

NLWJC - Kagan

DPC - Box 009 - Folder 002

Crime - Ammo Clips

crime - ammo clips

crime - ^{and} Brady law - legislative

Defending the Brady Law and Ban on Assault Weapons August 12, 1998

Today, with Mayor Richard Riordan of Los Angeles and California Lt. Governor Gray Davis, President Clinton will issue a bipartisan call for Congress to strengthen -- and not undermine -- the tough laws that have worked to keep guns out of the hands of criminals. The President will: (1) announce the publication of a proposed regulation to fully implement the Brady Law; (2) strongly support legislation to ban the transfer of large capacity military magazines; and (3) oppose Congressional efforts to expand the carrying of concealed weapons across state lines..

Defending the Brady Law

- **Final implementation of the Brady Law.** Despite the gun lobby's attempts to derail implementation of the Brady Law's National Instant Criminal Background Check System (NICS), the Administration will publish a proposed regulation to implement the NICS on November 30, 1998. Among other things, this regulation will allow the FBI to charge gun dealers the same fee it charges day care provides and others for similar background checks -- guaranteeing that the FBI will have the resources it needs to operate the NICS.
- **Making Permanent the Brady Law's Requirements.** Although the NICS will make many more records of ineligible gun purchasers available in mere seconds, it will also replace a network of 5,400 state and local law enforcement officials that have stopped an estimated 242,000 prohibited purchasers from buying a handgun. To make sure all Americans have the benefit of the best background check system possible, the President supports legislation to make permanent the Brady Law's requirements by: (1) requiring a minimum 3-day waiting period for all handgun purchases; (2) adding up to an additional 2 days to the waiting period if law enforcement officers need more time to clarify arrest records; and (3) continuing to require gun dealers to notify designated law enforcement officials of all proposed handgun purchases. Congress should pass such legislation before it adjourns, so all Americans can benefit from the best background check system possible.

Banning Assault Weapons and Military Magazines

- **Closing the Clips Loophole.** The Assault Weapons Ban that passed as part of the 1994 Crime Act prohibited the future importation, manufacture and sale of magazines accepting more than 10 rounds of ammunition. Nearly 4 years later, however, it is estimated that hundreds of thousands of pre-Ban clips continue to be bought and sold. The intent of the Assault Weapons Ban was to end the easy access to these large capacity military magazines (LCMMs).

Today, President Clinton will support legislation, introduced by Senator Feinstein, to ban -- once and for all -- the transfer of these military magazines that are used with assault-type weapons.

- **LCMM Rifles and Clips Recently Banned from Importation.** This past April, the Treasury Department concluded that more than 50 kinds of modified assault weapons -- including variants of the AK 47, Uzi, FN-FAL, HK 91 and 93, and SIG SG550 -- were generally not importable because they accept LCMMs. Consistent with its obligation to restrict the importation of firearms unless they are determined to be "particularly suitable for or readily adaptable to sporting purposes," the Treasury Department concluded that LCMM rifles and clips -- did not meet the sporting purposes test and were generally not importable.

Fighting Gun Lobby Efforts to Undermine State and Federal Laws

- **Carrying Concealed Weapons Across State Lines.** Last Wednesday, the House Judiciary Committee quietly passed a bill that -- under the guise of allowing police officers to carry their firearms across state lines -- could allow millions of persons with state permits to carry a concealed weapons to do so throughout most parts of the country. Currently, 43 of the 50 states issue permits for concealed weapons and could be impacted by this legislation. While there may be good reasons to allow law enforcement officers to carry their service weapons across state lines, allowing millions of others traveling out-of-state to carry concealed and loaded weapons can only serve to undermine state and federal gun laws -- and will be strongly opposed by the President.

NB: Rahm wanted to see what a bullet on these crime funds, which can be released next Wednesday, would like. We have generally downplayed this as the R's block grant -- and Bruce didn't seem to think it was on message -- but here it is.

