

**NLWJC - Kagan**

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**Crime - Assault Weapons [1]**

Crime-assault  
weapons



# Office of Justice Programs **NEWS**

FOR IMMEDIATE RELEASE  
Tuesday, March 2, 1999

NIJ  
202/307-0703

## ASSAULT WEAPONS BAN MAKES A DIFFERENCE

WASHINGTON, D.C. -- There was a decline in the criminal use of guns banned by the 1994 Crime Act following its passage, which suggests that the legal supply of assault weapons was primarily in the hands of collectors and dealers before the ban, according to a report released today by the Justice Department. The National Institute of Justice (NIJ) study, *Impacts of the 1994 Assault Weapons Ban: 1994-96*, examined market trends such as prices, production and thefts to determine the ban's effectiveness, and the consequences of the use of assault weapons.

"The assault weapons ban has helped to reduce the number of murders committed with these weapons, especially murders of law enforcement officers," said President Clinton. "We must continue to work together to keep these deadly weapons out of the hands of criminals permanently."

The NIJ study noted that the assault weapons ban may have reduced the gun murder rate and murders of law enforcement officers by those armed with assault weapons. Also, the assault weapons ban has caused speculative price increases and a jump in the production of the

(MORE)

Bureau of Justice Assistance • Bureau of Justice Statistics • National Institute of Justice  
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prohibited weapons prior to the law's enactment, which were followed by a postban drop in prices to previous levels. Evidence also shows that the ban has not reduced the average number of victims per gun murder incident or multiple gunshot wound victims.

This study showed that during 1993 and 1994, primary market prices of the banned weapons and magazines jumped by 50 percent prior to the law's passage. Gun distributors, dealers and collectors speculated that the prohibited weapons would become expensive collectors' items. Although the production of assault weapons increased in the months leading up to the ban, prices of those same weapons fell dramatically once the law went into effect.

The *Research in Brief* being released today is a synthesis of "*Impact Evaluation of the Public Safety and Recreational Firearms Use Protection Act of 1994*," a full report to Congress conducted by the Urban Institute and released on March 13, 1997.

The National Institute of Justice (NIJ), the research arm of the Department of Justice, is the primary sponsor of criminal justice research and evaluations of programs to reduce crime. For additional information about NIJ, the Internet address is <http://www.ojp.usdoj.gov/nij>. General information about the Office of Justice Programs (OJP) is available at <http://www.ojp.usdoj.gov>.

The *Research in Brief* and the full report are available on the Internet at <http://www.ojp.usdoj.gov/nij>, or from the National Criminal Justice Reference Service (NCJRS) by calling toll-free, 1-800/851-3420.

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NIJ 99-046

After hours contact: James Phillips at 888/491-4487 (pager)



# National Institute of Justice

## Research in Brief

Jeremy Travis, Director

February 1995

### Issues and Findings

**Discussed in this Brief:** This study examines the impact of the assault weapons ban on gun markets and gun-related violence as contained in Title XI of the Federal Violent

Crime Control and Law Enforcement Act of 1994. Title XI prohibits the manufacture, sale, and possession of specific makes and models of military-style semiautomatic firearms and "features test" weapons with multiple military-style features (detachable magazines, flash suppressors, folding rifle stocks, and threaded barrels for attaching silencers) and outlaws most large capacity magazines (ammunition-feeding devices) capable of holding more than 10 rounds of ammunition. Weapons and magazines manufactured prior to September 13, 1994, are exempt from the ban.

**Key Issues:** The firearms and magazines banned by this legislation facilitate the rapid firing of high numbers of shots, thereby enhancing the ability of offenders to kill and wound more persons and to inflict multiple wounds on victims. Although the banned weapons were used only in a small percentage of gun crimes before the ban, researchers hypothesized that a decrease in their use would reduce the fatality rate of gun attacks.

The ban's impact on gun violence is unclear because the short period since the enabling legislation's

*continued...*

## Impacts of the 1994 Assault Weapons Ban

by Jeffrey A. Roth, Ph.D., and Christopher S. Koper, Ph.D.

On January 17, 1989, Patrick Edward Purdy, armed with an AK-47, returned to his childhood elementary school in Stockton, California, and opened fire, killing 5 children and wounding 30 others. Purdy, a drifter, squeezed off more than 100 rounds in 1 minute before turning the weapon on himself.

During the 1980s, this tragedy and other similar acts of seemingly senseless violence, coupled with escalating turf and drug wars waged by urban gangs, sparked a national debate over whether legislation was needed to end, or at least restrict, the market for imported and domestic "assault weapons." Beginning in 1989, a few States enacted their own assault weapons bans, but it was not until 1994 that a Federal law was enacted.

On September 13, 1994, Title XI of the Federal Violent Crime Control and Law Enforcement Act of 1994—known as the Crime Control Act of 1994—took effect. Subtitle A (the Public Safety and Recreational Firearms Use Protection Act) of the act banned the manufacture, transfer, and possession of certain semiautomatic firearms designated as assault weapons and "large capacity" ammunition magazines. The legislation required the Attorney General to deliver to Congress within 30 months an evaluation of the effects of

the ban (with an emphasis on violent and drug-trafficking crimes). To meet this requirement, the National Institute of Justice (NIJ) funded research to evaluate the impact of Subtitle A. This Research in Brief summarizes the results of that evaluation.

A number of factors—including the fact that the banned weapons and magazines were rarely used to commit murders in this country, the limited availability of data on the weapons, other components of the Crime Control Act of 1994, and State and local initiatives implemented at the same time—posed challenges in discerning the effects of the ban. The ban appears to have had clear short-term effects on the gun market, some of which were unintended consequences: production of the banned weapons increased before the law took effect and fell afterward. This suggests that the weapons became more available generally, but they must have become less accessible to criminals because there was at least a short-term decrease in criminal use of the banned weapons.

Debated in a politically charged and often contentious environment, the Public Safety and Recreational Firearms Use Protection Act, as its title suggests, attempted to balance two competing policy

## Issues and Findings

*continued...*

passage created methodological difficulties for researchers. The National Institute of Justice is funding a followup study by the authors that will assess the longer term impacts of the ban and the effects of the other firearms provisions of Title XI. The long-term impacts of the ban could differ substantially from the short-term impacts.

**Key findings:** Researchers, using a variety of national and local data sources, examined market trends—prices, production, and thefts—for the banned weapons and close substitutes before estimating potential ban effects and their consequences.

- The research shows that the ban triggered speculative price increases and ramped-up production of the banned firearms prior to the law's implementation, followed by a substantial postban drop in prices to levels of previous years.
- Criminal use of the banned guns declined at least temporarily after the law went into effect, which suggests that the legal stock of preban assault weapons was, at least for the short term, largely in the hands of collectors and dealers.
- Evidence suggests that the ban may have contributed to a reduction in the gun murder rate and murders of police officers by criminals armed with assault weapons.
- The ban has failed to reduce the average number of victims per gun murder incident or multiple gunshot wound victims.

**Target audience:** Congressional representatives and staff; State and local legislators; Federal, State, and local law enforcement officials; criminal justice practitioners and researchers; advocacy groups; State and local government officials.

goals. The first was to respond to several mass shooting incidents committed with military-style or other semiautomatics equipped with magazines holding large amounts of ammunition. The second consideration was to limit the impact of the ban on recreational gun use by law-abiding owners, dealers, and manufacturers. The ban specifically prohibited only nine narrow categories of pistols, rifles, and shotguns (see exhibit 1). It also banned "features test" weapons, that is, semiautomatics with multiple features (detachable magazines, flash suppressors, folding rifle stocks, and threaded barrels for attaching silencers) that appeared useful in military and criminal applications but that were deemed unnecessary in shooting sports (see exhibit 2). The law also banned revolving cylinder shotguns (large capacity shotguns) and "large capacity magazines," defined as ammunition-feeding devices designed to hold more than 10 rounds, far more than a hunter or competitive shooter might reasonably need.

These and other provisions of the ban limited its potential effects on criminal use. As shown in exhibit 1, about half the banned makes and models were rifles, which are hard to conceal for criminal use. Imports of the five foreign rifle categories on this list were banned in 1989. Further, the banned guns are used in only a small fraction of gun crimes; even before the ban, most of them rarely turned up in law enforcement agencies' requests to the Bureau of Alcohol, Tobacco and Firearms (BATF) to trace the sales histories of guns recovered in criminal investigations.

As a matter of equity, the law exempted "grandfathered" guns manufactured before the ban took effect. While it also banned "exact" or duplicate copies of the prohibited makes and models, the emphasis was on "exact." Shortening a gun's barrel by a few millimeters or "sporterizing" a rifle by removing its

pistol grip and replacing it with a thumbhole in the stock, for example, was sufficient to transform a banned weapon into a legal substitute. Other substitutes appeared later, and on April 5, 1998, President Clinton signed an Executive order banning the imports of 58 foreign-made substitutes.

## Gun bans and gun crime

Evidence is mixed about the effectiveness of previous gun bans. Federal restrictions enacted in 1934 on the ownership of full automatic weapons (machine guns) appear to have been quite successful based on the rarity with which such guns are used in crime.<sup>1</sup> Washington, D.C.'s restrictive handgun licensing system, which went into effect in 1976, produced a drop in gun fatalities that lasted for several years after its enactment.<sup>2</sup> Yet, State and local bans on inexpensive handguns—Saturday night specials—have been found to be ineffective in other research.

