magazine at some location outside of the pistol grip.

(b) *For purposes of this section, “fixed magazine” means 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.*

Cal. Penal Code § 30515 (subdivisions (a)(1), (a)(4), and (b) are emphasized to underscore the only changes made to the definition of “assault weapon” from 2016 to 2017).

37. Firearms now classified as “assault weapons” as a result of Assembly Bill 1135 and Senate Bill 880 are being referred to as “Category 4” “assault weapons.” The sale or transfer of a Category 4 “assault weapon” is prohibited as of January 1, 2017. Thus, it is no longer possible to acquire a Category 4 (or any) “assault weapon” in California.

38. Individuals who currently possess a Category 4 “assault weapon” can only legally do so if they lawfully acquired and possessed it before January 1, 2017, and they must register such firearms by June 30, 2018. It will be illegal to possess an unregistered Category 4 “assault weapon” on July 31, 2018, even if that firearm was lawfully acquired. Like registered owners of earlier-designated “assault weapons,” registered owners of Category 4 “assault weapons” cannot transfer them to ordinary private citizens within California, even their own family members upon their death.

Options for Possessing or Transferring Category 4 Assault Weapons

39. The only option available to Plaintiffs who currently own “assault weapons” other than registration or removing their firearms from California prior to July 1, 2018, should they wish to keep or transfer them is to modify them so they no longer meet the “assault weapon” definition by that same date. That can be achieved, at least in theory, several ways. For semiautomatic, centerfire rifles lacking a fixed magazine, rifles can be modified to: (1) no longer be semi-automatic; (2) utilize rimfire instead of centerfire ammunition; (3) be equipped with a “fixed magazine” as defined in California Penal Code section 30515, subd. (b); or (4) no longer possess any of the features listed in California Penal Code section 30515, subd. (a)(1) (which

includes “pistol grips that protrude conspicuously beneath the action of the weapon,” a “thumbhole stock,” a “folding or telescoping stock,” a “grenade or flare launcher,” a “flash suppressor,” or a “forward pistol grip”). *Id.*

40. Modifying a rifle so that it no longer can shoot semi-automatically (where a bullet discharges with each pull of the trigger) is virtually impossible for some firearm models without extensive gunsmithing. Most firearm owners are not capable of making on their own because it requires technical knowledge of firearms. Doing it incorrectly could be dangerous.

41. Similar modifications for an AR-15 platform rifle are less difficult because the entire upper assembly of the firearm can be replaced with a purpose-built non-semiautomatic assembly; essentially, it converts the rifle to no longer function as a semiautomatic and instead some other type of action (such as a bolt-action). But these types of upper assemblies are exceedingly rare, can cost well over \$1,000, and completely replace the existing assembly which could also cost just as much, if not more.¹⁴

42. Modifying a centerfire rifle to shoot rimfire cartridges is likewise virtually impossible for some rifle models but is possible for an AR-15 platform rifle. This is also a modification that most firearm owners are not capable of making because it requires technical knowledge of firearms, as it completely replaces the firearm’s bolt-carrier group, magazines, and ammunition, which also makes it relatively expensive.¹⁵ Conversion kits typically cost around \$189.

¹⁴ See, e.g., Uintah Precision complete bolt action upper assembly, available for purchase on www.readygunner.com for \$1,279.99, <https://www.readygunner.com/product/uintah-precision-complete-bolt-action-upper-assembly/> (last visited May 30, 2018).

¹⁵ See, e.g., CMMG Rimfire Conversion Kit AR-15 with Magazine 22 Long Rifle Stainless Steel, <https://www.midwayusa.com/product/2546133311/cmmg-rimfire-conversion-kit-ar-15-with-magazine-22-long-rifle-stainless-steel>, Midway USA (last visited May 30, 2018). Typical AR-15 magazines owned by law abiding California citizens can cost anywhere between \$13-\$20. See, e.g., PMAG 10 AR/M4 Gen M3, <https://www.magpul.com/products/pmag-10-ar-m4-gen-m3>, Magpul (last visited May 30, 2018). Many gun owners have more than one such magazine for their

43. To meet California's definition of "fixed magazine," the magazine must be contained in or permanently attached to the firearm "in such a manner that the device cannot be removed without disassembly of the firearm action." Cal. Penal Code § 30515(b). DOJ has generally defined the term "disassembly of the firearm action" to mean that "the fire control assembly is detached from the action in such a way that the action has been interrupted and will not function." 11 C.C.R. § 5471(n).

44. While there are products on the market purporting to make firearms with non-fixed magazines meet this definition, it remains unclear whether law enforcement will consider these aftermarket modifications sufficient. Even if they do, these products are not designed or tested by the manufacturer of the firearm. And, complete kits can cost over \$100 prior to any required services of a gunsmith.¹⁶

45. Removing features from a rifle, such as a pistol grip or adjustable stock, will result not only in significant expense to the owner but will also deprive the owner of the value of those components, monetarily and utility.¹⁷ Aftermarket products to replace or remove these features, thereby making the rifle in a legal configuration, exist for at least some rifle models. However, it is unclear whether they exist for all models. DOJ, has thus far failed to provide California gun owners with any guidance regarding specific ones. Failure to use an appropriate aftermarket product carries with it the serious risk of felony prosecution should law enforcement

firearm, all of which could no longer be used in a firearm equipped with such a conversion kit.

¹⁶ See AR MAGLOCK AR-15 (.223/5.56) – Gen 2 with KingPin, <https://www.armaglock2.com/product/ar-maglock-ar-15-223-5-56-gen-2-with-kingpin/>, AR Maglock (last visited May 30, 2018).

¹⁷ For example, replacing a stock and pistol grip with a Thordsen Customs FRS-15 replacement kit can cost around \$130 for the parts alone. See AR-15 Gen III Stock Kits, <https://www.thordsencustoms.com/frs-15-gen-iii-rifle-stock/frs-15-gen-iii-stock-kit/> Thordsen Customs (last visited May 30, 2018). Muzzle brakes, which should not be classified as a "flash suppressor," can likewise cost as much as \$60. See, e.g., ProComp Muzzle Brakes, <https://www.surefire.com/tactical-equipment/suppressor-adapters/procomp-muzzle-brakes.html>, Surefire (last visited May 30, 2018). All of these products may require the services of a professional gunsmith to install, further increasing their associated cost.

1 view the product as a prohibited feature.

2 46. What's more, every modification option would result in a fundamental
3 change to the nature of the firearm. A bolt-action rifle is vastly different from a
4 semiautomatic one, as is a centerfire rifle from a rimfire one. The are both, in fact,
5 completely separate classes of firearms.¹⁸ And, converting a firearm designed to be
6 equipped with a detachable magazine to have a "fixed" magazine can result in
7 dangerous situations should the firearm suffer a malfunction during operation.
8 Making it impossible to remove the magazine (now "fixed") increases the difficulty
9 of removing any unspent ammunition before clearing a malfunction, increasing the
10 risk of removing it.¹⁹ Likewise, removing a pistol grip, for example, prevents a user
11 from holding the firearm in a manner originally intended by the manufacturer. And
12 removal of a telescoping stock can prevent a user of the firearm from adjusting the
13 length of pull to fit their body structure, which allows them to effectively control the
14 firearm while in use. Additionally, any of these changes could potentially void any
15 of the owners' warranties for the modified firearms.

16 C. Summary of Assault Weapons Regulation

17 47. As a result of the Category 4 "assault weapon" definition, a rifle that
18 does *not* have a fixed magazine is an "assault weapon" if it has any of the statutorily
19 enumerated features (pistol grip, thumbhole stock, flash suppressor, or adjustable
20 stock), but a rifle that *does* have a fixed magazine is *not* an assault weapon even if it
21 has all of those features.

22 48. A Category 3 or Category 4 "assault weapon" can be modified so that it
23 no longer meets the "assault weapon" definition by removing the features that
24 qualify it as one. These modified firearms would not need to be registered and may

25 ¹⁸ See, e.g., *New Shooter Seminar*, Actions for Long Guns, National Rifle
26 Association of America.

27 ¹⁹ Some manufacturers of these aftermarket products warn customers of the
28 dangers associated with a double-feed malfunction when using a fixed magazine
locking device on an AR-15 style firearm. See, e.g., <https://www.armaglock2.com/>
(last visited May 30, 2018).

1 be lawfully possessed, used, or transferred, subject only to California's general
2 firearm laws. For example, the owner of a generic AR-15 platform rifle could
3 remove the "pistol grip" and "flash suppressor" and permanently affix the stock so it
4 is not adjustable; the firearm would then be considered a standard rifle under
5 California law and not an "assault weapon."