Releasing Crime Control Funds for California

- **Local Law Enforcement Block Grant.** President Clinton will also announce the release of \$78.8 million in crime fighting funds for California -- including \$18.1 million for the City of Los Angeles and \$3.7 million for the County of Los Angeles. Generally, these funds can be used to: hire and train additional police officers; procure equipment and technology for law enforcement use; enhance security in and around schools; establish drug courts; adjudicate violent offenders, including violent juveniles; establish task forces of federal and local enforcement; and promote cooperative crime prevention between

Crime-Brady law-NICS
and
Crime - ammo clips



Jose Cerda III

08/07/98 06:57:35 PM

Record Type: Record

To: Michelle Crisci/WHO/EOP

cc: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Christa Robinson/OPD/EOP, Leanne A. Shimabukuro/OPD/EOP

Subject: Wednesday Event

MC:

Per your request, here's some text for Rahm on what we're supposed to be doing next Wednesday. NB: While the Brady reg must go out next week, it's still unclear as to whether we can time its publication specifically on Wednesday. I have calls in to main DOJ to check w/them, but the timing is contingent on Freeh and his conversations with the House appropriators. Also, it's worth noting that California is not a Brady-- and won't generally be impacted by Brady II or the NICS.

state

BR/EK/CR: Let me know if I didn't get this right...jose iii

Banning Large Capacity Military Magazines. The Assault Weapons Ban that passed as part of the 1994 Crime Act prohibited the future import, manufacture and sale of large capacity magazines that held more than 10 rounds of ammunition. However, the Assault Weapons Ban also grandfathered the possession and sale of those clips already in existence. As a result, it is estimated that hundreds of thousands of large capacity clips continue to be sold -- and that some even continue to be imported. This is especially troubling for the Administration because this Spring we determined that firearms that can accept these magazines could not be legally imported. Thus, next Wednesday, the President will come out in support of legislation introduced by Senators Feinstein to close the "loophole" on the domestic sale of these clips.

Implementing the Brady National Instant Criminal Background Check (NICS). The President will also talk about the steps the Administration's is taking to implement and strengthen the Brady Law -- as well as condemn Congressional efforts to undermine it. Next week, we will publish a regulation to begin implementing the NICS system of computerized background checks. However, we won't be able to do make this system work if certain amendments promoted by the gun lobby -- and attached to the Justice Department's appropriations -- aren't defeated.

9-15-97

B. O'Neil

Copied

Crime - Ammo clips

HIGH CAPACITY MAGAZINES (HCMs)

Reed

COS

Tom Keenan

From Sen
Feinstein
Elena

ISSUE:

Under the 1994 Crime Bill, it was made unlawful to transfer or possess "large capacity ammunition feeding devices," defined as magazines with the capacity to hold more than 10 rounds of ammunition, with exceptions made for law enforcement and other governmental use.

A grandfather clause was added stating that this restriction "shall not apply to the possession or transfer of any large capacity ammunition feeding device otherwise lawfully possessed on or before the date of enactment of this subsection," (September 13, 1994).

Additionally, the term 'large capacity ammunition feeding device' was defined as:

"(A) a magazine, belt, drum, feed strip, or similar device manufactured after the date of enactment of the Violent Crime Control and Law Enforcement Act of 1994 that has a capacity of, or that can be readily restored or converted to accept more than 10 rounds of ammunition; (B) does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition."

ATF Prohibition of Importation of HCMs Challenged:

The ATF originally interpreted the grandfather clause as applying only to such magazines that were lawfully possessed in the United States on or before September 13, 1994. Under that interpretation, ATF prohibited importation of these devices. ATF's interpretation was challenged by several Members of Congress, the firearms industry, and gun-owner groups, claiming that the intent of Congress was to apply the grandfather clause to any magazine manufactured, domestically or abroad, on or before September 13, 1994.