The inconsistency of previous findings may reflect, in part, the interplay of several effects that a ban may have on gun markets. To reduce criminal use of guns and the tragic consequences of such use, a ban must make the existing stockpile of guns less accessible to criminals (exhibit 3) through, for example, raising their purchase prices.<sup>4</sup> However, the anticipation of higher prices may encourage gun manufacturers to boost production just before the ban takes effect, in the hope of generating large profits from the soon-to-be collectors' items. Immediately after the ban, criminals may still find it difficult to purchase banned weapons if they remain in dealers' and speculators' storage facilities. Over the long term, however, the stockpiled weapons might begin flowing into criminals' hands, either through actual thefts or through "off-the-books" sales that dealers or speculators falsely report to insurance companies and government officials as thefts.<sup>5</sup>

**Exhibit 1. Description of firearms banned in Title XI**

| Name of firearm              | Description   | 1993 Blue Book price status                  | Pre-ban Federal legal count               | 1993 BATF trace request          | Examples of legal substitute:                          |
|------------------------------|---|--|---|----------------------------------|--|
| Avtomat Kalashnikov (AK)     | Chinese, Russian, other foreign, and domestic: 0.223 or 7.62x39mm cal., semiauto Kalashnikov rifle, 5-, 10-,* or 30-* shot mag., may be supplied with bayonet.  | \$550 (plus 10-15% for folding stock models) | Imports banned in 1989                    | 87                               | Norinco NHM 90/91                                      |
| UZI, Galil                   | Israeli: 9mm, 0.41, or 0.45 cal. semiauto carbine, minicarbine, or pistol. Magazine capacity of 16, 20, or 25, depending on model and type (10 or 20 on pistols).   | \$550-\$1,050 (UZI)<br>\$875-\$1,150 (Galil) | Imports banned in 1989                    | 281 UZI; 12 Galil                |  |
| Baretta Ar-70                | Italian: 0.222 or 0.223 cal., semiauto paramilitary design rifle, 5-, 8-, or 30-shot mag.   | \$1,050                                      | Imports banned in 1989                    | 1                                |  |
| Colt AR-15                   | Domestic: Primarily 0.223 cal. paramilitary rifle or carbine, 5-shot magazine, often comes with two 5-shot detachable mags. Exact copies by DPMS, Eagle, Olympic, and others.   | \$825-\$1,325                                | Legal (civilian version of military M-16) | 581 Colt; 99 other manufacturers | Colt Sporter, Match H-Bar, Target; Olympic PCR Models. |
| FN/FAL, FN/LAR, FNC          | Belgian design: 0.308 Winchester cal., semiauto rifle or 0.223 Remington combat carbine with 30-shot mag. Rifle comes with flash hider, 4-position fire selector on automatic models. Manufacturing discontinued in 1988. | \$1,100-\$2,500                              | Imports banned in 1989                    | 9                                | LIA1 Sporter (FN, Century)                             |
| SWD M-10, M-11, M-11/9, M-12 | Domestic: 9mm paramilitary semiauto pistol, fires from closed bolt, 32-shot mag. Also available in fully automatic variation.   | \$215  | Legal                                     | 878                              | Cobray PM-11, PM12; Kimel AP-9, Mini Ap-9              |
| Steyr AUG                    | Austrian: 0.223 Remington/5.56mm cal., semiauto paramilitary design rifle.  | \$2,500                                      | Imports banned in 1989                    | 4                                |  |
| TEC-9, TEC*DC-9, TEC-22      | Domestic: 9mm semiauto paramilitary design pistol, 10-** or 32-** shot mag.; 0.22 LR semiauto paramilitary design pistol, 30-shot mag.  | \$145-\$295                                  | Legal                                     | 1202 Intratec; 175 Exact copies  | TEC-AB   |
| Revolving Cylinder Shotguns  | Domestic: 12 gauge, 12-shot rotary mag., paramilitary configuration, double action.   | \$525***                                     | Legal                                     | 64 SWD Street Sweepers           |  |

\* The 30-shot magazine was banned by the Crime Control Act of 1994, and the 10-shot magazine was introduced as a result.

\*\* The 32-shot magazine was banned by the Crime Control Act of 1994, and the 10-shot magazine was introduced as a result.

\*\*\* Street Sweeper.



Leanne A. Shimabukuro

06/11/98 08:32:28 AM

Record Type: Record

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

cc:

Subject: assaults -- approps update

**Approps update:** We are expecting that an amendment could come up on the Treasury-Postal approps markup this afternoon to undermine the Administration's decision on the importation of modified assault weapons. The amendment expected would be something similar to what came up on the supplemental approps bill -- which was subsequently withdrawn -- to exempt from the ban those firearms that were in transit prior to the directive or ~~is~~ already in bonded warehouses. Yesterday, Rahm asked Treasury to quietly look into drafting an amendment to reimburse importers for their loss for a limited number of these; for example, only those firearms which are sitting in bonded warehouses (about 2,000 guns). Treasury/ATF is still working it up and will vet it with Justice this morning. Peter Jacoby was going to float the idea with Lautenberg.

I will send over a draft when I get one.

Crime - assault weapons



Jose Cerda III

04/28/98 09:13:30 PM

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Record Type: Record

To: Michelle Crisci/WHO/EOP, Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP  
cc: Leanne A. Shimabukuro/OPD/EOP, Laura Emmett/WHO/EOP  
Subject: Assaults Veto

Rahm/Bruce/Elena:

Please disregard the assaults letter I sent. The word from Peter now is that OMB will do a general veto letter, include the attached line on assaults, and float it at the senior staff meeting tomorrow morning.

"The proposed language would potentially allow for as many as 600,000 modified Uzis, AK 47s and other assault-type rifles to be imported into the country."

Thanks,  
Jose'

Crime - assault weapons

AMENDMENT NO. \_\_\_\_\_ Ex. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To prohibit the denial of the entry of certain firearms previously approved for entry in the United States under 18 U.S. C. §925(d)(3).

### United States Senate

One Hundred Fifth Congress

of the

United States of America

at the Second Session

#### AMENDMENTS SUBMITTED

MAKING SUPPLEMENTAL APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 1998, AND FOR OTHER PURPOSES.

\_\_\_\_\_ AMENDMENT NO. \_\_\_\_\_

- ( ) Referred to the Committee on \_\_\_\_\_ and ordered to be printed.
- ( ) Ordered to lie on the table and to be printed.

Mr. \_\_\_\_\_ submitted an amendment to the bill H.R. \_\_\_\_\_, supra; as follows:

At the appropriate places and divisions indicated, insert the following:

TITLE \_\_\_\_\_-GENERAL PROVISIONS  
DEPARTMENTS, AGENCIES, AND CORPORATIONS

#### SEC. \_\_\_\_ IMPORTATION OF CERTAIN FIREARMS.

Notwithstanding any other provision of law, none of the amounts appropriated or otherwise made available under this Act, or under any other provision of law, may be obligated or expended by a department, agency, or instrumentality of the United States to pay administrative expenses, or to compensate an officer or employee of the United States, to

**In transit relief**

**Page 2**

deny or refuse entry into the United States of 1 or more firearms (as defined in section 921 of title 18, United States Code) of the type or model the subject of the Department of the Treasury "Study on the Sporting Suitability of Modified Semiautomatic Assault Rifles" released on April 8, 1998, for which authority had been granted to import such firearms into the United States, on or before April 6, 1998, and which were, on or before April 6, 1998 in a bonded warehouse or foreign trade zone, in port, or, as determined by the United States on a case-by-case basis, in transit to a U.S. importer by any air, sea or land routings after having left the facility where they had been manufactured.

### Report Language

**SEC. \_\_\_\_ CERTAIN IN-TRANSIT RELIEF.** The Secretary of the Treasury, pursuant to 18 U.S.C. § 925(d)(3), is charged by Congress to approve the importation of firearms into the United States for private ownership. If such firearms are determined to be for "sporting purposes." On November 14, 1997 the President signed an executive memorandum that immediately directed the Secretary of the Treasury to suspend the importation of all "modified assault weapons for 120 days while we study whether they can be permanently blocked from our borders and banned from our streets." On April 6, 1998 the Secretary of the Treasury, along with the President, announced the results of the Treasury study and the Treasury Secretary permanently banned the importation of all the gun types the subject of the study except for one firearms model.

The Committee strongly opposes the President's avowed intent to re-interpret the "sporting purposes" test in a narrow and obstructive manner to ban a new and very broad category of firearms imports well beyond the national policy established in 1994.

This Administration's action will put many of this country's importers out of business as a result of wrongly reinterpreting the "sporting purposes" test. Additionally, importers who have bought qualified firearms, but had not entered them into U.S. commerce before November 14, 1997, have no available remedy for property that now has no value, no re-export market, and may not be returned for a refund from overseas manufacturers.

Pending the work by the authorizing Committees on a provision that reverses the Treasury decision, this provision gives immediate relief and allows any goods that were detained at the U.S. border under suspended permits on or before April 6, 1998, to enter the commerce of the United States.

#### Brief summary of why in transit relief is needed-

**Amendment No. \_\_\_\_\_ should be enacted based on the following reasons:**

- It is a matter of fairness.

The amendment is being offered in the interests of simple fairness. The U.S. importers of these firearms and ammunition had no prior notice from the government of the President's action suspending permits on November 14, 1997. The current situation essentially constitutes a taking of the importers' private property.

- It addresses only the inequities of the embargo.

This amendment does not reverse or erode the Treasury order.

- It is narrowly tailored.

The amendment is intended to release these goods and allow them into the United States ONLY IF they were (on or before April 6, 1998) in transit, in port, in a foreign trade zone, or in bond, and the authority had been granted on or before April 6, 1998 to import these items into the United States. Goods already produced, contracted for, paid for, enroute, but not yet received are covered by this amendment.

**In transit relief**

Page 4

- **The amendment is based on past precedent in similar situations.**

In the past, U.S. companies have been given notice or granted concessions for in-transit goods before such policy changes were implemented -- in order to minimize unnecessary financial harm and honor commercial relationships and agreements. In 1994, Congress granted in transit relief for a very similar situation for a sporting arms embargo the President imposed on China.