6 49. That is not the case, however, with Category 1 or Category 2 "assault
7 weapons" (those expressly listed by make and model in Penal Code section 30510 or
8 11 C.C.R. § 5499). They remain "assault weapons" forever, regardless of their
9 features, must be registered, and cannot generally be transferred.

10 50. There are two noteworthy practical effects of this distinction between
11 Category 1 and 2 "assault weapons" and Category 3 and 4 "assault weapons." First,
12 rifles that are essentially identical in function, configuration, features, design,
13 caliber, rate of fire, and ammunition capacity, can have drastically different
14 treatment under the law, solely because of what maker's marks the rifles have etched
15 onto their surface. For example, a rifle with "Colt AR-15" engraved on it that does
16 not have a "pistol grip" or "flash suppressor" and has a fixed (non-adjustable) stock
17 is still an "assault weapon," while a rifle in the same configuration with "Illegal
18 Assault Weapon" engraved on it is not. Second, the rifle marked "Illegal Assault
19 Weapon" could legally have a "detachable magazine" and not be an "assault
20 weapon," as long as it does not have other restricted features, while the rifle marked
21 "Colt AR-15" could have a fixed magazine and would still be an "assault weapon."

22 51. As long as their overall length is at least 30 inches, California does not
23 place any additional restrictions on semiautomatic, centerfire rifles with detachable
24 magazines that do not have the restricted "assault weapon" features (pistol grip,
25 thumbhole stock, flash suppressor, or adjustable stock). This means that an eighteen-
26 year-old who is not otherwise disqualified from firearm ownership in California may
27 lawfully purchase and use such a rifle, subject only to California's general firearm
28 restrictions that are not at issue here.

52. It also means that California is the only state other than Connecticut²⁰ to treat as an “assault weapon” any semiautomatic, centerfire rifle—regardless of its magazine system or ammunition capacity—that is under 30 inches in overall length.

53. Outside of registration or dispossession, the only other option available to Plaintiffs to continue to lawfully possess their firearms in the state of California is to perform costly modifications to their firearms, some of which have not been tested by the manufacturer and otherwise pose significant dangers should the firearm suffer a malfunction during normal operation. Such modifications are also the only option for Plaintiffs should they wish to transfer their firearms. Likewise, the only option for those Plaintiffs who wish to acquire semiautomatic, centerfire rifles in the future, is to acquire ones already having these modifications.

PARTIES

Plaintiffs

54. Plaintiff Steven Rupp is a resident of Orange County, California, and a law-abiding citizen of the United States. Plaintiff Rupp lawfully owns a semiautomatic, centerfire rifle with a non-fixed magazine and a pistol grip, flash suppressor, and adjustable stock, making it an “assault weapon” under the latest amendment to the AWCA (Category 4). He keeps it in his home for self-defense and other lawful purposes, like training and recreation. As a result of the AWCA, Plaintiff Rupp is prohibited from transferring his rifle to his offspring, which he would do but for this restriction and fear of prosecution for violating the AWCA. Mr. Rupp also owns a firearm frame or “lower receiver” that he wishes to assemble into a fully functioning semiautomatic, centerfire rifle with a detachable magazine that has a pistol grip, flash suppressor, and adjustable stock. As a result of the AWCA, he is prohibited from assembling his firearm frame into a semiautomatic, centerfire rifle that has a non-fixed magazine and a pistol grip, flash suppressor, or

²⁰ Conn. Gen. Stat. Ann. § 53-202a(1)(E)(iii).

1 adjustable stock. But for this restriction and fear of prosecution for violating the
2 AWCA, Mr. Rupp would assemble his firearm frame into such a configuration,
3 which rifle he would use for self-defense and for other lawful purposes.

4 55. Plaintiff Steven Dember is a resident of Orange County, California, and
5 a law-abiding citizen of the United States. Plaintiff Dember seeks to acquire a rifle
6 that is prohibited by the AWCA to keep in his home for self-defense and other
7 lawful purposes, like hunting, training, and recreation. But for the AWCA and his
8 fear of prosecution for violating it, Plaintiff Dember would acquire a semiautomatic,
9 centerfire rifle with a detachable magazine, having one or more of the features that
10 would make it a prohibited “assault weapon” under California law.

11 56. Plaintiff Cheryl Johnson is a resident of Orange County, California, and
12 a law-abiding citizen of the United States. Plaintiff Johnson seeks to acquire a rifle
13 that is prohibited by the AWCA to keep in her home for self-defense and other
14 lawful purposes, like hunting, training, and recreation. But for the AWCA and her
15 fear of prosecution for violating it, Plaintiff Johnson would acquire a semiautomatic,
16 centerfire rifle with a detachable magazine, having one or more of the features that
17 would make it a prohibited “assault weapon” under California law.

18 57. Plaintiff Michael Jones is a resident of Orange County, California and a
19 law-abiding citizen of the United States. Mr. Jones lawfully owns a semiautomatic,
20 centerfire rifle which he keeps in his home for self-defense and for other lawful
21 purposes, such as hunting and recreation. Mr. Jones’ rifle is deemed an “assault
22 weapon” based on the rifle’s features under the latest amendment to the AWCA (it is
23 a Category 4 “assault weapon”). As such, he must register the firearm as an “assault
24 weapon” before July 1, 2018, for his possession of it in that configuration to
25 continue to be lawful, which he intends to do. Upon so registering it, Plaintiff Jones
26 will not be able to devise or transfer his rifle in that configuration to his offspring or
27 otherwise devise or transfer his property to law-abiding Californians. But for this
28 restriction and fear of prosecution for violating the AWCA, Plaintiff Jones would

1 devise or transfer his rifle to his offspring.

2 58. Plaintiff Christopher Seifert is a resident of Orange County, California
3 and a law-abiding citizen of the United States. Mr. Seifert lawfully owns a registered
4 semi-automatic centerfire rifle with a detachable magazine, which he keeps in his
5 home for self-defense and for other lawful purposes, such as hunting and recreation.
6 Mr. Seifert's rifle is deemed an "assault weapon" under California law because it has
7 a detachable magazine and at least one prohibited feature (it is a Category 3 "assault
8 weapon"). As such, Plaintiff Seifert cannot devise or transfer his rifle to offspring or
9 otherwise devise or transfer his property to law-abiding Californians. But for this
10 restriction and fear of prosecution for violating the AWCA, Plaintiff Seifert would
11 devise or transfer his rifle to his offspring. Mr. Seifert also owns a firearm frame or
12 "lower receiver" that he wishes to assemble into a fully functioning semiautomatic,
13 centerfire rifle with a detachable magazine that has a pistol grip, flash suppressor,
14 and adjustable stock. As a result of the AWCA, he is prohibited from assembling his
15 firearm frame into a semiautomatic, centerfire rifle that has a non-fixed magazine
16 and a pistol grip, flash suppressor, or adjustable stock. But for this restriction and
17 fear of prosecution for violating the AWCA, Mr. Seifert would assemble his firearm
18 frame into such a configuration, which rifle he would use for self-defense and for
19 other lawful purposes.

20 59. Plaintiff Alfonso Valencia is a resident of Orange County, California, a
21 law-abiding citizen of the United States, and former Los Angeles Deputy Sheriff.
22 Plaintiff Valencia seeks to acquire a rifle that is prohibited by the AWCA to keep in
23 his home for self-defense and other lawful purposes, like hunting, training, and
24 recreation. But for the AWCA and his fear of prosecution for violating it, Plaintiff
25 Valencia would acquire a semiautomatic, centerfire rifle with a detachable
26 magazine, having one or more of the features that would make it a prohibited
27 "assault weapon" under California law.

28 60. Plaintiff Troy Willis is a resident of Riverside County, California and a

1 law-abiding citizen of the United States, and a retired reserve officer for the Indio
2 Police Department. Mr. Willis lawfully owns a registered semiautomatic centerfire
3 rifle with a detachable magazine, which he keeps in his home for self-defense and
4 for other lawful purposes, such as hunting and recreation. Mr. Willis' rifle is deemed
5 an "assault weapon" under California law because it has a detachable magazine and
6 at least one prohibited feature (it is a Category 3 "assault weapon"). As such,
7 Plaintiff Willis cannot devise or transfer his rifle to his offspring or otherwise devise
8 or transfer his property to law-abiding Californians. But for this restriction and fear
9 of prosecution for violating the AWCA, Plaintiff Willis would devise or transfer his
10 rifle to his offspring.