ATF issued new regulations in June of 1996 that provided that large capacity magazines manufactured on or before September 13, 1994 are eligible for importation to the United States. The BATF began allowing HCMs to be imported into the U.S. after July 1996. They provided the following statistics on applications and importations since then:

From July 1996 to April 1997:

Number of permits issued for HCMs	77
Number of HCMs approved for importation	1,815,399
Number of HCMs imported	159,578

■ **MILLIONS OF HCMs AVAILABLE FOR IMPORT**

ATF estimates that the number of HCMs available for importation under the current grandfather clause may be in the millions, including those that are in surplus military stockpiles around the world. Many date back to World War II.

■ **DATE OF MANUFACTURE IMPOSSIBLE TO VERIFY**

ATF has no way of determining the date of manufacture of HCMs, but relies on documentation from the company. The date of manufacture must be included in import documentation.

■ **INVESTIGATIONS ABROAD ARE DIFFICULT TO CONDUCT**

If BATF officials are made aware of possible violations in a foreign country, they can utilize the international arms of the FBI or State Department to investigate. **However, there has never been an investigation of international producers of HCMs.** An unidentified ATF official is quoted in a Los Angeles Times interview saying that it is *“impractical for the government to conduct investigations abroad to determine the date of manufacture of these foreign clips.”*

■ **HUNDREDS OF THOUSANDS OF DOMESTICALLY MANUFACTURED HCMs IN CIRCULATION**

Although no firm estimates exist on the number of domestically manufactured HCMs in circulation, ATF estimates the number to be “in the high hundreds of thousands.” News reports indicate that, prior to enactment of the 1994 law, domestic magazine manufacturers beefed up their stockpiles of HCMs in anticipation of the ban.

- For example, according to the LA Times, Calico Light Weapons Systems in Bakersfield, CA produced so many high capacity magazines that, as of April 1997, they still had 6,000 on hand.

■ **NO REGULATION OF AMMUNITION MAGAZINE INDUSTRY**

There is no regulation of the ammunition magazine industry in the United States. Magazine manufacturers are not required to file disclosures, reports, or provide any documentation to Federal agencies to indicate compliance with the 1994 Crime Bill. Therefore ATF has no legal vehicle to inspect manufacturers. The ATF does not even know how many manufacturers are operating in the United States.



United States Senate
WASHINGTON, DC 20510-0504

Crime - ammo clips ; Crime - assault weapon
and
WR - child support

JOSE / EK / CR

September 17, 1997

Honorable William J. Clinton
President of the United States
The White House
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mr. President:

Thank you for meeting with me on Monday to discuss the issues of assault weapons, the continued circulation of high-capacity ammunition clips, and the ability of the Bureau of Alcohol, Tobacco and Firearms to enforce our nation's Federal firearms laws. In addition, I appreciate your willingness to try to look into the issue of California and other states facing the possible loss of billions of dollars in Federal funds due to a delay in development of a child support enforcement system as required under the 1988 Family Support Act and Welfare Reform.

As a follow up to our meeting, let me reiterate what it is I am hoping we can each do to further our common goals.

Legislative on high-capacity ammunition magazines (HCMs) or imported HCMs.

I intend to introduce legislation that replaces the grandfather clause on high-capacity ammunition magazines in the 1994 Crime Bill with a prohibition on the commercial sale of HCMs manufactured prior to the ban. If passed by Congress, this will have the added effect of prohibiting the importation of high capacity clips as well. I am asking that you and your Administration support this effort and commit to use the power of your office to help bring this issue to the American people, in addition to helping me weigh in with key legislators for passage of this amendment. The legislation was drafted by Wilke Green of my staff, and he is prepared to brief your staff on the details of the legislation and the strategy for introduction.

Administrative Action on Imported HCMs

As we move forward on legislation addressing the issue of pre-ban large-capacity clips, I believe there is action you can take to suspend the importation of pre-ban clips. I urge you to issue a directive to the BATF to determine the manufacture date of imported clips prior to approval of any applications for import permits. If BATF is unable to determine with certainty the date of manufacture, the import permit should be denied.

interesting

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President William J. Clinton

September 17, 1997

Page Two

Understanding that this directive will likely be challenged in court, I will help build the case in the Senate that the continued importation of these large-capacity clips violates both the spirit of the law and the intent of Congress, and will encourage my counterparts in the House of Representatives to do the same as I work toward passage of legislation to address this issue permanently.