## **Amendment to Authorize the Importation of Certain Modified Semiautomatic Assault Rifles**

- The proposed amendment would allow the importation of semi-automatic assault rifles that accept large capacity military magazines (those accepting magazines of more than 10 rounds of ammunition). This directly contravenes the Secretary of the Treasury's decision of April 6, 1998 to ban the importation of these weapons.
- The weapons covered by the Secretary's decision include: AK-47s; Uzis; and 3 other designs of sporterized military-style assault rifles.
- The Secretary's decision was the right one. These weapons have no legitimate sporting purpose and are attractive to criminals who want to shoot a large number of rounds within a very short time.
- ✓ What this amendment would do is potentially allow 600,000 of these firearms into the U.S.
- According to the Customs Service, there are 2135 of these rifles that are in bonded warehouses in New York and Baltimore.
- Letting any of these weapons into the U.S. would be a serious mistake. It would make our streets more dangerous while not further any legitimate sporting purpose.
- [ There is no way to estimate the precise number of such firearms "in transit" to a U.S. importer from a foreign manufacturer. Moreover, even if the underlying reasons for this amendment were sound (which they are not), there are practical realities which make it unworkable. For example, advance manifests provided to Customs only list merchandise generically, as guns or firearms, without listing the specific types.
- The current situation is substantially different from than that at the time of the Craig amendment in 1994. In this situation the importers have had 5 months in which to assess risks and make any adjustments in their plans.
- Proponents are saying that the amendment only involves about 5,000 weapons. We have no way of verifying this information. While we know there are currently some 2100 in bonded warehouses, we have no way of

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knowing how many are in transit from the manufacturers—especially as “in transit” is defined in the amendment.

- In the case of the Craig amendment, for example, proponents argued at the time that the numbers of weapons importable from China were small. The actual number approved for importation turned out to be 159,000 assault weapons.
- I don't think we should let in 2100 of these assault rifles, much less take the risk that the number would be far greater.
- In addition, in 1994 the order involved firearms from a single country, the PRC, whereas at least 13 countries are involved with the current permits.
- The Administration strongly opposes the adoption of this amendment.

**PROPOSED APPROPRIATIONS AMENDMENT TO ALLOW THE IMPORTATION OF CERTAIN MODIFIED SEMIAUTOMATIC ASSAULT RIFLES**

**I. Proposed Amendment**

The proposed amendment would require ATF to allow, under certain conditions, the importation of those firearms that were determined to be non-importable in the Treasury Department's "Study on the Sporting Suitability of Modified Semiautomatic Assault Rifles" (April 6, 1998).

- Relief would be provided if (1) ATF had approved the importation of such firearms on or before April 6, 1998 and (2) such firearms were, on or before April 6, 1998, in a foreign trade zone, in a bonded warehouse, in a port, or if such firearms were in transit to an importer in the United States by any air, sea, or land routings after departure from the manufacturing facility.
- The amendment would potentially affect 600,000 firearms because ATF had approved permits to import this number prior to Nov. 14, 1997. Approximately ~~2000~~ <sup>2100</sup> subject firearms were in bonded warehouses.

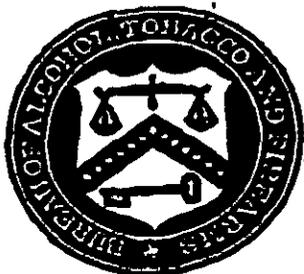
**II. Comparison to Craig Amendment**

- The proposed relief provision is similar to the so-called Craig Amendment enacted in 1994 after the President imposed a ban on munitions from China. The Craig Amendment provided similar relief except it did not provide relief for articles that had merely left the manufacturer's premises. Under Craig, the articles must have left port in the Peoples Republic of China (PRC) consigned to an importer in the United States on or before May 26, 1994 (the date of the announced ban).
- As evidence of departure from the PRC, ATF generally required that importers submit a sales contract, packing list, and a bill of lading (or air freight bill). ATF also required additional evidence to corroborate that the vessel departed the PRC on the laden on board date indicated on the bill of lading.
- ATF encountered numerous problems in establishing in transit status. Establishing corroboration often required credibility determinations. Further, many articles were routed through third countries and it was difficult to determine whether such items were "in transit" to the U.S. or were merely in storage.

- ATF encountered several other problems in implementing the Craig Amendment. First, importers applied for relief for nearly 1.5 million firearms. (In the end, only 159,000 firearms were approved for importation under the Craig amendment). Secondly, importers often submitted incomplete applications without the necessary supporting documentation. Finally, since the Craig amendment did not define a specific time limit for submitting completed applications, importers were allowed to submit them for as long as the appropriation was in effect. Due to continuing resolutions, the Craig Amendment was in effect from August 26, 1994, until April 25, 1996.

### III. Difficulties in Administering the Proposed Amendment

- In accordance with the above, the Craig Amendment imposed significant administrative burdens on ATF. The proposed amendment, as currently drafted, would be even more difficult to enforce, since it extends "in transit status" to any firearms that have left their manufacturing facilities en route to a U.S. importer.
- It will be impossible to estimate the number of firearms that will be alleged to have left manufacturing facilities in foreign countries for export to the United States on or before April 6, 1998.
- Given the number of countries involved, ATF would have serious problems in determining which commercial documents would establish in transit status. The risk of departure date falsification would be much greater with the small transportation carriers taking firearms directly from the manufacturing facilities within a foreign country than with shipping lines and air carriers that do business internationally.
- Even if the companies at issue are not state owned or sponsored, as in the PRC, making credibility determinations on these foreign documents could easily offend foreign governments.
- Accordingly, the proposed amendment as currently drafted would present difficulties in administration, and could potentially create a large loophole that could seriously weaken the ban.



Bureau of Alcohol, Tobacco & Firearms  
Office of Public Information

Crime - assault weapons

# ATF News Summary

Friday, April 10, 1998

CNN Interactive 4/10/98

## Israeli firm to make Uzi-style weapons in U.S.

10 April 1998

Web posted at: 00:21 GST, New York time (20:21 GMT)

**JERUSALEM, April 9 (Reuters)** - Israel Military Industries Ltd (IMI) said on Thursday it intends to manufacture in the United States weapons modelled on its Uzi gun to get around opposition in Washington to their import.

A spokesman for the state-owned firm said IMI was discussing a deal with American gun manufacturer O.F. Mossberg & Sons to build the weapon together.

"There is an intention to manufacture them in the United States," the spokesman said.

IMI received permission from U.S. authorities last year to market semi-automatic versions of the Uzi and Galil assault rifle in the United States but protests by U.S. senators have prompted the Israeli government to freeze any sales.

A group of 30 senators expressed concern the guns, banned for import since 1986, would fall into the wrong hands and be used in crimes against civilians and policemen.

IMI worked for more than a year with O.F. Mossberg & Sons to modify the Uzi - used in many Israeli army units - to meet restrictions of the U.S. Bureau of Alcohol, Tobacco and Firearms.

The remodelled guns can fire only a single round with each squeeze of the trigger. U.S. laws aimed at cutting violent crime ban the import of automatic weapons that can empty a magazine in a rapid burst of fire.

Crime - assault weapons

THE WHITE HOUSE  
WASHINGTON

4-20-98

RAHM/BRUCE/ELENA:

FYI - LETTER FROM REP. BARR  
TO GINGRICH TO OVERTURN  
OUR ASSAULTS DECISION.  
TWO POINTS TO NOTE: (1)  
MY UNFORTUNATE MENTION BY  
NAME (THOUGH MISPELLED); AND  
(2) BARR'S RECOMMENDATION THAT  
THIS BE ATTACHED (POSSIBLY)  
TO THE SUPPLEMENTAL  
CURRENTLY BEFORE THE HOUSE.  
WE CAN ONLY HOPE THEY'LL  
FILE THIS.

CC: LEANNE.

Joe

**Congress of the United States**

Washington, DC 20515

April 3, 1998

The Honorable Newt Gingrich  
Speaker of the House of Representatives  
H-232 The Capitol  
Washington, DC 20515

**IN RE: Appropriations Amendment on Imported Firearms**

Dear Mr. Speaker:

We have carefully monitored the Administration's suspension of imports for foreign made semiautomatic rifles announced in a presidential "directive" on November 14, 1997. We are extremely troubled by the Administration's actions to halt the importation of legally importable firearms by unilaterally bypassing the Congress and manipulating the "sporting purposes" test in the Gun Control Act, Section 925(d)(3) of Title 18, United States Code. The Administration's own words raise concerns: "We are taking the law (the Gun Control Act) and bending it as far as it can to capture a whole new class of guns," White House official Jose Corda, Los Angeles Times, 10/22/97.

Thus far, the Administration's actions have caused unfair economic hardship on many legitimate businesses through the Administration's unlawful actions to eliminate firearms that the law allows to be owned, manufactured and possessed in our Nation. Congress set the parameters of the law, and should still do so in the future.

There is reason to believe that the Administration will release the results of the Department of the Treasury's study, and take adverse administrative action on this matter while Congress is in recess. If so, an immediate response is necessary. With the limited number of legislative vehicles, we urge your support for the enclosed appropriations amendment which could be attached to a supplemental appropriations bill or another appropriate vehicle as soon as possible.

The amendment will simply preserve the status quo by returning the law to the way it was interpreted before October 22, 1997. This amendment is vitally needed as an emergency measure to prevent the Clinton Administration from usurping Congress' power and changing Congressional policy by bending the law to enact new gun bans.

The Honorable Newt Gingrich  
April 3, 1998  
Page 2

Thank you for your immediate attention to this matter.

Sincerely,

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The Honorable Newt Gingrich  
April 3, 1998  
Page 3

Thank you for your immediate attention to this matter.

Sincerely,

*[Handwritten signature]*

John Peterson

Robert Albert

Jerry Moran

Linda Smith

Richard Porto

Virgil Good

Sam Hutchinson

Phil English

Jim Buchanan

Jin Barcia

Wes Watkins

Tom K. Hume

Jung Chang

Bill Redmond

Ben Shuman

Don Young

Pat Saroy

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LOIS-CAPPS  
22D DISTRICT, CALIFORNIA1118 LONGWORTH HOUSE OFFICE BUILDING  
WASHINGTON, DC 20515-0522  
(202) 225-3801

**Congress of the United States**  
**House of Representatives**  
**Washington, DC 20515-0522**

April 15, 1998

**KEEP THE BAN ON MODIFIED ASSAULT WEAPONS**

Dear Colleague,

Last week the President took the bold step of banning the import of "modified" assault weapons into this country. I am currently circulating a bi-partisan letter (on reverse) which commends the President for taking this action, and pledges the support of all who sign it to oppose any legislative efforts to overturn the President's action.