11 61. Plaintiff Dennis Martin is a resident of Kern County, California and a
12 law-abiding citizen of the United States. Mr. Martin lawfully owns two rifles that are
13 deemed "assault weapons" under the AWCA's new definition because they are
14 semi-automatic, center-fire that do not have a fixed magazine and have, at least, a
15 pistol grip, making them "assault weapons" under California Penal Code section
16 30515, subd. (a)(1) (i.e., they are Category 4 "assault weapons"). Martin keeps it in
17 his home for self-defense and for other lawful purposes, such as hunting and
18 recreation. Mr. Martin's rifle is deemed an "assault weapon" under California law
19 because it has a detachable magazine and at least one prohibited feature (it is a
20 Category 3 "assault weapon"). As such, Plaintiff Martin cannot devise or transfer his
21 rifle to his offspring or otherwise devise or transfer his property to law-abiding
22 Californians. But for this restriction and fear of prosecution for violating the AWCA,
23 Plaintiff Martin would devise or transfer his rifle to his offspring.

24 62. Each of the individual Plaintiffs identified above is eligible under the
25 laws of the United States and of the State of California to receive and possess
26 firearms.

27 63. Plaintiff California Rifle & Pistol Association, Inc. ("CRPA"), is a
28 nonprofit membership and donor-supported organization qualified as tax-exempt

1 under 26 U.S.C. § 501(c)(4) with its headquarters in Fullerton, California. Founded
2 in 1875, CRPA seeks to defend the civil rights protected under the Second
3 Amendment of all law-abiding individuals, including the fundamental right to
4 acquire, possess, use, and transfer firearms.

5 64. CRPA also provides guidance to California gun owners regarding their
6 legal rights and responsibilities. In addition, CRPA is dedicated to promoting the
7 shooting sports and providing education, training, and organized competition for
8 adult and junior shooters. CRPA members come from virtually all walks of life,
9 including law enforcement officers, professionals, firearm experts, and many others.

10 65. In this suit, CRPA represents the interests of the tens of thousands of its
11 members who reside in the State of California, including Orange County, who are
12 too numerous to conveniently bring this action individually, and who are impacted
13 by California's "assault weapon" laws. CRPA members wish to exercise their
14 constitutionally protected Second Amendment right to keep and bear arms without
15 being subjected to criminal prosecution. There are countless CRPA members who
16 are, or will be, eligible for lawful firearm ownership in California who, but for the
17 AWCA and fear of prosecution for violating it, would acquire, assemble, or import
18 to possess in their homes for self-defense and other lawful purposes, a
19 semiautomatic, centerfire rifle with a detachable magazine and a "pistol grip," "flash
20 suppressor," "thumbhole stock," or adjustable stock. There are also CRPA members
21 who already lawfully possess such firearms and would, but for the AWCA and fear
22 of prosecution for violating it, transfer them to offspring or other law-abiding
23 Californians.

24 **Defendants**

25 66. Defendant Xavier Becerra is the Attorney General of California. He is
26 the chief law enforcement officer of California. Defendant Becerra is charged by
27 Article V, Section 13 of the California Constitution with the duty to see that the laws
28 of California are uniformly and adequately enforced. Defendant Becerra also has

1 direct supervision over every district attorney and sheriff in all matters pertaining to
2 the duties of their respective officers. Defendant Becerra's duties also include
3 informing the public, local prosecutors, and law enforcement regarding the meaning
4 of the laws of the State, including restrictions on certain firearms classified as
5 "assault weapons." He is sued in his official capacity.

6 67. The true names or capacities, whether individual, corporate, associate
7 or otherwise of the Defendants named herein as Does 1-10, are presently unknown
8 to Plaintiffs, who therefore sue said Defendants by such fictitious names. Plaintiffs
9 pray for leave to amend this Complaint to show the true names or capacities of these
10 Defendants if and when the same have been determined.

11 68. Defendants Becerra and Does 1-10 are responsible for formulating,
12 executing, and administering California's "assault weapons" laws at issue in this
13 lawsuit and are in fact presently enforcing them.

14 69. Defendants enforce California's "assault weapon" laws against
15 Plaintiffs and other California citizens under color of state law within the meaning of
16 42 U.S.C. § 1983.

17 JURISDICTION AND VENUE

18 70. The Court has original jurisdiction of this civil action under 28 U.S.C. §
19 1331 because the action arises under the Constitution and laws of the United States,
20 thus raising federal questions. The Court also has jurisdiction under 28 U.S.C. §
21 1343(a)(3) and 42 U.S.C. § 1983 since this action seeks to redress the deprivation,
22 under color of the laws, statutes, ordinances, regulations, customs, and usages of the
23 State of California and political subdivisions thereof, of rights, privileges or
24 immunities secured by the United States Constitution and by Acts of Congress.

25 71. Plaintiffs' claims for declaratory and injunctive relief are authorized by
26 28 U.S.C. §§ 2201 and 2202, respectively, and their claim for attorneys' fees is
27 authorized under 42 U.S.C. § 1988.

28 72. Venue in this judicial district is proper under 28 U.S.C. § 1391(b)(2)

1 because a substantial part of the events or omissions giving rise to the claims
2 occurred in this district.

3 **GENERAL ALLEGATIONS**

4 **[Right to Keep and Bear Arms]**

5 73. The Second Amendment to the United States Constitution declares that
6 “the right of the people to keep and bear arms shall not be infringed.” U.S. Const.
7 amend. II.

8 74. The United States Supreme Court has concluded (thrice) that “[s]elf-
9 defense is a basic right, recognized by many legal systems from ancient times to the
10 present day, and . . . individual self-defense is ‘the central component’ of the Second
11 Amendment right.” *McDonald v. City of Chicago*, 561 U.S. 742, 767 (2010)
12 (quoting *Heller*, 554 U.S. at 599, 628); *see also Caetano v. Massachusetts*, -- U.S. --,
13 136 S. Ct. 1027 (2016). The Court has held that “a prohibition of an entire class of
14 ‘arms’ that is overwhelmingly chosen by American society” is unconstitutional,
15 especially when that prohibition extends “to the home, where the need for defense of
16 self, family, and property is most acute.” *Heller*, 554 U.S. at 628.

17 75. The “arms” protected by the Second Amendment are those “typically
18 possessed by law-abiding citizens for lawful purposes” today. *Id.* at 624-25; *see*
19 *also, e.g., Caetano*, 136 S. Ct. at 1027-28. The Court has specifically explained that
20 semiautomatic rifles, including ones prohibited by California, “traditionally have
21 been widely accepted as lawful possessions.” *Staples*, 511 U.S. at 612.

22 76. The Supreme Court has also held that the Second Amendment right to
23 keep and bear arms is incorporated into the Due Process Clause of the Fourteenth
24 Amendment and so may not be infringed by state and local governments. *McDonald*,
25 561 U.S. at 750.

26 **[Due Process Clause]**

27 77. The Due Process Clause of the Fourteenth Amendment provides that
28 “No state shall . . . deprive any person of life, liberty, or property, without due

process of law.” U.S. Const. amend. XIV.

78. “The touchstone of due process is protection of the individual against arbitrary action of government.” *Wolff v. McDonnell*, 418 U.S. 539, 558 (1974); *see, e.g., Cty. of Sacramento v. Lewis*, 523 U.S. 833, 845 (1998) (collecting cases). Thus, a statute that deprives an individual of life, liberty, or property arbitrarily or irrationally—that is, without serving “any legitimate governmental objective”—violates the Due Process Clause. *Lingle*, 544 U.S. at 542.

79. Legislation that changes the law retroactively—making illegal conduct that was legal when undertaken—is especially likely to run afoul of the Due Process Clause. *See Usery v. Turner Elkhorn Mining Co.*, 428 U.S. 1, 16-17 (1976); *E. Enterprs. v. Apfel*, 524 U.S. 498, 547-550 (1998) (Kennedy, J., concurring in part and dissenting in part). “If retroactive laws change the legal consequences of transactions long closed, the change can destroy the reasonable certainty and security which are the very objects of property ownership. As a consequence, due process protection for property must be understood to incorporate our settled tradition against retroactive laws of great severity.” *Id.* at 548-49.

80. A law that deprives an owner of private property without a legitimate justification violates the Due Process Clause regardless of whether it also violates the Takings Clause. *See Lingle*, 544 U.S. at 541-42; *id.* at 548-49 (Kennedy, J., concurring).

[Takings Clause]

81. The Takings Clause of the Fifth Amendment provides “nor shall private property be taken for public use, without just compensation.” U.S. Const. amend. V. The Takings Clause applies against the States through the Fourteenth Amendment. *See Lingle*, 544 U.S. at 536.

82. The Takings Clause protects against two kinds of governmental takings: a direct “physical appropriation” of “an interest in property,” and “a restriction on the use of property,” which is known as a “regulatory taking.” *Horne*, 135 S. Ct. at

2425, 2427 (2015). “When the government physically takes possession of an interest in property for some public purpose, it has a categorical duty to compensate the former owner.” *Tahoe-Sierra Pres. Council, Inc. v. Tahoe Reg’l Planning Agency*, 535 U.S. 302, 322 (2002). Likewise, a regulation that “goes too far”—for example, by depriving a landowner of economically beneficial use or otherwise “interfer[ing] with legitimate property interests”—requires just compensation. *Lingle*, 544 U.S. at 537-39.