Bureau of Alcohol, Tobacco and Firearms - Enforcement and Staffing

It is clear to me that however committed the BATF is to carry out our nation's gun laws, their enforcement ability has been hampered by inadequate staffing, statutory limits on their inspection authority, and internal policies that discourage inspections not relative to an on-going criminal investigation.

I am asking you to consider, in your FY 1999 Budget to Congress, an increase in funding for the BATF for the purpose of adding additional field inspectors. I am also requesting that you issue a directive to the BATF to change current internal policies prohibiting field inspectors from attending gun shows without their attendance being relative to a criminal investigation. Further, in your order, direct the BATF to proactively send field inspectors to gun shows for the purpose of enforcing Federal firearms laws and to serve as a deterrent to those who would violate the law. I pledge to work in the Senate to build support for your efforts to address both of these issues.

yes

Importation of Israeli Galils and Uzis

As we discussed, I sent a letter to Prime Minister Binyamin Netanyahu urging him to intervene in the planned export to the United States tens of thousands of modified Uzis and Galils by a government-owned munitions manufacturer, Israel Military Industries, Ltd. I am asking that you issue a directive to the Department of Treasury to suspend pending permits of these weapons until such time as a clarification can be made as to the suitability of these weapons for sporting purposes. This order would be modeled after a similar directive issued by the Treasury Department and supported by President Bush in 1989. In that order, President Bush suspended the pending import permits of 24 types of assault weapons in order to determine whether or not the weapons were suitable for sporting purposes under 18USC 925(d)3. I believe you have an opportunity to take the same action in this case.

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Further, I am requesting that you use diplomatic channels to persuade Israel, in the interest of public safety, not to export these weapons to the United States.

President William J. Clinton
September 17, 1997
Page Three

Child Support Enforcement System Automation

Finally, as we discussed, I am heartened by your willingness to do what you can to prevent California and other states from losing billions of dollars in federal funds, which include all of the states' Temporary Assistance for Needy Families (TANF) funds and the Child Support Enforcement System funds because these states will not meet the October 1, 1997 deadline as required under welfare reform.

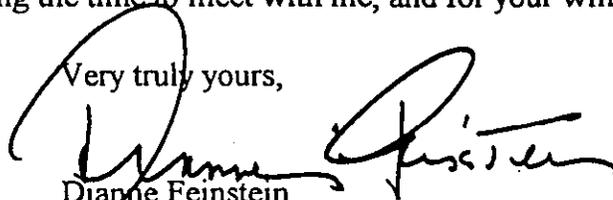
Without your intervention, California could lose \$3.7 billion in TANF funds and \$300 million in child support system funding. I am asking you to impose a temporary 6 month moratorium on the penalties for failure to meet the October 1st deadline in order to give California and other States the ability to implement their TANF programs and to improve their child support systems. California's state and local officials are making every effort to comply with the law as expeditiously as possible.

Mr. President, I know these issues are as important to you as they are to me. I understand the difficulty in addressing some of these firearms issues in a Republican Congress, but I am willing to do everything in my power to try, and I hope you will do the same.

I stand ready to assist you in every way, and I look forward to working with you, the Vice President, and others in your Administration to get the job done. The public stands behind you on this issue; of that I have no doubt. The rest is up to us.

If you would like to discuss this further, or if there are any questions you have, please do not hesitate to call me or have your staff contact Wilke Green of my staff at (202) 224-1227. Thank you again for taking the time to meet with me, and for your willingness to help.