The "modified" weapons affected by the President's action are really just assault weapons that have been cosmetically altered. These guns still have the capacity to hold ten or more rounds of ammunition and cause carnage on our streets. A recent BATF study indicates that since 1991, 425,000 such weapons have been imported into the U.S. from at least 17 different countries.

Currently there is a letter circulating to Speaker Gingrich, urging his support of an amendment to block the President's ban. I respect my colleagues who have signed this letter and I share their support of legitimate sporting activities. However, I strongly disagree with their position on importing assault weapons. Please join us in the fight to keep these dangerous firearms off of our streets. Let's support the President's directive and defeat any legislative effort to overturn it.

If you would like to sign this letter, please contact Clare Dowling at 5-3601.

Sincerely,



**LOIS CAPPS**  
**MEMBER OF CONGRESS**

*co-signers: Lantos, Pelosi, Manton, Morella, Schumer, McCarthy, Shays, Berman, Campbell, Gejdenson, Miller, G., Stark, Harman, Markey, Stokes, Blumenauer, Farr, McDermott, Olver, Davis, D., Towns, McGovern, Weygand, Millender-McDonald, Ackerman, Maloney, C., Velazquez, Tauscher, Roybal-Allard, Brown, G., DeLauro, Gutierrez, Filner, Barrett, T., Lofgren, Engel, Johnson, E.B.*

THE WHITE HOUSE  
WASHINGTON

April 5, 1998

MODIFIED ASSAULT WEAPONS EVENT

**DATE:** April 6, 1998  
**LOCATION:** Rose Garden  
**BRIEFING:** 10:15 a.m., Oval Office  
**EVENT:** 10:45 a.m. to 11:15 a.m.  
**FROM:** Bruce Reed and Rahm Emanuel

**I. PURPOSE**

To announce that the Treasury Department has concluded that modified semiautomatic assault rifles that accept large capacity military magazines (or LCMM rifles) are generally not importable. This decision will affect over 50 kinds of modified assault weapons, and may prevent the importation of up to 1.5 million guns under current permits or pending permit applications.

**II. BACKGROUND**

You will speak to approximately 50 individuals from the law enforcement, gun control, and victims communities, as well as Members of Congress, on the importation of modified semiautomatic assault rifles.

In your November 15, 1997 radio address to the nation you announced that the Treasury Department was temporarily suspending the importation of certain modified assault weapons to review whether these weapons should be allowed to come into the country. Tomorrow, Secretary Rubin will recommend that most of the weapons studied be generally banned from importation.

Under the 1968 Gun Control Act, the Treasury Department has an obligation to restrict the importation of firearms unless they are determined to be "particularly suitable for or readily adaptable to sporting purposes." After taking several months to review the weapons in question, the Treasury Department has concluded that modified semiautomatic assault rifles that accept large capacity military magazines -- or LCMM rifles -- do not meet the sporting purposes test and are generally not importable. LCMMs are magazines that contain more than 10 rounds of ammunition; they were prohibited by the 1994 Crime Act.

Since passage of the 1968 Gun Control Act, Administrations of both parties have repeatedly invoked this authority to ensure that only legitimate sporting weapons are brought into the country. In 1968, the Act was used to ban the importation of Saturday Night Specials and other small and inexpensive handguns; in 1984 and 1986, it was used to ban the importation of the Striker-12 and USAS-12 riot control shotguns; in 1989, it was used to ban the importation of 43 semiautomatic assault rifles; and in 1993, its authority was invoked to propose a ban on the importation of certain assault pistols, though the 1994 Crime Act made this executive action unnecessary.

The more than 50 models of firearms affected by the announcement on Monday are modified versions of military assault weapons that were banned by the Bush Administration in 1989 or by the Crime Act of 1994. Most of these models are based on the AK 47 assault rifle, but some are variants of the Uzi, FN-FAL, HK 91 and 93, and SIG SG550.

Up to 1.5 million firearms whose importation had been suspended during the review may be affected by this decision. Importers will be notified in writing and given an opportunity to respond.

### III. PARTICIPANTS

#### Briefing Participants

Bruce Reed  
Rahm Emanuel  
Secretary Rubin  
Attorney General Reno  
Under Secretary Ray Kelly  
Karen Popp  
Jose Cerda

#### Event Participants

The President  
The Vice President  
The Secretary of the Treasury  
The Attorney General  
15 local law enforcement officers

### IV. PRESS PLAN

Open Press

### V. SEQUENCE OF EVENTS

10:15 a.m. THE PRESIDENT and THE VICE PRESIDENT are briefed in the Oval Office.

10:35 a.m. THE PRESIDENT and VICE PRESIDENT greet law enforcement officers in the Oval Office.

10:45 a.m. THE PRESIDENT and VICE PRESIDENT are announced into the Rose Garden accompanied by Secretary Rubin, the Attorney General, and law enforcement officers.

**PROGRAM BEGINS**

The VICE PRESIDENT gives welcoming remarks and introduces Attorney General Reno.

Attorney General Reno gives remarks and introduces Secretary Rubin.

Secretary Rubin gives remarks and introduces THE PRESIDENT.

THE PRESIDENT makes remarks.

11:15 a.m. THE PRESIDENT and THE VICE PRESIDENT depart.

**VI. REMARKS**

To be provided by Jeff Shesol.

**VII. ATTACHMENTS**

The final Treasury report will be available on Monday morning.

## **Banning the Importation of Modified Assault Weapons**

**April 6, 1998**

**Announcement:** Today, in response to a previously issued memorandum, the President announced that the Treasury Department has concluded that more than 50 kinds of modified assault weapons are generally not importable because they accept large capacity military magazines. Up to 1.5 million rifles whose importation had been temporarily suspended may be affected this decision.

- On November 15, 1997, in his radio address to the nation, President Clinton announced that the Treasury Department would temporarily suspend the importation of certain modified assault weapons to review whether these weapons should be allowed to enter the country. Today, the Secretary of the Treasury informed the President that most of the weapons studied should be generally banned from importation.
- Under current law (the 1968 Gun Control Act), the Treasury Department has the obligation to restrict the importation of firearms unless they are determined to be "particularly suitable for or readily adaptable to sporting purposes." After taking several months to review the weapons in question, the Treasury Department has concluded that modified semiautomatic assault rifles that accept large capacity military magazines -- or LCMM rifles -- do not meet the sporting purposes test and are generally not importable.
- Since passage of the 1968 Gun Control Act, Administrations of both parties have repeatedly invoked this authority to ensure that only legitimate sporting weapons are brought into the country. In 1968, the Act was used to ban the importation of Saturday Night Specials and other small and inexpensive handguns; in 1984 and 1986, it was used to ban the importation of the Striker-12 and USAS-12 riot control shotguns; in 1989, it was used to ban the importation of 43 semiautomatic assault rifles; and in 1993, its authority was invoked to propose a ban on the importation of certain assault pistols, though the Assault Weapons Ban of 1994 made this executive action unnecessary.
- The more than 50 models of firearms affected by today's decision are modified versions of military assault weapons that were banned by the Bush Administration in 1989 or by the Assault Weapons Ban of 1994. Most of these models are based on the AK 47 assault rifle, but some are variants of the Uzi, FN-FAL, HK 91 and 93, and SIG SG550.
- Up to 1.5 million firearms whose importation had been suspended during the review may be affected by this decision. Importers will be notified in writing and given an opportunity to respond.

Treasury Department Determination on  
Importation of Modified Semiautomatic Assault Rifles

**Q. What action did the Secretary of the Treasury take?**

**A.** Secretary Rubin announced after an extensive review that *certain modified semiautomatic assault rifles with the ability to accept large capacity military magazines* ("LCMM rifles") do not meet the legal standard for importation into the United States -- they do not meet the "sporting purposes test."

**Q. What is the sporting purposes test?**

**A.** Weapons generally are not importable into the United States. However, there is an exception for weapons which the Secretary determines are of a type that is "generally recognized as particularly suitable for or readily adaptable to sporting purposes." (This is one of four exceptions: sporting purposes; curios and relics; scientific research; your own weapon.)

**Q. What weapons are covered by the Secretary's decision?**

**A.** The weapons covered are modified semiautomatic assault rifles whose original configuration failed to meet the sporting purposes test in 1989, but were later found importable when certain military features were removed. These rifles have the ability to accept large capacity military magazines, and are all based on one of the following *military assault rifle designs*: AK47, FN-FAL, HK91 and 93, SIG SG550, and Uzi.

**Q. What is a large capacity military magazine (LCMM)?**

**A.** For the purposes of this study, the term refers to a magazine that has the ability to accept more than 10 rounds of ammunition and that was originally designed and produced for an AK47, FN-FAL, HK91 or 93, SIG SG550, or Uzi military assault weapon.

**Q. How many rifles are covered by the Secretary's decision?**

**A.** The Secretary's decision covers approximately 59 different models of rifles. Presently there are *applications to import approximately 1 million* of the affected rifles and *outstanding permits for nearly 600,000 of the rifles*. We cannot tell how many of these rifles actually will be kept out of the United States because the Bureau of Alcohol, Tobacco and Firearms will not take final action on individual applications and permits involving these rifles until affected importers have had the *opportunity to respond and present additional information and arguments*.

**Q. Why did the Secretary decide to bar these rifles from importation?**

**A.** The Treasury Department's study found that the *ability to accept a large capacity military magazine was a military/combat feature*, not a sporting feature and that rifles with this ability are not generally recognized as particularly suitable for or readily adaptable to sporting purposes.