83. Among the many protected “interest[s] in property” is “the right to pass on property—to one’s family in particular” after death. *Hodel*, 481 U.S. at 716. The right to devise property is “one of the most essential sticks in the bundle of” property rights and cannot be “completely abolished” by the government without compensation. *Id.* at 716-17.

[Violation of Plaintiffs’ Right to Keep and Bear Arms]

84. Semiautomatic, centerfire rifles with a detachable magazine, including those that the AWCA expressly prohibits by make and model, are arms “typically possessed by law-abiding citizens for lawful purposes” throughout the United States. *Heller*, 554 U.S. at 624-25.

85. Most of the features prohibited on semiautomatic, centerfire rifles with a detachable magazine by Penal Code section 30515(a)(1)—a “pistol grip,” a “flash suppressor,” and a “thumbhole stock” or adjustable stock, or any combination of these features (as those terms are defined in California Code of Regulations, title 11, section 5469)—are standard on rifles that are “typically possessed by law-abiding citizens for lawful purposes,” *Heller*, 554 U.S. at 624-25, throughout the United States.²¹

²¹ Plaintiffs do not assert that “grenade launchers,” listed as a prohibited feature under California’s definition of an “assault weapon,” are in common use or otherwise protected under the Second Amendment. Such devices are restricted as “destructive devices” under California law, the possession of which is generally prohibited irrespective of California’s “assault weapon” restrictions. *See* Cal. Penal Code §§ 16460(a)(2), 18710. Those laws are not challenged here.

86. No public interest is furthered by prohibiting these common rifle features, or by prohibiting any of the commonly possessed rifles that California expressly lists as “assault weapons” by make and model on the ground that they have such features. None of these features makes the rifles more dangerous, raises their likelihood of use in crimes, or increases the power, rate of fire, or ammunition capacity of a semiautomatic, centerfire rifle with a detachable magazine. To the contrary, these features enhance public safety by making rifles safer, more accurate, and more effective for use in self-defense.

87. Semiautomatic, centerfire rifles with an overall length of 26 inches or more are arms “typically possessed by law-abiding citizens for lawful purposes” throughout the United States. *Heller*, 554 U.S. at 624-25. The AWCA uniquely (with the sole exception of Connecticut) bars any such rifles under 30 inches, regardless of their magazine system, ammunition capacity, or features. In doing so, it bans countless rifles of lengths that are common and generally accepted for lawful purposes throughout the country.²²

[Violation of Plaintiffs’ Right to Due Process]

88. The AWCA violates Plaintiffs’ rights under the Due Process Clause because it deprives them of protected property interests—namely, the possession and transfer of otherwise-lawful rifles—without due process of law. The due process concerns are heightened here because the ban applies retroactively to eliminate property rights (including the right to transfer or devise the rifles to a family member in California) that existed at the time the rifles were purchased. *See E. Enterprs.*, 524 U.S. at 547-550 (Kennedy, J., concurring in part and dissenting in part).

89. The ban violates Plaintiffs’ due process rights because it imposes

²² Penal Code § 30515(a)(3); *see* Penal Code §§ 33210-33290, 17170 and 18 U.S.C.A. §§ 921(a)(8), 922(a)(4), 922(b)(4) (heavily restricting any “short-barreled” rifle having an overall length of less than 26 inches). Plaintiffs do not challenge these “short-barreled” rifle restrictions, but only California’s prohibition on semiautomatic centerfire rifles with an overall length of under 30 inches and over 26 inches.

1 prohibitions and restrictions that have nothing to do with furthering any permissible
2 governmental objective. *Lingle*, 544 U.S. at 542. Moreover, the ban draws arbitrary
3 distinctions, prohibiting rifles that have the statutorily enumerated features in
4 combination with a non-fixed magazine while permitting rifles that have the exact
5 same statutorily enumerated features in combination with a fixed magazine, and
6 prohibiting rifles with a fixed magazine due to their maker's marks, regardless of
7 their features, while permitting effectively identical rifles with non-fixed magazines,
8 as long as they do not have the prohibited features.

9 **[Violation of the Plaintiffs' Rights Under the Takings Clause]**

10 90. The AWCA violates Plaintiffs' rights under the Takings Clause. Not
11 only does the law severely constrain Plaintiffs' rights to transfer their lawfully
12 acquired rifles property during their lifetimes; it requires them upon their death to
13 physically surrender to the government (or a tiny category of people permitted by
14 the government to possess dangerous weapons) lawfully acquired rifles that they
15 would otherwise devise to their children or heirs. The law thus deprives Plaintiffs of
16 their property rights—indeed, destroys “one of the most essential sticks in the
17 bundle of” property rights—without compensation. *Hodel*, 481 U.S. at 716; *see*
18 *Horne*, 135 S. Ct. at 2427; *Lingle*, 544 U.S. at 537-39.

19 **DECLARATORY JUDGMENT ALLEGATIONS**

20 91. There is an actual and present controversy between the parties.
21 Plaintiffs contend that the AWCA infringes on Plaintiffs' right to keep and bear
22 arms under the Second and Fourteenth Amendments to the United States
23 Constitution, by generally prohibiting commonly-possessed firearms it deems
24 “assault weapons.” Plaintiffs also contend that the AWCA violates the Due Process
25 Clause by banning lawfully acquired firearms based on features that have nothing to
26 do with enhancing public safety or any other valid governmental objective. And
27 Plaintiffs contend that the AWCA violates the Takings Clause by depriving them of
28 protected property interests in their lawfully acquired firearms without

1 compensation. Defendants deny these contentions. Plaintiffs desire a judicial
 2 declaration that California Penal Code sections 30510(a), 30515(a)(1)(A-C),
 3 30515(a)(1)(E-F), 30515(a)(3), 30520, 30600, 30605, , 30925, and 30945, as well as
 4 California Code of Regulations, title 11, section 5499, violate Plaintiffs'
 5 constitutional rights. Plaintiffs should not be forced to choose between risking
 6 criminal prosecution and exercising their constitutional rights to keep and bear
 7 common arms for self-defense and other lawful purposes, and to devise their
 8 lawfully acquired property to their heirs.

9 **INJUNCTIVE RELIEF ALLEGATIONS**

10 92. Plaintiffs are presently and continuously injured by Defendants'
 11 enforcement of California Penal Code 30510(a), 30515(a)(1)(A-C), 30515(a)(1)(E-
 12 F), 30515(a)(3), 30520, 30600, 30605, , 30925, and 30945, as well as California
 13 Code of Regulations, title 11, section 5499, insofar as those provisions violate
 14 Plaintiffs' rights under the Second Amendment, the Due Process Clause, and the
 15 Takings Clause by precluding (without compensation) the acquisition, possession,
 16 use, and transfer of rifles that are "typically possessed by law-abiding citizens for
 17 lawful purposes" nationwide.

18 93. If not enjoined by this Court, Defendants will continue to enforce the
 19 Act in derogation of Plaintiffs' constitutional rights. Plaintiffs have no plain, speedy,
 20 and adequate remedy at law. Damages are indeterminate or unascertainable and, in
 21 any event, would not fully redress any harm suffered by Plaintiffs due to their
 22 inability to engage in constitutionally protected activity because of California's
 23 ongoing enforcement of the AWCA.

24 **CLAIMS FOR RELIEF**

25 **Right to Keep and Bear Arms**

26 (U.S. Const. amends. II and XIV)

27 94. Paragraphs 1-93 are realleged and incorporated herein by reference.

28 95. The AWCA's definition of "assault weapon"—whether by express

1 listing of make and model or by prohibited feature combinations—includes the most
2 popular class of rifles in the nation. The AWCA, therefore, generally prohibits
3 Californians or those visiting California from the acquisition, importation, use,
4 possession, and transfer of such rifles, subject to severe criminal penalties, including
5 up to years in prison.

6 96. These prohibitions and restrictions on rifles that are commonly
7 possessed throughout the United States by law-abiding, responsible citizens for
8 lawful purposes infringe on the right of the People of California, including Plaintiffs,
9 to keep and bear protected arms as guaranteed by the Second Amendment of the
10 United States Constitution, and as made applicable to California by the Fourteenth
11 Amendment.

12 97. In violation of the Second Amendment, the AWCA prohibits law-
13 abiding, responsible adults, including Plaintiffs Rupp, Dember, Johnson, and
14 Valencia, as well as members of CRPA, who would otherwise do so, from acquiring
15 a rifle listed in Penal Code section 30510 or 11 C.C.R. § 5499 (Category 1 or 2
16 “assault weapons”) or that has features listed in Penal Code section 30515(a)
17 (Category 3 “assault weapons”) that are standard on rifles that are in common use by
18 law-abiding citizens for lawful purposes throughout the United States.