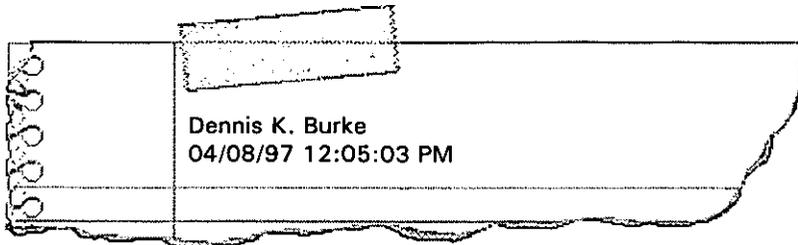
Very truly yours,



Dianne Feinstein
United States Senator

cc: Vice President Al Gore
Thomas F. "Mack" McLarty, Counselor to the President
Erskine Bowles, White House Chief of Staff
Bruce Reed, Assistant to the President for Policy Development
Kay Casstevens, Office of the Vice President
Tracey Thornton, Special Assistant to the President for Legislative Affairs

Crime - Ammo clips



Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Thomas L. Freedman/OPD/EOP

cc:

Subject: Usable life of clips

FYI on the question raised yesterday. So, you have to wonder why they have several million of these floating around.....

----- Forwarded by Dennis K. Burke/OPD/EOP on 04/08/97 12:07 PM -----



Susan.Ginsburg @ ms01.do.treas.sprint.com
04/08/97 10:53:00 AM

Record Type: Record

To: Dennis K. Burke

cc:

Subject: Usable life of clips

Date: 04/08/1997 11:51 am (Tuesday)

From: Susan Ginsburg

To: EX.MAIL("Dennis_K_Burke@oa.eop.gov")

Subject: Usable life of clips

Ammunition feeding devices -- magazines and clips -- are gun parts. They are used to contain bullets; ammunition is separate. A clip can be reloaded over and over again. If the owner is careless in its handling or doesn't maintain it, it can become useless. Like any other gun part, if it is well maintained, it can last a lifetime.

Importation of Large Capacity Ammunition Feeding Devices

- Q. Since the assault weapons ban was passed on September 13, 1994 as part of Public Law 103-322, the Violent Crime Control and Law Enforcement Act of 1994 ("the Act"), why are any large capacity ammunition feeding devices magazines ("magazines") able to be legally imported?**
- A. The Act defines "large capacity ammunition feeding devices" to exclude those devices manufactured before the date of enactment of the Act. The Department of Justice concluded that ATF does not have authority to preclude the importation of magazines manufactured before the date of enactment. Therefore, magazines manufactured on or before September 13, 1994 may be lawfully imported.**
- Q. Since the Act was passed, has there been a change in this interpretation?**
- A. ATF initially interpreted the statute to restrict the importation of magazines after the date of enactment of the Act. The Department of Justice found that this interpretation, which was challenged in two lawsuits, was not supportable as a matter of law. Based on guidance from the Department of Justice, ATF changed its interpretation so that the relevant fact was the date of a magazine's manufacture and not the date of importation.**
- Q. Was this explanation provided to interested members of Congress?**
- A. Yes. Briefings were provided to members or their staffs. ATF provided copies of the April 6, 1995, regulations and the temporary July 29, 1996 regulations to Congress as required by 5 U.S.C. 801(a). (Final regulations are being drafted.)**
- Q. Are there any procedural requirements attached to importation?**
- A. Yes. ATF regulations require importers to complete an import application, provide relevant information and present reasonable evidence -- either physical or documentary -- that the magazines in question were manufactured before the enactment of the Act.**
- Q. Have any import permits for magazines manufactured on or before September 13, 1994 been denied because of lack of supporting documentary evidence called for by ATF's July 29, 1996 regulations?**

It is estimated that approximately 20 permits have been denied. No information is available on the name of the importer, or the description of the large capacity magazines, if the permit application was denied for lack of sufficient documentation. But it is highly likely that these permits would have been resubmitted upon obtaining sufficient documentation.

Q. How many large capacity magazines have been imported since the effective date of the Act?

A. As of March 1, 1997, importation records indicate that 157,236 large capacity magazines from a variety of countries have been imported, through 21 approved permits. 83 permits seeking importation of 2,112,441 large capacity magazines have been approved.