**Q. Are you saying that no one uses these rifles for sporting purposes?**

**A.** No. The fact that a rifle is used for a sporting purpose does not necessarily mean that it is *generally recognized as particularly suitable* for hunting or organized competitive target shooting.

**Q. Will keeping these weapons out reduce crime?**

**A.** As a part of Treasury's study, we looked at cases and trace request data, which indicated that these rifles are attractive to criminals. While it is impossible to predict crime rates, keeping these rifles out of the country will *reduce access to rifles that have the ability to expend large amounts of ammunition quickly without manually reloading.*

1.5 million rifles have a potential impact on the market for LCMM rifles. Since 1995, approximately 107,500 have been imported. At a minimum, keeping 1.5 million LCMM rifles out of the United States could keep prices for this type of weapon from dropping.

**Q. How many of these rifles have already entered the United States since 1989?**

**A.** Since 1991, approximately 425,000 of these rifles have been imported into the United States.

**Q. These weapons were being imported as of 1991. Why didn't you act before?**

**A.** The 1994 ban on semiautomatic assault weapons and large capacity ammunition feeding devices affected our evaluation of these rifles. This ban sent a strong signal that firearms with the ability to expel large amounts of ammunition quickly are not sporting. Moreover, the 1994 embargo on the importation of firearms from China drastically reduced the importation of these rifles into the United States. Only recently did these rifles again begin to come into the country in significant numbers.

**Q. Are semiautomatic rifles that have the ability to accept large capacity military magazines produced in the United States?**

**A.** Yes. For example, the Ruger Mini 14, the M1A, and several models based on the Colt AR-15. (Production of Colt AR-15 units was 29,000 in 1996.)

**Q. Does this mean there is a different standard for domestic production of semiautomatic rifles that have the ability to accept large capacity military magazines?**

**A.** The sporting purposes test set forth in *the law only applies to the importation of firearms.* Therefore, the Secretary does not have authority to stop the domestic production of weapons that do not meet the sporting purposes test.

**Q. What is the difference between what the Treasury Department concluded in 1989 and what the Secretary decided today?**

**A.** In 1989, after the shooting of five schoolchildren at Stockton, California by a gunman with a semiautomatic copy of an AK47, ATF banned the importation of certain semiautomatic assault rifles containing *military features* such as folding stocks, bayonet lugs, and grenade launchers.

The rifles which are the subject of the present study did not exist in 1989. Therefore the 1989 study and the present study involved different rifles.

Although the present study affirms the basic findings of the 1989 study that military-style semiautomatic rifles are not importable, it goes further to hold that *the ability to accept a large capacity military magazine should be added to the list of disqualifying military features* identified in the 1989 report.

**Q. Why wasn't the ability to accept a large capacity military magazine found to be a disqualifying feature in 1989?**

**A.** It wasn't until 1994 that Congress decided that large capacity magazines represented a crime threat. The 1994 Crime Act banned the manufacturing, possession, and transfer of large capacity ammunition feeding devices -- magazines holding more than 10 rounds.

**Q. What was the impact of the 1994 Assault Weapons Ban on the Treasury's decision?**

**A.** Both the 1994 law and its legislative history demonstrate that Congress recognized that ammunition capacity is a factor in determining whether a firearm is a sporting firearm. For example, large capacity ammunition feeding devices (magazines with more than 10 rounds) were banned, and rifles and shotguns with small ammunition capacities were exempted from the assault weapons ban. The House Report specifically states that the ability to accept a large capacity magazine "serve[d] specific, combat-functional ends."

**Q. Was one of these rifles used in the Jonesboro shooting?**

**A.** No. It appears that all the firearms used in the shooting were domestically manufactured.

**Q. Were rifles that accept large capacity magazines used in the Jonesboro shooting?**

**A.** This is an open criminal investigation and I therefore cannot comment.

**Q. Were large capacity magazines used in the Jonesboro shooting?**

**A.** This is an open criminal investigation and I therefore cannot comment.

**Q. Will this decision affect the importation of M1 Carbines?**

**A.** Generally, M1 Carbines are not importable due to State Department controls on the importation of surplus U.S. military firearms. They are "curio and relic" firearms under the Gun Control Act, and the sporting purposes test does not apply to them. Some would like to see more M1 Carbines imported into this country. The Administration strongly opposes these efforts.

**Q. Does this decision cover SKS rifles?**

**A.** No. These rifles do not accept large capacity military magazines. (An SKS is not based on a machine gun design and was primarily designed for a fixed 10 round magazine.)

**Q. Does this decision cover the importation of all semiautomatic rifles that can accept large capacity magazines?**

**A.** No. The decision only applies to *the specific rifles that were the subject of the Study* that have the ability to accept large capacity *military* magazines. ATF will continue to make decisions regarding the importability of other firearms on a case by case basis. Generally, traditional sporting rifles that are imported were not designed to accept large capacity military magazines.

**Q. Have you determined that any of the firearms you studied are importable?**

**A.** Yes. One of the firearms we studied, the VEPR caliber .308 - an AK47 variant - does not have the ability to accept a large capacity military magazine. Therefore it is not an LCMM rifle and is importable into the United States.

**Q. How many VEPRs are involved?**

**A.** At this time, there are permits allowing importation of 25,000 .308 caliber VEPRs. One importer has two permits covering 20,000 .308 caliber VEPRs, and 500 of these are now held in a bonded warehouse. Another importer has a permit covering 5,000 .308 caliber VEPRs, none of which have been imported.

**Q. Are there changes that can be made to the LCMM rifles to make them importable?**

**A.** They would have to be redesigned to no longer accept large capacity military magazines. However, a redesigned firearm that can accept a large capacity military magazine with only minor adjustments would still be considered an LCMM rifle and would not be importable.

**Q. How can a person know if a firearm that they wish to import meets the "sporting purposes test?"**

**A. A person may file an application to "conditionally" import a firearm into the United States and ATF will examine the firearm to determine whether it is importable.**

**Q. Wasn't this a political decision determined from day one, and the Study is meaningless?**

**A. Absolutely not. The Treasury Study was a thorough and honest look at all aspects of the issue as it has developed since 1989. The Study contains summaries of the actual information collected so that everyone can evaluate the information for themselves.**

**Q. Won't this permit guns that look and operate just like these to come into the country?**

**A. Yes, however they will not accept large capacity military magazines from which you can expel large amounts of ammunition quickly without manually reloading. This is a step forward.**

**Q. Isn't it true that even if large capacity magazines are banned it only takes seconds to re-load a fresh 10 round magazine?**

**A. Congress has recognized that large capacity military magazines are different and more threatening. We agree.**

**PRESIDENT CLINTON:  
INCREASING SAFETY AND SECURITY FOR AMERICA'S FAMILIES**

April 6, 1998

*"It is our sworn duty to uphold the law. It is also our moral obligation -- an obligation to the children and families and law-abiding citizens of our country -- an obligation to stop the terrible scourge of gun violence. As parents, we teach our children every day to distinguish right from wrong. As a nation, too, we must remember where to draw the line. Today, we are drawing it clearly and indelibly."*

President Bill Clinton  
April 6, 1998

Today, President Clinton, Vice President Gore and Secretary Rubin hold a Rose Garden event to announce a general ban on the importation of more than 50 non-recreational, modified assault weapons.

**MAKING STREETS SAFER FOR OUR CHILDREN.** On November 15, 1997, President Clinton announced that the Treasury Department would temporarily suspend the importation of certain modified assault weapons to review whether these weapons should be allowed to enter the country. Today, the Secretary of the Treasury informed the President that most of the weapons studied should be generally banned from importation.

**BANNING THE MOST DEADLY WEAPONS.** After taking several months to review the weapons in question, the Treasury Department has concluded that modified semiautomatic assault rifles that accept large capacity military magazines -- or LCMM rifles -- are not "particularly suitable for or readily adaptable to sporting purposes" and are generally not importable. The more than 50 models of firearms affected by today's decision are modified versions of military assault weapons that were banned by the Bush Administration in 1989 or by the Assault Weapons Ban of 1994. Most of these models are based on the AK 47 assault rifle, but some are variants of the Uzi, FN-FAL, HK 91 and 93, and SIG SG550.

**SAFEGUARDING OUR PROGRESS TOWARD A SAFER AMERICA.** Since passage of the 1968 Gun Control Act, administrations of both parties have repeatedly invoked this authority to ensure that only legitimate sporting weapons are brought into the country. In 1968, the Act was used to ban the importation of Saturday Night Specials and other small and inexpensive handguns; in 1984 and 1986, it was used to ban the importation of the Striker-12 and USAS-12 riot control shotguns; in 1989, it was used to ban the importation of 43 semiautomatic assault rifles; and in 1993, its authority was invoked to propose a ban on the importation of certain assault pistols, though the Assault Weapons Ban of 1994 made this executive action unnecessary.

**LONGEST PERIOD OF DECLINE IN VIOLENT CRIME IN 25 YEARS.** Today's announcement is another way President Clinton is working to make America's streets safe for our children. Under President Clinton:

- 100,000 new police are being added to the street, already more than 70,000 new officers have been funded.
- 300,000 felons, fugitives and stalkers have been denied guns, since the President signed the Brady Bill into law.
- Overall drug use is trending down, and is being reduced further thanks to Drug Czar General Barry McCaffrey's work and the Administration's comprehensive anti-drug strategy.

Mar 4

Assault Weapons Meeting

Descendant of machine gun

Capable of taking large magazine

↓  
but some that don't fit

① This looks the same and

② operates identically

3 pump test - get to all 5 models

has to meet

see above

5.6 variants

all 3

plus -

for 2 models - variants have

slightly different to be made

in spending

Crime - Assault weapons

Copyright 1998 Copley News Service  
Copley News Service

March 05, 1998, Thursday 13:21 Eastern Time

SECTION: State and regional

LENGTH: 999 words

HEADLINE: Assault weapons ban shot down by state appellate court

BYLINE: Bill Ainsworth

DATELINE: SACRAMENTO

BODY:

A state appellate court yesterday ruled California's landmark assault weapons ban unconstitutional, leaving the state under a weaker federal law and putting new urgency into a debate over pending gun control legislation.