19 98. In violation of the Second Amendment, the AWCA prohibits law-
20 abiding, responsible adults, including Plaintiffs Rupp, Dember, Johnson, Valencia,
21 and Seifert, as well as members of CRPA, who would otherwise do so, from
22 possessing a rifle that is listed in Penal Code section 30510 or 11 C.C.R. § 5499
23 (Category 1 or 2 “assault weapons”) or that has features listed in Penal Code section
24 30515(a) (Category 3 “assault weapons”) that are standard on rifles in common use
25 by law-abiding citizens for lawful purposes throughout the United States.

26 99. In violation of the Second Amendment, the AWCA prohibits law-
27 abiding, responsible adults, including Plaintiffs Rupp and Seifert, as well as
28 members of CRPA, who would otherwise do so, from adding features listed in Penal

1 Code section 30515(a) that are standard on rifles in common use by law-abiding
2 citizens for lawful purposes throughout the United States to their semiautomatic,
3 centerfire rifles.

4 100. In violation of the Second Amendment, the AWCA prohibits law-
5 abiding, responsible adults, including Plaintiffs Seifert, Willis, and Martin, as well as
6 members of CRPA, who would otherwise do so, from transferring to their offspring
7 or to other law-abiding Californian residents a rifle that is listed in Penal Code
8 section 30510 or 11 C.C.R. § 5499 (Category 1 or 2 “assault weapons”), which
9 belongs to the most popular class of rifles among law-abiding citizens for lawful
10 purposes throughout the United States.

11 101. In violation of the Second Amendment, the AWCA prohibits law-
12 abiding, responsible adults, including Plaintiff Jones, as well as members of CRPA,
13 who would otherwise do so, from transferring to their offspring or to other law-
14 abiding Californian residents a rifle that is deemed an “assault weapons” by virtue of
15 its features, which belongs to the most popular class of rifles among law-abiding
16 citizens for lawful purposes throughout the United States.

17 102. In violation of the Second Amendment, the AWCA prohibits law-
18 abiding, responsible adults, including members of CRPA who would otherwise do
19 so, from obtaining or possessing semiautomatic, centerfire rifles, regardless of their
20 magazine system or ammunition capacity, with an overall length of less than 30 but
21 more than 26 inches, as the general consensus in the country for decades has been
22 that rifles with an overall length of more than 26 inches are acceptable for use, and
23 typically used by, law-abiding people for lawful purposes.²³ In doing so, it bans
24 countless rifles of lengths that are common and generally accepted throughout the
25 country for lawful purposes.

26
27 ²³ See Penal Code §§ 33210-33290, 17170 and 18 U.S.C.A. §§ 921(a)(8),
28 922(a)(4), 922(b)(4) (heavily restricting any “short-barreled” rifle having an overall
length of less than 26 inches).

103. The AWCA's prohibitions extend into Plaintiffs' homes, where the Second Amendment protections are at their zenith, but also affects lawful and constitutionally protected conduct such as hunting, recreational shooting, and competitive marksmanship participation.

104. Defendants cannot satisfy their burden of justifying the AWCA's restrictions on the Second Amendment right of the People, including Plaintiffs, to acquire, possess, transfer, transport, and use rifles that are in common use by law-abiding adults throughout the United States for the core right of defense of self and home and other lawful purposes.

Due Process Clause

(U.S. Const. amend. XIV)

105. Paragraphs 1 through 104 are realleged and incorporated herein by reference.

106. The AWCA's definition of "assault weapon"—whether by express listing of make and model or by prohibited feature combinations—violates the Due Process Clause because prohibiting the rifles and/or features targeted by the law does not advance the State's asserted justification of public safety. If anything, prohibiting the features enumerated by the AWCA undermines public safety by making rifles less safe and more difficult for law-abiding citizens to use for the purpose of self-defense.

107. For example, as noted, a semiautomatic, centerfire rifle with a detachable magazine with "Colt AR-15" engraved on it that does not have a "pistol grip" or "flash suppressor" and has a fixed (non-adjustable) stock is still an "assault weapon," while a rifle in the same configuration with "Illegal Assault Weapon" engraved on it is not. And a rifle marked "Illegal Assault Weapon" could legally have a "detachable magazine" and not be an "assault weapon," as long as it does not have other restricted features, while the rifle marked "Colt AR-15" could have a fixed magazine and would still be an "assault weapon."

108. Likewise, there is no legitimate basis for banning rifles that have the statutorily enumerated features in combination with a non-fixed magazine while permitting rifles that have the very same statutorily enumerated features in combination with a fixed magazine rifle.

109. These distinctions do not advance any legitimate government objective, let alone do so in a sufficiently meaningful manner. And they are particularly offensive under the Due Process Clause because they apply retroactively to eliminate property rights that existed at the time the rifles were lawfully purchased.

Takings Clause

(U.S. Const. amends. V and XIV)

110. Paragraphs 1 through 109 are realleged and incorporated herein by reference.

111. The AWCA severely constrains the right of owners of rifles covered by the law to transfer their lawfully acquired property during their lifetimes, and completely abrogates their right to devise their property to their children or heirs. Rifle owners who wish to keep their property in-state and within their family instead must physically surrender the rifles to the government without compensation, or to a very small category of people to whom the government has issued permits to own dangerous weapons.

112. By severely constraining Plaintiffs' property rights in their rifles during their lifetimes, and completely destroying an essential and long-lasting property right by requiring surrender of those rifles without government compensation upon their death, the AWCA effects both a regulatory and a physical appropriation of private property without just compensation, in violation of the Takings Clause.

PRAYER

Plaintiffs pray that the Court:

1. Enter a declaratory judgment under 28 U.S.C. § 2201 that California Penal Code sections 30510(a), 30515(a)(1)(A-C), 30515(a)(1)(E-F), 30515(a)(3),

30520, 30600, 30605, , 30925, and 30945, as well as California Code of Regulations, title 11, section 5499, are each unconstitutional facially and to the extent they apply to “assault weapons” or, alternatively, to the extent they prohibit any semi-automatic, centerfire rifle with a detachable magazine having a “pistol grip,” “flash suppressor,” “thumbhole stock,” or “telescoping” stock, or any semi-automatic, centerfire rifle that is over 26 inches in overall length, because such provisions unlawfully infringe on the right of the People to keep and bear arms that are in common use contemporarily, in violation of the Second and Fourteenth Amendments to the United States Constitution; arbitrarily deprive Plaintiffs of protected property interests und the Due Process Clause; and unconstitutionally take property without compensation in violation of the Takings Clause;

2. Issue an injunction enjoining Defendants and their officers, agents, and employees from enforcing any provisions of California Penal Code sections 30510(a), 30515(a)(1)(A-C), 30515(a)(1)(E-F), 30515(a)(3), 30520, 30600, 30605, 30925, 30945, and California Code of Regulations, title 11, section 5499, prohibiting “assault weapons” or, alternatively, to the extent they prohibit the acquisition, possession, or transfer of any semi-automatic, centerfire rifle with a detachable magazine having a “pistol grip,” “flash suppressor,” “thumbhole stock,” or “telescoping” stock, or any semi-automatic, centerfire rifle that is over 26 inches in overall length;

3. Award remedies available pursuant to 42 U.S.C. § 1983 and all reasonable attorneys’ fees, costs, and expenses under 42 U.S.C. § 1988, or any other applicable law; and

4. Grant any such other and further relief as the Court may deem proper.

Dated: June 27, 2018

MICHEL & ASSOCIATES, P.C.

/s/Sean A. Brady

Sean A. Brady

Attorneys for Plaintiffs

XAVIER BECERRA
Attorney General of California
MARK R. BECKINGTON
Supervising Deputy Attorney General
PETER H. CHANG
Deputy Attorney General
State Bar No. 241467
455 Golden Gate Avenue, Suite 11000
San Francisco, CA 94102-7004
Telephone: (415) 510-3776
Fax: (415) 703-1234
E-mail: Peter.Chang@doj.ca.gov
Attorneys for Defendant Xavier Becerra

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

STEVEN RUPP; et al.,

Plaintiffs,

v.

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

Defendant.

8:17-cv-00746-JLS-JDE

**ANSWER TO THIRD AMENDED
COMPLAINT**

Defendant Xavier Becerra, in his official capacity as Attorney General of the State of California, submits this Answer in response to Plaintiffs' Third Amended Complaint for Declaratory and Injunctive Relief ("Complaint") (Dkt. 56-1). Defendant answers, in paragraphs that correspond to the Complaint's paragraphs, as follows:

1. Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations in the first sentence of paragraph 1, and on that basis denies them. The second sentence of paragraph 1 is Plaintiffs' characterization of their case and conclusions of law, and no

1 answer is required; to the extent they may be deemed allegations of fact, they are denied.