Q. From what countries were these magazines imported and where were they manufactured?

A. The magazines were manufactured in and imported from the following countries: Argentina, Austria, Belgium, Brazil, Canada, Chile, England, Germany, Haiti, India, Israel, Italy, Morocco, Nicaragua, Portugal, Spain, Sweden, Taiwan, Zimbabwe.

Q. Are the number of import applications for large capacity magazines increasing?

A. The number of import applications for large capacity magazines has remained fairly constant since the implementation of the temporary rule on July 29, 1996.

Q. How many large capacity magazines have been sold domestically since the implementation of the Act?

A. It is unknown and the information is not ascertainable because sales of large capacity magazines are not required to be recorded under the Gun Control Act.

Q. Are U.S. manufacturers and importers known to have large stores of magazines manufactured on or before September 13, 1994?

A. Based on advertisements in firearms publications, dealers in firearms appear to have large quantities of high capacity magazines on hand.

Q. Are there special restrictions that apply to China on importation of large capacity magazines?

A. Yes. *Exports* of defense articles to China have been prohibited since 1989, after the Tiananmen Square crackdown. The State Department's International Traffic In Arms regulations (ITAR) and Treasury's regulations on importation of arms, ammunition and implements of war, state that it is the *policy* of the United States to prohibit *imports* of defense articles from countries that are subject to an U.S. arms *export* embargo. However, the President has authority under the Arms Export Control Act to control the export and import of defense articles for foreign policy reasons, and before May 1994, *China was exempted from the policy* of prohibiting imports from countries that are subject to U.S. arms *export* embargo.

On May 26, 1994 (during the period of the decision on China's Most Favored Nation status), President Clinton revoked this exemption under the authority of the Arms Export Control Act and the terms of Executive Order 11958, which gives authority to the Secretary of the Treasury to control imports of arms under the Arms Export Control Act, subject to foreign policy guidance from the Secretary of State.

- Q. What is the legal relationship if any between the 1994 effective ban on the importation of large capacity magazines and the 1989 ban on the importation of assault weapons?**
- A.** The two bans are legally unrelated. The Gun Control Act of 1968 prohibits the importation of firearms unless they are "*generally recognized as particularly suitable for or readily adaptable to sporting purposes.*" In July 1989, ATF applied this statute to permanently ban from importation 41 models of semiautomatic assault rifles that did not meet the sporting purposes test. These included semiautomatic versions of machine guns, possessing military characteristics.
- Q. Have there been any exceptions made to the May 26, 1994 ban all imports of arms and ammunition from China?**
- A.** Yes. Senator Craig sponsored an amendment (Sec. 609, Public Law 103-317), effective July 25, 1994, that prevented appropriated funds from being used to bar the importation of previously importable munitions from China that were *in transit* as of May 26, 1994.
- Q. Were any large capacity magazines imported from China under the Craig amendment?**
- A.** Yes. 35,000. None came in after the Act's implementation, September 13, 1994.
- Q. Have there been any other exceptions made to the May 26, 1994 ban on imports of arms and ammunition from China?**
- A.** The President can make specific one-time exemptions, or waivers, from the import ban, subject to guidance from the departments of State and Defense. Limited exemptions have been granted, in connection with DOD defense needs.

Additional questions from Sen. Feinstein's staff, 4/1/97:

- Q. What is the capacity of the clips imported under the Craig amendment?**
- Q. (?) What is the total number of rounds in these clips?**
- Q. What are the names of the manufacturers that exported these clips?**

SG 4/97 622-1496

Dennis K. Burke 03/19/97 08:56:58 AM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc: Bruce N. Reed/OPD/EOP, Leanne A. Shimabukuro/OPD/EOP

Subject: Re: Assault Weapon Clips 

I agree. But I can't imagine that Dingell will consider any action in this area anything but betrayal. We would just have to live w/ that if we move forward.