In a strongly worded opinion, the 3rd District Court of Appeal struck down the add-on part of the Roberti-Roos Assault Weapons Control Act of 1989, which allows the attorney general to add copycat weapons to the list of banned firearms.

The justices also made it clear the heart of the law a list banning 62 assault rifles violated the equal protection provisions of the Constitution because in many cases guns banned under the law are no different than guns allowed to be sold legally. ✓

'The listed guns are no more dangerous in the hands of criminals than the functionally indistinguishable guns, nor than the identical clone guns. Nor do they have a greater rate of fire, capacity for firepower, nor pose a greater danger of use to kill and injure human beings,' wrote Justice Fred Morrison, the opinion's author.

As a technical matter, however, the court is going to require a trial court to decide whether the original list is unconstitutional. That portion of the ruling shouldn't change the outcome of the decision, but it will delay the effective date of the ruling by months.

The Roberti-Roos law, the first assault weapons ban in the nation, was a turning point in the nationwide battle over gun control.

It was passed in 1989, a few months after a mentally disturbed young man fired 105 bullets into a Stockton schoolyard, killing five children and wounding many others.

The horror of the shooting spree put gun-owner advocates like the National Rifle Association on the defensive and gave gun-control proponents new momentum.

After Roberti-Roos was passed, the California Legislature passed bills requiring mandatory background checks, waiting periods and safety training for gun owners. In 1994, Congress followed the lead of California by passing a federal assault weapons ban.

Gun owner advocates yesterday celebrated the court decision because it overturns a law that ushered in a new era of gun control legislation.

"This is the death knell for the Roberti-Roos Act," said Chuck Michel, a Los Angeles attorney who represents Colt Manufacturers, a huge gun-making company. "This is a victory for any citizen who doesn't like symbolic, feel-good laws that are filled with technical flaws."

Michel argued that the law, named after former Senate leader David Roberti and former Assemblyman Mike Roos, was arbitrary because it banned some guns while leaving more powerful weapons on the market.

He also contended that it was unworkable because weapons could be banned without properly notifying people that they were illegal. As a result, he said, gun owners could become felons without realizing it.

The court agreed with that argument, saying that the law contained a gap in its notice provisions, which would leave open the theoretical possibility that a person could be prosecuted before he knew that a gun he owned was illegal.

"This is intolerable," Morrison wrote.

Gun-control advocates said they were disappointed with the ruling.

But they believe it could actually improve the political prospects for the passing of a broader, more effective ban of semi-automatic weapons.

Currently, the Legislature is considering AB 23, sponsored by Assemblyman Don Perata, D-Oakland.

Perata's bill would replace the list of 62 banned weapons in the Roberti-Roos Act with a broad definition of assault weapons based on their firepower and the presence of military characteristics. The bill would ban semiautomatic rifles with magazines of more than 10 rounds and some rapid firing pistols.

Unlike the Roberti-Roos law, Perata's bill would not allow gun makers to avoid the ban by simply changing the name of their weapon.

"The law is gone that's the bad news. The good news is that we have legislation ready to replace it," Perata said.

Now that the current law is on its way out, the vote on Perata's bill, scheduled to be taken up by the state Senate next week, will have added importance for both sides of the gun control debate. The measure has passed the Assembly once, but would need to go back for a final vote if the Senate approves.

"This ruling will put enormous pressure on the Legislature to pass the bill and the governor to sign it," said Luis Tolley, West Coast director for Handgun Control.

Gov. Pete Wilson, considered a moderate on gun control issues, might not have signed AB 23 if the current law were still in effect, he said.

Five years after the Roberti-Roos bill became law in California, Congress passed the federal assault weapons ban. The federal law bars the manufacturing of certain types of assault rifles, but does not prohibit the sale of those weapons. As a result, many of these guns can still be purchased.

Tolley and other gun control advocates argue that the federal law is weaker than California's law because in California banned guns like Uzis cannot be purchased, distributed or made. ✓

Attorney General Dan Lungren, whose office defended the law, declined comment yesterday. Lungren's spokesman Rob Stutzman said the office has not decided whether to appeal the decision to the California Supreme Court.

Lungren has been criticized by both camps in the gun issue.

Gun owners lambaste him for supporting modest gun control legislation, while gun-control advocates say he failed to enforce the law vigorously by declining to add copycat weapons to the list of banned firearms.

Michel, the gun manufacturer's lawyer, said that politically the decision may be beneficial to Lungren, the likely Republican nominee for governor.

"This is probably the best thing that could happen to Dan Lungren and the Department of Justice," he said. "There are so many potential problems with this law that it's better just not to have to enforce any of it."

LOAD-DATE: March 06, 1998

Copyright 1998 Times Mirror Company  
Los Angeles Times

March 6, 1998, Friday, Home Edition

SECTION: Part A; Page 3; Metro Desk

LENGTH: 512 words

HEADLINE: CALIFORNIA AND THE WEST;  
LUNGREN TO APPEAL RULING ON ASSAULT WEAPONS LAW;  
COURT: APPELLATE PANEL STRUCK DOWN KEY PROVISION THAT ALLOWED SOME ADDITIONS TO  
LIST OF BANNED GUNS.

BYLINE: STEVE BERRY and DAN MORAIN, TIMES STAFF WRITERS

BODY:

Atty. Gen. Dan Lungren said Thursday he will ask the state Supreme Court to reverse an appellate ruling declaring a key provision of California's assault weapons law unconstitutional.

"I was very disappointed," Lungren said. "My disappointment comes from the broad scope of the decision."

The 2-1 ruling by the 3rd District Court of Appeal on Wednesday outlawed a provision of the state law that allowed the attorney general--with a judge's consent--to add newly marketed assault weapons to a list of 75 banned firearms.

The Sacramento appeals court said the law violated the separation of powers principle by giving judges legislative authority to decide whether copycat weapons are illegal military-style weapons.

Lungren said he was particularly concerned about the justices' statement that the list of 75 banned weapons may be unconstitutional as well because it unfairly penalizes owners of the restricted weapons while exempting people who own similar weapons that are not banned. The panel sent the case, which was filed in 1991 by Colt Manufacturing Co., back to the Superior Court in Sacramento to determine whether weapons on the list are distinguishable from those that are not.

Although the Legislature is considering a new assault weapons bill, Lungren said his decision to appeal the ruling prevents him from expressing an opinion about the legislation.

On Thursday, the state Senate postponed a vote on the bill for a week after Assemblyman Don Perata (D-Alameda) amended it for the 12th time.

The bill, AB 23, seeks to replace the 1989 list of banned guns with a generic definition listing a variety of attributes that would make a semiautomatic gun an assault weapon. The bill seeks to prohibit the sale of semiautomatic pistols that accept magazines holding more than 19 rounds, and semiautomatic rifles that take magazines holding 10 or more rounds. People who own such weapons would have six months to register them or face criminal charges.

Los Angeles Times, March 6, 1998

If the Senate approves it as expected, the measure would head to the Assembly for a final vote before being sent to Gov. Pete Wilson. He declined Thursday to say whether he would sign it, but he voted for federal assault weapons restrictions when he was in the U.S. Senate.

If the court decision stands and lawmakers fail to approve new legislation, California would be without any state restrictions on such weapons. As a result, Perata said, the appeals court decision adds pressure on lawmakers to act, particularly in so-called swing suburban districts where he believes voters support assault weapons bans.

"If you want to get elected, you better pay attention to these swing voters," he said.

Although most Democrats in the Democratic-controlled Assembly support the legislation, the bill cannot pass the 80-seat house without Republican support. Among the key votes is that of Assemblyman Jim Cunneen (R-San Jose), a moderate. Cunneen said Thursday he probably will vote for the bill, saying Perata's amendments made him "much more comfortable" with the legislation.

LANGUAGE: English

LOAD-DATE: March 6, 1998

SCHEDULING REQUEST

FEBRUARY 13, 1998

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ACCEPT  REGRET  PENDING

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**TO:** Stephanie Street, Director of Scheduling

**FROM:** Bruce Reed, Assistant to the President for Domestic Policy  
Rahm Emanuel, Senior Advisor to the President

**REQUEST:** Release of a Report on Modified Assault Weapons.

**PURPOSE:** To highlight the President's ongoing commitment to keeping guns out of the hands of criminals and cracking down on crime.

**BACKGROUND:** The President can announce the results of the Treasury Department's review of the importation of modified assault weapons, which he called for on November 14, 1977. The report is due to the President on Saturday, March 14, 1998. Since this is the same day the Attorneys General will be in town, the President make this announcement in his Radio Address and invite the Attorneys General to attend.

Last year, the President directed the Secretary of the Treasury to suspend temporarily the importation of certain modified assault weapons and review whether these firearms comply with current law and should continue to be imported. Although the report has not yet been completed, it will likely recommend new criteria for firearms imports that will have the effect of banning the modified Uzi.

**DATE:** March 14, 1998

**LOCATION:** The White House

**PARTICIPANTS:** The President  
National Association of Attorneys General

**REMARKS REQUESTED:** Yes

**MEDIA:** Open Press

**CONTACT:** Bruce Reed x6-6515  
Christa Robinson x6-5165

A1

Crime -  
Assault Weapons

# ATF Seen as Lax in Rules on Assault Weapons

■ **Guns:** Critics say arms dealers are allowed to import models that don't comply with guidelines. Agency cites its lack of authority, but others call for tougher standards.

By STEVE BERRY  
and JEFF BRAZIL  
TIMES STAFF WRITERS

The federal Bureau of Alcohol, Tobacco and Firearms has for years been allowing arms dealers to import tens of thousands of assault weapons that apparently fail to meet standards written by top officials of the agency.

Those standards—contained in a 1989 report obtained by The Times through the Freedom of Information Act—will probably play a key role in the Clinton administration's review of whether the ATF has been lax in blocking shipments of high-powered weapons.