2 Defendant denies the remaining allegations in paragraph 1.

3 2. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
4 the allegations in the first sentence of paragraph 2, and on that basis denies them. The second and
5 last sentences of paragraph 2 are Plaintiffs' characterization of their case and conclusions of law,
6 and no answer is required; to the extent they may be deemed allegations of fact, they are denied.
7 Defendant denies the remaining allegations in paragraph 2.

8 3. The first sentence of paragraph 3 is Plaintiffs' characterization of their case and
9 conclusions of law, and no answer is required; to the extent they may be deemed allegations of
10 fact, they are denied. Defendant denies the remaining allegations in paragraph 3.

11 4. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
12 the allegations in the first clause of paragraph 4, and on that basis denies them. The remainder of
13 paragraph 4 constitute Plaintiffs' request for relief and no answer is required; to the extent they
14 may be deemed allegations of fact, they are denied. Defendant denies that Plaintiffs are entitled
15 to any relief. Except as specifically admitted, Defendant denies the allegations in paragraph 4.

16 5. Defendant admits that the terms "semiautomatic," "centerfire," "rimfire," and
17 "detachable magazine" mean as they are defined in California Code of Regulation title 11, section
18 5471(hh), (j), (ff), and (m), respectively. Defendant further admits that the term "ammunition"
19 means as it is defined in California Penal Code section 16150(a). Defendant lacks sufficient
20 knowledge or information to form a belief as to the truth of the allegations in the last sentence of
21 footnote 4, and on that basis denies them. Except as specifically admitted, Defendant denies the
22 allegations in paragraph 5.

23 6. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
24 the allegations in paragraph 6, and on that basis denies them.

25 7. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
26 the allegations in paragraph 7, and on that basis denies them.

27 8. Defendant admits that California Code of Regulation title 11, section 5471(z) provides
28 a definition for a "[p]istol grip that protrudes conspicuously beneath the action of the weapon."

1 Defendant denies that California Code of Regulation title 11, section 5469(d) provides a
2 definition for “pistol grip.” Defendant admits that California Code of Regulation title 11, section
3 5471(t) provides a definition for a “forward pistol grip.” Defendant lacks sufficient knowledge or
4 information to form a belief as to the truth of the allegations in the second and last sentences of
5 paragraph 8, and on that basis denies them. Defendant admits that the quotation in paragraph 8
6 taken from case law speaks for itself. Except as specifically admitted, Defendant denies the
7 allegations in paragraph 8.

8 9. Defendant admits that term “thumbhole stock” means as it is defined in California
9 Code of Regulation title 11, section 5471(qq). Defendant denies that California Code of
10 Regulation title 11, section 5469(e) provides a definition for “thumbhole stock.” Defendant lacks
11 sufficient knowledge or information to form a belief as to the truth of the allegations in the last
12 sentence of paragraph 9, and on that basis denies them. Except as specifically admitted,
13 Defendant denies the allegations in paragraph 9.

14 10. Defendant admits that term “flash suppressor” means as it is defined in California
15 Code of Regulation title 11, section 5471(r). Defendant denies that California Code of
16 Regulation title 11, section 5469(b) provides a definition for “flash suppressor.” Defendant lacks
17 sufficient knowledge or information to form a belief as to the truth of the allegations in the
18 remaining allegations of paragraph 10, and on that basis denies them. Except as specifically
19 admitted, Defendant denies the allegations in paragraph 10.

20 11. Defendant admits that term “telescoping stock” (or “stock, telescoping”) means as it is
21 defined in California Code of Regulation title 11, section 5471(oo). Defendant admits that the
22 quoted excerpt from a case decision speaks for itself. Defendant lacks sufficient knowledge or
23 information to form a belief as to the truth of the allegations in second sentence of paragraph 11,
24 and on that basis denies them. Defendant lacks sufficient knowledge or information to form a
25 belief as to the truth of the allegations in the last sentence of paragraph 11, and it is unintelligible,
26 and on those bases, denies them. Defendant admits that a “fixed stock” is defined in California
27 Code of Regulation title 11, section 5471(mm). Except as specifically admitted, Defendant
28 denies the allegations in paragraph 11.

1 12. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
2 the allegations in paragraph 12, and on that basis denies them.

3 13. Defendant admits that the quoted excerpts from a case decision and from the cited
4 statute speak for themselves. Defendant denies the remaining allegations of paragraph 13.

5 14. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
6 the allegations in paragraph 14, and on that basis denies them.

7 15. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
8 the allegations in paragraph 15, and on that basis denies them.

9 16. Defendant denies the allegations in the first sentence of paragraph 16. Defendant
10 lacks sufficient knowledge or information to form a belief as to the truth of the remaining
11 allegations of paragraph 16, and on that basis denies them.

12 17. Defendant admits that Plaintiffs' contend that this case concerns the Assault Weapons
13 Control Act of 1989 (Act), but does not concern .50 Caliber BMG rifles. Defendant denies the
14 remaining allegations of paragraph 17.

15 18. Defendant admits that the Act speaks for itself. To the extent that the allegations
16 contained in paragraph 18 are Plaintiffs' characterization of their case and conclusions of law, no
17 answer is required; to the extent they may be deemed allegations of fact, they are denied. Except
18 as specifically admitted, Defendant denies the allegations in paragraph 18.

19 19. Defendant admits that the Act speaks for itself. To the extent that the allegations
20 contained in paragraph 19 are Plaintiffs' characterization of their case and conclusions of law, no
21 answer is required; to the extent they may be deemed allegations of fact, they are denied. Except
22 as specifically admitted, Defendant denies the allegations in paragraph 19.

23 20. Defendant admits that the Act speaks for itself. To the extent that the allegations
24 contained in paragraph 20 are Plaintiffs' characterization of their case and conclusions of law, no
25 answer is required; to the extent they may be deemed allegations of fact, they are denied. Except
26 as specifically admitted, Defendant denies the allegations in paragraph 20.

27 21. Defendant admits that the Act speaks for itself. To the extent that the allegations
28 contained in paragraph 21 are Plaintiffs' characterization of their case and conclusions of law, no

1 answer is required; to the extent they may be deemed allegations of fact, they are denied. Except
2 as specifically admitted, Defendant denies the allegations in paragraph 21.

3 22. Defendant admits that the Act speaks for itself. Defendant further admits that the Act
4 has been amended since it was first enacted in 1989. Except as specifically admitted, Defendant
5 denies the allegations in paragraph 22.

6 23. Defendant admits that the Act speaks for itself. To the extent that the allegations
7 contained in paragraph 23 are Plaintiffs' characterization of their case and conclusions of law, no
8 answer is required; to the extent they may be deemed allegations of fact, they are denied. Except
9 as specifically admitted, Defendant denies the allegations in paragraph 23.

10 24. Defendant admits that the Act speaks for itself. To the extent that the allegations
11 contained in paragraph 24 are Plaintiffs' characterization of their case and conclusions of law, no
12 answer is required; to the extent they may be deemed allegations of fact, they are denied.

13 Defendant admits that firearms specified in California Penal Code sections 30510(a), (b) and (c)
14 are sometimes referred to as Category One assault weapons. Except as specifically admitted,
15 Defendant denies the allegations in paragraph 24.

16 25. Defendant admits that the Act speaks for itself, and California Penal Code, Part 5,
17 Title 4, Division 10, Chapter 2, Article 5 addresses the registration of assault weapons. To the
18 extent that the allegations contained in paragraph 25 are Plaintiffs' characterization of their case
19 and conclusions of law, no answer is required; to the extent they may be deemed allegations of
20 fact, they are denied. Except as specifically admitted, Defendant denies the allegations in
21 paragraph 25.

22 26. Defendant admits that the Act speaks for itself. To the extent that the allegations
23 contained in paragraph 26 are Plaintiffs' characterization of their case and conclusions of law, no
24 answer is required; to the extent they may be deemed allegations of fact, they are denied.

25 Defendant admits that firearms specified in California Penal Code section 30510(e) and (f) are
26 sometimes referred to as Category Two assault weapons. Except as specifically admitted,
27 Defendant denies the allegations in paragraph 26.
28

27. Defendant admits that the Act and its implementing regulations speak for themselves. To the extent that the allegations contained in paragraph 27 are Plaintiffs' characterization of their case and conclusions of law, no answer is required; to the extent they may be deemed allegations of fact, they are denied.

28. Defendant admits that the Act speaks for itself, and California Penal Code, Part 5, Title 4, Division 10, Chapter 2, Article 5 addresses the registration of assault weapons. To the extent that the allegations contained in paragraph 28 are Plaintiffs' characterization of their case and conclusions of law, no answer is required; to the extent they may be deemed allegations of fact, they are denied. Except as specifically admitted, Defendant denies the allegations in paragraph 28.