Dennis K. Burke 03/18/97 11:15:41 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP

cc: Leanne A. Shimabukuro/OPD/EOP

Subject: Assault Weapon Clips

Here is my better understanding of the particular facts on the clips issue. Then, I guess we should talk about the Dingell issue when you want to.

The 1994 Crime Bill restricted the manufacture, transfer, and possession of certain semiautomatic assault weapons and "large capacity ammunition feeding devices."

The Act defined "large capacity ammunition feeding device" to mean:

"A magazine, belt, drum, feed strip, or similar device [manufactured after the date of enactment of the Act] that has the capacity of, or that can be readily restored or converted to accept more than 10 rounds of ammunition."

So the definition, itself, grandfathers in clips that were manufactured before the effective date. This definition was inserted into the bill by Dingell during conference.

However, ATF originally interpreted this provision to only to such devices lawfully possessed in the United States on or before enactment.

Two suits were filed against ATF by clip manufactures over their interpretation of this provision. Dingell was very vocal about this interpretation and I can go into that background w/ you. In addition, the Associate Attorney General informed ATF that the Civil Division would not defend ATF's interpretation in court.

As a result, in July 1996, ATF reinterpreted the clip provision through a temporary rule in the Federal Register acknowledging that pre-ban clips could be imported. They did, however, require importers to present reasonable evidence that the devices were manufactured on or before the Crime Bill's date of enactment.

Treasury informs me that since then and as of March 1, 1997, importation records indicate that 157,236 large capacity magazines from a variety of countries have been imported, through 21 approved permits. 83 permits seeking importation of 2,112,441 large capacity magazines have been approved. According to Treasury an importer receives a one year permit to bring in a certain number of clips, but the importer might not use all of this permit authority.

but was imported yet?

Feinstein now claims that these clips are coming in from China and it is because of the Dingell amendment.

Since the Tiananmen Square crackdown in 1989, exports of defense articles to China have been prohibited. State and Treasury regulations state that it is the U.S. policy to prohibit imports of defense articles that are subject to an U.S. arms export embargo. Before 1994, China was exempted from this policy.

On May 26, 1994, the President revoked China's waiver --- so that no guns or clips could legally come into the United States from China.

However, Senator Craig, from the great State of Idaho, added an amendment to an appropriations bill, effective July 25, 1994, that prevented appropriated funds from being used to bar the importation of previously importable munitions from China that were in transit as of May 26, 1994.

According to Treasury, 35,000 large capacity magazines were imported from China under the Craig amendment -- but none have come in since the Crime Bill's implementation date, September 13, 1994.

So, yes clips are coming into the United States because of the Dingell provision, but no they are not coming in from China (at least according to the Treasury Dept, the same folks who forgot to tell us that they had already announce the President's youth gun interdiction initiative a year before he did).

DRAFT

Importation of Large Capacity Ammunition Feeding Devices

Q. Since the assault weapons ban was passed on September 13, 1994 as part of Public Law 103-322, the Violent Crime Control and Law Enforcement Act of 1994 ("the Act"), why are any large capacity magazines (magazines with more than ten rounds) able to be legally imported?

A. The magazine definition for purposes of the Act did not include magazines manufactured on or before the effective date of the law. Therefore, magazines manufactured on or before September 13, 1994, may be lawfully imported.

Q. Since the Act was passed, has there been a change in this interpretation?

A. ATF initially interpreted the magazine definition to restrict magazines located abroad, regardless of their date of manufacture. This interpretation, which was challenged in two lawsuits, was questionable in view of the plain language of the statute, and was not supported by the Department of Justice.

Q. Was this explanation provided to interested members of Congress?

A. Yes. ATF provided copies of the April 6, 1995, regulations and the temporary July 29, 1996 regulations to Congress as required by 5 U.S.C. 801(a). (Final regulations are being drafted.)

Q. Are there any procedural requirements attached to importation?

A. ATF regulations require an importation permit and a reasonable degree of evidence of pre-ban manufacture. ?

Q. How many large capacity magazines have been imported since the effective date of the Act?

A. As of March 1, 1997, importation records indicate that 157,236 large capacity magazines from a variety of countries have been imported, through 21 approved permits. 83 permits seeking importation of 2,112,441 large capacity magazines have been approved.] ?