Although not widely circulated, the report is considered highly significant because it provides the agency's most comprehensive analysis of what kinds of weapons can be lawfully imported.

It states that under a 1968 federal law, foreign firearms must be for "sporting purposes" only, such as "target shooting, skeet and trap shooting, and hunting." The report said most weapons used for hunting are not semiautomatic. The vast majority of sporting weapons, the agency said, do not have grips that can be used for one-handed combat shooting and do not use large ammunition clips.

What's more, the report stressed that the law should be interpreted restrictively—meaning that any of those non-sporting characteristics could be potential grounds for barring a weapon from U.S. soil.

Since the report was written,

however, documents and interviews suggest that the agency has strayed from its own advice, approving firearms that would not meet a conservative application of the law. Among them:

● The SLR-95. Approved for import last summer, this weapon is similar in design and function to a military-style Bulgarian AK47—a resemblance not lost on marketers of the rifle. In the October issue of

circ

ATF

Shotgun News, an ad urges buyers to "purchase this gun before it is banned forever."

- The WUM-1. This gun is comparable to the Romanian AK47 and fires bullets with more wounding power than those unleashed by an assault rifle specifically banned by federal law, the AR-15.

- The SAR 4800. Ads for this weapon boast that it is an "exact model and fully interchangeable" with the banned Belgian FN-FAL, which is among a group of military-style rifles that the ATF acknowledges is "designed for killing and disabling the enemy."

- The SAR 8. Billed in gun publications as a "counter sniper rifle," it is the successor to the California-banned HK-91 and PSG-1 assault rifles.

Although ATF officials declined repeated requests for interviews, they have said in the past that they have no authority to ban imports that technically comply with the 1994 federal assault weapons law—a position that Sen. Dianne Feinstein and 29 colleagues disputed in a letter to President Clinton three months ago.

The senators argued that the 1994 statute—which restricts specifically named assault guns and more broadly prohibits certain military-style features—is superseded by the more limiting "sporting purposes" test of the 1968 Gun Control Act.

Feinstein said in an interview that, by failing to

strictly enforce that test, the ATF has improperly approved numerous weapons and jeopardized the public safety.

"To say that these weapons meet the sporting purposes test makes a mockery of the word *sport*," said the California Democrat, who wrote the 1994 law.

Feinstein has found support for her position in a newly completed study by the Congressional Research Service, a branch of the Library of Congress.

That study, although remaining neutral in its conclusions, found that the ATF has used its virtually "unbridled discretion" to interpret the "sporting" law in a way that has been generous toward gun importers.

Some of the very weapons approved in this fashion are now at the heart of the White House's review of the ATF—and prompted the president last month to suspend all assault weapon imports.

In determining whether the shipments should resume, the Clinton administration probably will review a number of internal ATF documents, including the 1989 "sporting purposes" study, written for President George Bush.

Bush ordered the study to help him—like Clinton now—decide whether to permanently ban the importation of dozens of assault weapon models. At the time, even though the law said only sporting guns could be imported, there was no detailed definition of what that meant.

But even after crafting one eight years ago—leading

to a banning of 43 weapons—the agency apparently has done little since to implement it. Many analysts and observers say they are not surprised. They contend that the agency has often displayed an aversion to cracking down on the gun industry, especially when confronted with relentless pressure by the National Rifle Assn. and other pro-gun groups.

Said UC Berkeley law professor Frank Zimring, a leading expert on the politics of gun issues: "The ATF's role varies between neutral and protective."

ATF documents lend weight to that view.

In a letter to gun importers on Jan. 17, the head of the ATF's import branch for firearms and explosives said the agency was working hard to provide faster information on the status of weapon applications. "One of the main goals of this branch," the official wrote, "is to find ways we can improve the level of service we provide to you, our customers."

If anyone should be counted as customers, agency critics say, it should be members of the public.

ATF correspondence also shows that the agency has provided advice to would-be assault weapon importers on how to meet the technicalities of the law—advice that did not affect the lethal firepower of the guns.

In one case, an ATF expert advised a Dallas firm that its AK47-type rifle would be approved if it simply removed a fitting allowing the attachment of a bayonet.

In another case earlier this year, the ATF advised a

Connecticut importer to make a slight design change to the bolt of a weapon that the ATF said was very similar to that of a banned Uzi rifle.

Gun importers say they appreciate the help.

"We work closely with ATF, not to skirt the law but to comply," said Jonathan Mossberg, head of Uzi America, a firm that recently obtained permission from the agency to import Israeli-made weapons.

Former Undersecretary of the Treasury Ronald Noble said he too sees no problem with the relationship.

"If the advice they are giving leads to changes that take the weapon out of the assault weapon category, that is a good thing . . . as long as ATF is not giving the manufacturers ways to circumvent the law," said Noble, whose former department oversees the ATF.

Others disagree, including ex-ATF Director Stephen E. Higgins. He said the agency he headed for 11 years, until late 1993, should not be in the business of offering advice to companies seeking to increase the nation's arsenal.

"I have a problem suggesting that you do this and you do that," Higgins said. "To me, it's enough to tell them what's objectionable."

Less diplomatic was Josh Sugarmann, executive director of the Washington-based Violence Policy Center, which supports gun control.

"What [ATF officials] are doing," he said, "is giving them free design analysis on how to get their weapons into the country, when everyone knows the intent of the law was to ban specific weapons."

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LOS ANGELES TIMES EDITORIALS

# That Smell at the ATF Is More Than Gunpowder

*Laxity on assault gun importation calls for a housecleaning*

**A** month ago, the White House said that a "rogue operation" within the Bureau of Alcohol, Tobacco and Firearms played a big role in the staggering number of assault weapons imported with the approval of the agency over the past year. The reality might be far worse. It now appears that the ATF's penchant for rubber-stamping assault weapon permits is long-standing and practically institutional in nature. Some sort of housecleaning at the ATF is in order.

The evidence of laxity predates the 1994 federal assault weapons law, pressed by Sen. Dianne Feinstein (D-Calif.), that banned certain types of the weapons and generally prohibited some military-style features.

A 1989 report obtained by Times reporters revealed the agency's then-restrictive interpretation of federal law. The document said foreign firearms must be limited to "sporting purposes only," that sporting weapons do not have assault weapon characteristics and that those characteristics could be grounds for rejecting permits.

It turns out that the ATF has ignored these standards. The agency has approved copycat weapons for import that have more killing

power than the banned assault rifles that they mirror in all but a few design details.

Moreover, the federal agency appears to have provided technical advice to would-be importers on how to meet the requirements of the 1994 law without affecting the firepower of the weapons. This overly friendly relationship is shown in a January 1997 letter (obtained by The Times) to gun importers from the head of the ATF's import branch for firearms. The official writes, "One of the main goals of this branch is to find ways we can improve the level of service we provide to you, our customers." Just what is going on here?

Part of the problem may be that Washington has had to make do with a law that deep-sixed specific assault weapons, such as the AR-15 and the Belgian FN-FAL, without fully banning weapons in the distinctive AR-15 or FN-FAL style. That was the fault of a heavily lobbied Congress that left the law with many loopholes.

However, it seems that the ATF itself must answer for what appears to be an ingrained leniency that may have turned a serious anti-assault weapons law into little more than an inside joke. Not so funny for the many Americans killed by assault weapons each year.

Crime - Assault weapons



Jose Cerda III

12/15/97 07:20:06 PM

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Record Type: Record

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

cc: Michelle Crisci/WHO/EOP, Karen A. Popp/WHO/EOP

Subject: Assaults

The Sunday LA Times had an article on ATF's alleged lax enforcement of the sporting purposes test. No Administration officials commented, but Senator Feinstein is prominently featured. I'll send a copy around to everyone.

Jose'

The hollow crime bill.

# ANATOMY OF A POLICY FRAUD

By Stephen Glass

In Normal, Illinois, life has always been just that. There are good schools and packed churches. After work in the summer, townsfolk flock to a sandlot in back of the National Guard Armory to watch fast-pitch softball and eat the locally manufactured delicacy, Beer Nuts. For as long as anybody can remember, crime has been under control in Normal—and, for just as long, Normal has been Republican country. Ronald Reagan once campaigned here. So did Gerald Ford. Normal, they said, reminded them of how America was before liberalism turned Main Street over to the muggers, rapists, and gun-toting gangs.

This August, however, something abnormal happened: a Democrat came to campaign. It was Senator Carol Moseley-Braun, and—even more remarkably—the subject of her whistle-stop was crime. Flanked by local police chiefs and dozens of officers from nearby cities, the senator gave the same speech she would give in 16 other cities that week, reminding her audience that it was President Clinton who had put more cops on the streets and instituted stiffer penalties for criminals—that it was the Democrats, not the Republicans, who were tough on crime. “The cops would find themselves cheering,” recalls one Normal officer. “I mean they hate Democrats, I hate Democrats, but I’ll probably end up voting for her because she’s for cops. She has made our town safer. Everyone is going to vote for her.”

Until 1994, Moseley-Braun’s appearance would have been unthinkable. At least since the 1960s, Democrats have been on the defensive about crime, answering Republican calls for more law and order with platitudes about education and rehabilitation. But three years ago, President Clinton sought to change all that with his 1994 crime bill, a measure that promised Americans more cops, fewer guns, and longer sentences for criminals. Passage would not come easily: Republicans thought it was too expensive and placed too many restrictions on local communities; some Democrats thought the get-tough-on-crime approach was too stiff. But Clinton spent a considerable amount of political capital on the measure—to the exclusion of other causes, such as national health care—and today he calls it one of his lasting achievements. “The crime bill,” he boasts, “is producing results—putting more cops on the street and keeping violent offenders behind bars longer.”