29. Defendant admits that the Act speaks for itself. To the extent that the allegations contained in paragraph 29 are Plaintiffs' characterization of their case and conclusions of law, no answer is required; to the extent they may be deemed allegations of fact, they are denied. Defendant admits that firearms specified in Penal Code section 30515 are sometimes referred to as Category Three assault weapons. Except as specifically admitted, Defendant denies the allegations in paragraph 29.

30. Defendant admits that the Act speaks for itself. Except as specifically admitted, Defendant denies the allegations in paragraph 30.

31. Defendant admits that the cited regulation speaks for itself. Except as specifically admitted, Defendant denies the allegations in paragraph 31.

32. Defendant admits that the Act speaks for itself, and Penal Code, Part 5, Title 4, Division 10, Chapter 2, Article 5 addresses the registration of assault weapons. To the extent that the allegations contained in paragraph 32 are Plaintiffs' characterization of their case and conclusions of law, no answer is required; to the extent they may be deemed allegations of fact, they are denied. Except as specifically admitted, Defendant denies the allegations in paragraph 32.

1 33. Defendant admits that Penal Code section 30505 speaks for itself. Defendant lacks
2 sufficient knowledge or information to form a belief as to the truth of the remaining allegations in
3 paragraph 33, and on that basis denies them.

4 34. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
5 the allegations of paragraph 34, and on that basis denies them. To the extent that the allegations
6 contained in paragraph 34 are Plaintiffs' characterization of their case and conclusions of law, no
7 answer is required; to the extent they may be deemed allegations of fact, they are denied. Except
8 as specifically admitted, Defendant denies the allegations in paragraph 34.

9 35. Defendant admits that the Act speaks for itself. To the extent that the allegations
10 contained in paragraph 35 are Plaintiffs' characterization of their case and conclusions of law, no
11 answer is required; to the extent they may be deemed allegations of fact, they are denied. Except
12 as specifically admitted, Defendant denies the allegations in paragraph 35.

13 36. Defendant admits that the Act speaks for itself. To the extent that the allegations
14 contained in paragraph 36 are Plaintiffs' characterization of their case and conclusions of law, no
15 answer is required; to the extent they may be deemed allegations of fact, they are denied. Except
16 as specifically admitted, Defendant denies the allegations in paragraph 36.

17 37. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
18 the allegations in the first sentence of paragraph 37, and on that basis denies them. To the extent
19 that the allegations contained in paragraph 37 are Plaintiffs' characterization of their case and
20 conclusions of law, no answer is required; to the extent they may be deemed allegations of fact,
21 they are denied. Defendant denies the allegations in the last sentence of paragraph 37. Except as
22 specifically admitted, Defendant denies the allegations in paragraph 37.

23 38. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
24 the allegations in the first sentence of paragraph 38, and on that basis denies them. To the extent
25 that the allegations contained in paragraph 38 are Plaintiffs' characterization of their case and
26 conclusions of law, no answer is required; to the extent they may be deemed allegations of fact,
27 they are denied. Except as specifically admitted, Defendant denies the allegations in paragraph
28 38.

39. Defendant denies the allegations in the first sentence of paragraph 39. Defendant admits that a rifle deemed an “assault weapon” under Penal Code section 30515 may be modified or reconfigured so that it no longer meets that definition. Defendant admits that Penal Code section 30515 speaks for itself. Except as specifically admitted, Defendant denies the allegations in paragraph 39.

40. Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 40, and on that basis denies them.

41. Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 41, and on that basis denies them.

42. Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 42, and on that basis denies them.

43. Defendant admits that California Penal Code section 30515 and California Code of Regulations section 5471 speak for themselves. Except as specifically admitted, Defendant denies the allegations in paragraph 43.

44. Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 44, and on that basis denies them.

45. Defendant lacks sufficient knowledge or information to form a belief as to the truth of the remainder of the allegations in paragraph 45, and on that basis denies them.

46. Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 46, and on that basis denies them.

47. Defendant admits that an “assault weapon” includes rifles defined in California Penal Code section 30515, which speaks for itself. Except as specifically admitted, Defendant denies the allegations in paragraph 47.

48. Defendant admits that an “assault weapon” includes rifles defined in California Penal Code section 30515, which speaks for itself. Defendant admits that a rifle deemed an “assault weapon” under Penal Code section 30515 may be modified or reconfigured so that it no longer meets that definition. Defendant admits that a firearm that is not an “assault weapon” under California law need not be registered under California Penal Code section 30900. Defendant

1 lacks sufficient knowledge or information to form a belief as to the truth of the allegations in the
2 last sentence of paragraph 48, and on that basis denies them. Except as specifically admitted,
3 Defendant denies the allegations in paragraph 48.

4 49. Defendant admits that an “assault weapon” under California Penal Code section 30510
5 and California Code of Regulations, title 1, section 5400 are not defined by their features. To the
6 extent that the remaining allegations contained in paragraph 49 are Plaintiffs’ characterization of
7 their case and conclusions of law, no answer is required; to the extent they may be deemed
8 allegations of fact, they are denied. Except as specifically admitted, Defendant denies the
9 allegations in paragraph 49.

10 50. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
11 the allegations in paragraph 50, and on that basis denies them. To the extent that the allegations
12 contained in paragraph 50 are Plaintiffs’ characterization of their case and conclusions of law, no
13 answer is required; to the extent they may be deemed allegations of fact, they are denied.

14 51. Defendant denies the allegations in the first sentence of paragraph 51. Defendant
15 lacks sufficient knowledge or information to form a belief as to the truth of the remaining
16 allegations in paragraph 51, and on that basis denies them. Except as specifically admitted,
17 Defendant denies the allegations in paragraph 51.

18 52. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
19 the allegations in paragraph 52, and on that basis denies them.

20 53. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
21 the allegations in paragraph 53, and on that basis denies them.

22 54. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
23 the allegations in paragraph 54, and on that basis denies them.

24 55. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
25 the allegations in paragraph 55, and on that basis denies them.

26 56. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
27 the allegations in paragraph 56, and on that basis denies them.

1 57. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
2 the allegations in paragraph 57, and on that basis denies them.

3 58. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
4 the allegations in paragraph 58, and on that basis denies them.

5 59. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
6 the allegations in paragraph 59, and on that basis denies them.

7 60. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
8 the allegations in paragraph 60, and on that basis denies them.

9 61. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
10 the allegations in paragraph 61, and on that basis denies them.

11 62. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
12 the allegations in paragraph 62, and on that basis denies them.

13 63. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
14 the allegations in paragraph 63, and on that basis denies them.

15 64. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
16 the allegations in paragraph 64, and on that basis denies them.

17 65. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
18 the allegations in paragraph 65, and on that basis denies them.

19 66. Defendant admits that he is the Attorney General of California. Defendant admits that
20 he is sued in his official capacity in this action. Defendant admits that article V, section 13 of the
21 California Constitution sets forth certain of his constitutional powers and duties. To the extent
22 that the remaining allegations contained in paragraph 66 are Plaintiffs' characterization of their
23 case and conclusions of law, no answer is required; to the extent they may be deemed allegations
24 of fact, they are denied. Except as specifically admitted, Defendant denies the allegations in
25 paragraph 66.

26 67. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
27 the allegations in paragraph 67, and on that basis denies them.

68. Defendant admits that he has certain statutory obligations relating to assault weapons as set forth in California Penal Code sections 30500-31115. To the extent that the remaining allegations contained in paragraph 68 are Plaintiffs' characterization of their case and conclusions of law, no answer is required; to the extent they may be deemed allegations of fact, they are denied.

69. Defendant admits that he has certain statutory obligations relating to assault weapons as set forth in California Penal Code sections 30500-31115. To the extent that the remaining allegations contained in paragraph 69 are Plaintiffs' characterization of their case and conclusions of law, no answer is required; to the extent they may be deemed allegations of fact, they are denied.

70. The allegations contained in paragraph 70 are conclusions of law and no answer is required; to the extent they may be deemed allegations of fact, they are denied.

71. The allegations contained in paragraph 71 are conclusions of law and no answer is required; to the extent they may be deemed allegations of fact, they are denied.

72. Defendant admits that venue is proper in this judicial district. The allegations contained in paragraph 72 are conclusions of law and no answer is required; to the extent they may be deemed allegations of fact, they are denied.

73. Defendant admits that the U.S. Constitution speaks for itself.

74. The allegations contained in paragraph 74 are conclusions of law and no answer is required; to the extent they may be deemed allegations of fact, they are denied.

75. The allegations contained in paragraph 75 are conclusions of law and no answer is required; to the extent they may be deemed allegations of fact, they are denied.