Q. Are the number of import applications for large capacity magazines increasing?

A. The number of import applications for large capacity magazines has remained fairly constant since the implementation of the temporary rule on July 29, 1996.

DRAFT

Importation of Large Capacity Ammunition Feeding Devices From China

- Q. Are there special restrictions that apply to China on importation of large capacity magazines?
- A. Yes. *Exports* of defense articles to China have been prohibited since 1989, after the Tiananmen Square crackdown. The State Department's International Traffic In Arms regulations (ITAR) and Treasury's regulations on importation of arms, ammunition and implements of war, state that it is the *policy* of the United States to prohibit *imports* of defense articles from countries that are subject to an U.S. arms *export* embargo. However, the President has authority under the Arms Export Control Act to control the export and import of defense articles for foreign policy reasons, and before May 1994, *China was exempted from the policy* of prohibiting imports from nations banned from exporting arms for foreign policy reasons.

On May 26, 1994 (during the period of the decision on China's Most Favored Nation status), President Clinton revoked this exemption under the authority of the Arms Export Control Act and the terms of Executive Order 11958, which gives authority to the Secretary of the Treasury to control imports of arms under the Arms Export Control Act, subject to foreign policy guidance from the Secretary of State.

- Q. Have there been any exceptions made to the May 26, 1994 ban all imports of arms and ammunition from China?
- A. Yes. Senator Craig sponsored an amendment (Sec. 609, Public Law 103-317), effective July 25, 1994, that prevented appropriated funds from being used to bar the importation of previously importable munitions from China that were *in transit* as of May 26, 1994.

*So none,
really, from
China?*

- Q. Were any large capacity magazines imported from China under the Craig amendment?

A. [answer not yet available]

- Q. Have there been any other exceptions made to the May 26, 1994 ban on imports of arms and ammunition from China?

A. The President can make specific one-time exemptions, or waivers, from the import ban. Such exceptions to the policy of denial may be made subject to the guidance of the departments of State and Defense on matters affecting world peace and the external security and foreign policy of the United States. Very limited exemptions have been requested and granted. These have been in connection with DOD defense needs, and were unrelated to civilian arms.

Crime : Ammo Clips

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED

SUBJECT: SENATOR FEINSTEIN / AMMUNITION CLIPS

You had asked me for background and a recommendation in response to Senator Feinstein's recent phone call and letter to you regarding the importation of ammunition clips of greater than 10 rounds.

As you know the 1994 Crime Bill made it unlawful to "transfer or possess a large capacity ammunition feeding device." Large capacity was defined as more than 10 rounds.

During conference on the bill, Representative Dingell added an amendment grandfathering in any large capacity clips possessed before the date of enactment.

After enactment, ATF initially interpreted this provision to prohibit the importation of any ammunition clips of greater than 10 rounds. They were sued over this interpretation by several ammunition companies and Representative Dingell was very vocal in his objections with the Administration. The Justice Department eventually notified ATF that they would not be able to defend ATF's interpretation in court and ATF began to permit the importation of large capacity clips that were manufactured before the date of the Crime Bill enactment. Treasury confirmed Senator Feinstein's assertion that a large percentage of these clips were made in China.

We understand from her staff that Senator Feinstein realizes now that an executive action would be inappropriate and would not prevent the importation of these clips. She is seeking a written confirmation from us and then she plans to introduce legislation that would prevent the future importation of large capacity clips.

The 1994 Crime Bill required the Justice Department to report to Congress on the impact of the Assault Weapons ban. Justice has finalized this report and is ready to send it to Congress. In general, the report will state that it is too early to show any real impact from the ban. I recommend that we support the Feinstein legislation and announce it in conjunction with the release of the Justice Department report to show that it is a necessary step to eliminate the firepower of assault weapons.