76. The allegations contained in paragraph 76 are conclusions of law and no answer is required; to the extent they may be deemed allegations of fact, they are denied.

77. The allegations contained in paragraph 77 are conclusions of law and no answer is required; to the extent they may be deemed allegations of fact, they are denied.

78. The allegations contained in paragraph 78 are conclusions of law and no answer is required; to the extent they may be deemed allegations of fact, they are denied.

1 79. The allegations contained in paragraph 79 are conclusions of law and no answer is
2 required; to the extent they may be deemed allegations of fact, they are denied.

3 80. The allegations contained in paragraph 80 are conclusions of law and no answer is
4 required; to the extent they may be deemed allegations of fact, they are denied.

5 81. The allegations contained in paragraph 81 are conclusions of law and no answer is
6 required; to the extent they may be deemed allegations of fact, they are denied.

7 82. The allegations contained in paragraph 82 are conclusions of law and no answer is
8 required; to the extent they may be deemed allegations of fact, they are denied.

9 83. The allegations contained in paragraph 83 are conclusions of law and no answer is
10 required; to the extent they may be deemed allegations of fact, they are denied.

11 84. The allegations contained in paragraph 84 are conclusions of law and no answer is
12 required; to the extent they may be deemed allegations of fact, Defendant lacks sufficient
13 knowledge or information to form a belief as to their truth, and on that basis denies them.

14 85. The allegations contained in paragraph 85 are conclusions of law and no answer is
15 required; to the extent they may be deemed allegations of fact, Defendant lacks sufficient
16 knowledge or information to form a belief as to their truth, and on that basis denies them.

17 86. Defendant denies the allegations of paragraph 86.

18 87. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
19 the allegations in the first and last sentences of paragraph 87, and on that basis denies them. The
20 allegations contained in the remainder of paragraph 87 are conclusions of law and no answer is
21 required; to the extent they may be deemed allegations of fact, they are denied. Except as
22 specifically admitted, Defendant denies the allegations in paragraph 87.

23 88. Defendant denies the allegations of paragraph 88.

24 89. Defendant denies the allegations of paragraph 89.

25 90. The allegations contained in the second sentence of paragraph 90 are conclusions of
26 law and no answer is required; to the extent they may be deemed allegations of fact, they are
27 denied. Defendant denies the remaining allegations of paragraph 90.
28

1 91. Defendant denies there is a justiciable controversy between the parties as to Plaintiffs'
2 as-applied challenge under the asserted claims. To the extent that the allegations contained in
3 paragraph 91 are Plaintiffs' characterization of their case and conclusions of law, no answer is
4 required; to the extent they may be deemed allegations of fact, they are denied. Defendant admits
5 that he contends Plaintiffs' claims are without merit. Defendant denies the remaining allegations
6 of paragraph 91.

7 92. Defendant denies the allegations of paragraph 92.

8 93. Defendant denies the allegations of paragraph 93.

9 94. Defendant re-alleges his answers to the paragraphs above and incorporates them by
10 reference herein.

11 95. Defendant lacks sufficient knowledge or information to form a belief as to the truth of
12 the allegations in the first sentence of paragraph 95, and on that basis denies them. Defendant
13 admits the Act speaks for itself. To the extent that the allegations contained in paragraph 95 are
14 Plaintiffs' characterization of their case and conclusions of law, no answer is required; to the
15 extent they may be deemed allegations of fact, they are denied. Except as specifically admitted,
16 Defendant denies the allegations in paragraph 95.

17 96. Defendant admits the Act speaks for itself. Defendant denies that the Act violates the
18 Second Amendment. Except as specifically admitted, Defendant denies the allegations in
19 paragraph 96.

20 97. Defendant admits the Act speaks for itself. Defendant denies that the Act violates the
21 Second Amendment. Defendant lacks sufficient knowledge or information to form a belief as to
22 the truth of the allegations in the last clause of the last sentence of paragraph 97, and on that basis
23 denies them. Except as specifically admitted, Defendant denies the allegations in paragraph 97.

24 98. Defendant admits the Act speaks for itself. Defendant denies that the Act violates the
25 Second Amendment. Defendant lacks sufficient knowledge or information to form a belief as to
26 the truth of the allegations in the last clause of the last sentence of paragraph 98, and on that basis
27 denies them. Except as specifically admitted, Defendant denies the allegations in paragraph 98.
28

1 99. Defendant admits the Act speaks for itself. Defendant denies that the Act violates the
2 Second Amendment. Defendant lacks sufficient knowledge or information to form a belief as to
3 the truth of the allegations in the last clause of the last sentence of paragraph 99, and on that basis
4 denies them. Except as specifically admitted, Defendant denies the allegations in paragraph 99.

5 100. Defendant admits the Act speaks for itself. Defendant denies that the Act violates the
6 Second Amendment. Defendant lacks sufficient knowledge or information to form a belief as to
7 the truth of the allegations in the last clause of the last sentence of paragraph 100, and on that
8 basis denies them. Except as specifically admitted, Defendant denies the allegations in paragraph
9 100.

10 101. Defendant admits the Act speaks for itself. Defendant denies that the Act violates the
11 Second Amendment. Defendant lacks sufficient knowledge or information to form a belief as to
12 the truth of the allegations in the last clause of the last sentence of paragraph 101, and on that
13 basis denies them. Except as specifically admitted, Defendant denies the allegations in paragraph
14 101.

15 102. Defendant admits the Act speaks for itself. Defendant denies that the Act violates the
16 Second Amendment. Defendant lacks sufficient knowledge or information to form a belief as to
17 the truth of the allegations in the last clause of the first sentence of paragraph 102, and on that
18 basis denies them. Except as specifically admitted, Defendant denies the allegations in paragraph
19 102.

20 103. Defendant admits the Act speaks for itself. Defendant denies that the Act violates the
21 Second Amendment. The remaining allegations contained in paragraph 103 are Plaintiffs'
22 characterization of their case and conclusions of law, no answer is required; to the extent they
23 may be deemed allegations of fact, they are denied.

24 104. Defendant denies the allegations of paragraph 104

25 105. Defendant re-alleges his answers to the paragraphs above and incorporates them by
26 reference herein.

27 106. Defendant denies the allegations of paragraph 106.
28

107. Defendant lacks sufficient knowledge or information to form a belief as to the truth of the allegations in paragraph 107, and on that basis denies them. To the extent that the allegations contained in paragraph 107 are Plaintiffs' characterization of their case and conclusions of law, no answer is required; to the extent they may be deemed allegations of fact, they are denied. Except as specifically admitted, Defendant denies the allegations in paragraph 107.

108. Defendant denies the allegations of paragraph 108

109. Defendant denies the allegations of paragraph 109.

110. Defendant re-alleges his answers to the paragraphs above and incorporates them by reference herein.

111. Defendant denies the allegations of paragraph 111.

112. Defendant denies the allegations of paragraph 112.

Defendant denies that Plaintiffs are entitled to the relief set forth in the prayer for relief immediately following paragraph 112, or to any relief whatsoever.

DEFENSES

AFFIRMATIVE DEFENSES

In addition, without admitting any allegations contained in the Second Amended Complaint, Defendant asserts the following defenses based on information and belief:

FIRST AFFIRMATIVE DEFENSE

The Third Amended Complaint, and the claims for relief alleged therein, fails to state facts sufficient to constitute a cause of action.

SECOND AFFIRMATIVE DEFENSE

The Third Amended Complaint, and any cause of action alleged therein, is barred because the action is premature and is not ripe, and no actual controversy exists.

THIRD AFFIRMATIVE DEFENSE

Plaintiffs' claims in this action are barred in that they do not have standing to bring them.

FOURTH AFFIRMATIVE DEFENSE

The Takings Clause cause of action is improper as Plaintiffs have an adequate remedy at law.

FIFTH AFFIRMATIVE DEFENSE

Defendant has not knowingly or intentionally waived any applicable affirmative defense. Defendant reserves the right to assert and rely upon other such defenses as may become available or apparent during discovery proceedings or as may be raised or asserted by others in this case, and to amend their answer and/or affirmative defenses accordingly. Defendant further reserves the right to amend their answer to delete affirmative defenses that they determine are not applicable after subsequent discovery.

WHEREFORE, Defendant prays that:

1. Plaintiffs take nothing by reason of the Second Amended Complaint;
2. Judgment be entered in favor of Defendant;
3. Defendant be awarded his costs incurred in defending this action; and
4. Defendant be awarded such further relief that the Court may deem just and proper.

Dated: July 5, 2018

Respectfully submitted,

XAVIER BECERRA
Attorney General of California
MARK R. BECKINGTON
Supervising Deputy Attorney General

/s/ Peter H. Chang

PETER H. CHANG
Deputy Attorney General
Attorneys for Defendant Xavier Becerra

SA2015103542
42016716.docx