Politically, the law has indeed worked wonders, as Moseley-Braun and other Democrats can attest. When the bill was signed, the Democratic approval rating on crime hovered around 50 percent, according to one GOP pollster; today, it is 72 percent. But as a matter of policy, the law’s impact is only now coming into focus. And it turns out to be nothing like the grand achievement Clinton and the Democrats have been touting. While crime is down nationwide, there is little evidence that Clinton’s crime bill had anything to do with that decline. In fact, it may have even slowed the decline. The guns Clinton supposedly banned are still readily and *legally* available; cities can’t afford the 100,000 cops, which may mean the federal government will have to keep financing them in order to keep them on the beat; and the criminologists’ fears that the three-strikes law would backfire are starting to come true, putting yet more strain on an already overburdened criminal justice system.

The administration knows all of this. Somewhere in the bowels of the Justice Department sits a devastating report on the crime law’s impact, compiled by the American Society of Criminology. But while Attorney General Janet Reno personally asked for this report during a 1994 speech to the society, the Justice Department says it has no plans to publish it. They have good reason to be afraid—and so, ironically, do politicians on both sides of the aisle. The report reveals not only how a policy being widely advertised as a success knowingly defied a sound scholarly consensus. It also shows, along with a slew of other evidence, how Washington can produce a full-scale legislative farce.

Few elements of the crime bill were as politically potent as the ban on assault weapons, which offered gun-control advocates a rare opportunity to defeat the powerful National Rifle Association. In 1994, President Clinton and other proponents of the ban made impassioned pleas for the proposal, arguing that there was no reasonable justification for allowing such weapons into circulation. (Who needs an AK-47 to kill deer?) Despite stiff NRA opposition, the ban passed. Gun-control advocates and many Democrats hailed the measure as a tri-

umph, and celebrated on the Capitol lawn.

But while the assault weapons ban was good politics, its impact on public safety may have been, at best, negligible. For starters, the crime bill only banned the sale or trade of assault weapons manufactured after September 13, 1994. Guns built before that date remain legal, and while no one knows exactly how many are on the streets, assault weapons are regularly advertised at gun shows and in the back pages of *Shotgun News*.

The more serious flaw in the assault weapons ban, though, was its language. "Assault weapon" is not an official classification used by gun manufacturers, so in crafting the gun ban, Congress had to find a way to specify which weapons would be illegal. Lawmakers settled on two methods. First, they banned several weapons, such as the AK-47, by name. Second, they described the elements of assault weapons, and decreed that any weapon meeting some of the criteria would be illegal. (For example, guns can't have a grenade launcher and a folding stock attached.) Thus, a copycat of the AK-47—that is, a gun with the exact same features—would be illegal too.

It didn't take long for the gun manufacturers to grasp what now seems obvious: just so long as a copycat weapon didn't satisfy *all* of the banned criteria, it could still pass legal muster. All a manufacturer had to do was take an existing banned weapon, modify it slightly (say, by removing the special muzzle), and then market it under a different name.

This is precisely what happened with the Colt AR-15, one of the best selling assault weapons before 1994. The 1994 crime law banned the AR-15 by both name and description, and Colt complied, ceasing all manufacturing. Within months, however, a rival gun company, Olympic Arms, began shipping a nearly identical weapon to stores under a different name—PCR-1, for "politically correct rifle." The big variation? No mount for a bayonet and no flash suppressor (a device that reduces the flash of light that comes with the gun's blast). The differences are barely cosmetic (see illustration). But they are sufficient to make the weapon legal. Less than a year later, another manufacturer, the

Eagle Arms Company, began marketing its own AR-15 clones—the M15A2 and the M15A3 Predator.

During the debate over the crime bill, the NRA and other gun-control opponents had claimed the assault weapons ban would hurt only collectors and hunters—not criminals. Considering what has happened so far, they may have been right. Criminals, unlike collectors, don't care about a weapon's name or whether all its parts are from the same manufacturer. They care about functional features, like a gun's weight, and what kind of ammunition it takes. They can always add prohibited accessories using kits sold over the Internet and at gun shows. Collectors, on the other hand, care about names and manufacturers; asking them to buy a

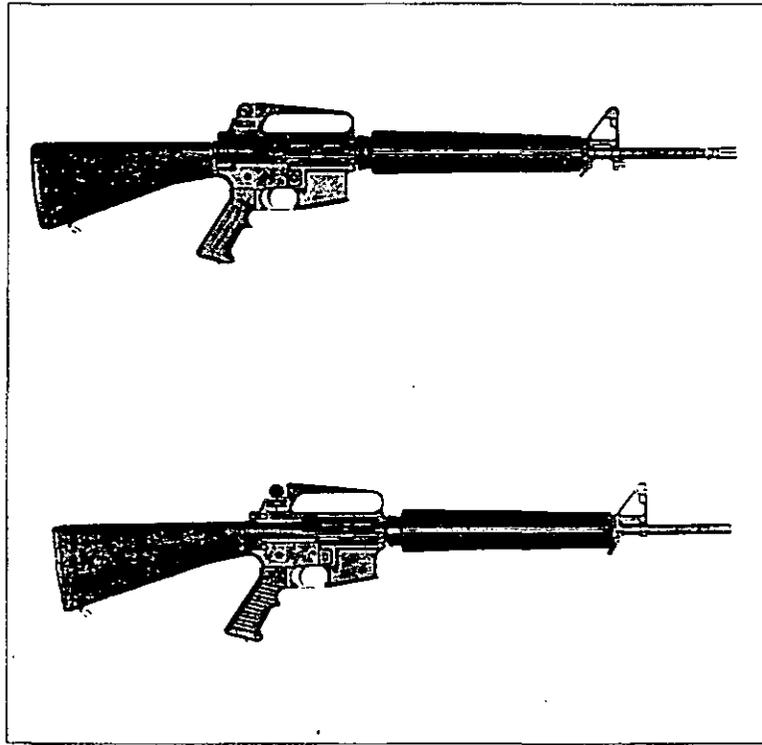
kit is like asking a Corvette collector to install a Ford engine.

Another politically potent plank in the Clinton crime plan was the promise to put 100,000 new cops on the streets by the year 2000. This achievement was a staple of Democratic Party television advertising in the 1996 campaign, and it was a prominent theme of candidates on the stump. Even former New York City Police Commissioner Bill Bratton said the crime bill is what influenced him to endorse Clinton over Dole: "While the Republicans talked tough on crime, Clinton did something."

Again, the logic

seemed unobjectionable. The basic idea was not to federalize policing, but to have Washington pay up to 75 percent of the new officers' salaries, with the understanding that, within three years, local governments would pick up the whole tab. The grants would be administered through a Justice Department division, the appropriately titled Office of Community Oriented Policing Services (COPS). Although the price tag struck some as hefty—\$8.8 billion—Clinton reasoned that since the cities would eventually be paying for the police on their own, the investment was worthwhile.

But the communities taking on the new officers may not be the ones that most need them; indeed, a 1995 General Accounting Office study found that communities were getting COPS grants irrespective of their actual crime rates. Towns that had fewer than 25 crimes per



**COPYCAT ASSAULT WEAPONS**  
TOP: COLT AR-15, BANNED BY THE 1994 CRIME BILL  
BOTTOM: OLYMPIC ARMS PCR-1, LEGAL UNDER THE SAME LAW

1,000 people were just as likely to get grants as those cities with more than 75 crimes per 1,000. Meanwhile, it turns out that many of the communities who got cops officers are smaller towns—with smaller budgets and smaller crime problems—who don't really need additional officers and often can't afford them.

One such city is Harleyville, South Carolina, population officially estimated at 867. As long as anyone can remember, Harleyville's police force has consisted of two officers, which was plenty. But Harleyville applied for a COPS grant—and, in 1995, got it. As one local told me: "If President Clinton needs 100,000 officers, and we get it almost free, why not stick as many as we possibly can right here in Harleyville?"

Harleyville's new officer came on board in March 1995, but a problem soon emerged: there wasn't much for him to do. The chief assumed a more supervisory role and, locals say, improved the department's public image. Since Harleyville wasn't footing the bill, the townsfolk went along—just as they did when the chief recently suggested the town get *another* COPS officer. That addition gave Harleyville a citizen-to-officer ratio of more than one officer for every 300 people, unusually high for a community with so little crime.

Now, however, Harleyville confronts a dilemma: the federal grant is running out, and the town doesn't know where it will get the money to make up the difference. "We're trying to plan for it ahead of time, but we already have a very tight budget," explains Katrina Hackworth, the Harleyville town clerk. "I don't know exactly how or even if we will be able to work it in."

**T**he same is happening elsewhere. Small towns—some more needy than Harleyville—are having a hard time coping with the funding problem, and some are even contemplating layoffs. According to a study by the Cops & Justice Foundation, an organization that collects and sells law enforcement data, more than half of today's COPS positions won't exist two years from now. Lincolnville, South Carolina, for example, has two officers, one of whom is paid for by a COPS grant. Keeping the officer would be expensive: the grant itself accounts for almost one-third of the city's entire police budget, while the city is having trouble paying for essential repairs to the local fire station.

"Our study found that this whole thing was a really silly idea from the beginning," explains Anne Pyrne, the Foundation's executive director. "What we as a country forgot in 1994 is that the reason these cities don't have more cops is because they don't have the money for the cops. Or, for whatever reason, they want to put the money into schools or libraries or fire departments." Pyrne's study of more than 100 communities found that fewer than 20 percent had "detailed" plans on how to pay for the officers once the subsidy ended.

This may not seem like the most tragic thing in the world—unless, of course, you happen to be a COPS police officer staring unemployment in the face. At worst, it would seem, the administration was simply too

hasty in its grant approval process. But the administration hasn't corrected the mistake. Indeed, despite all of these problems, it's pushing *more* cops on communities that don't need them.

Taylorville, Illinois, for instance, recently turned down Washington's offer for another officer for funding reasons. "The Justice Department kept saying to us: 'Oh come on, take the money,'" explains a Taylorville town official. "But we couldn't in good faith say we'd keep him on staff." St. Albans, Maine, turned down a second COPS grant this summer. That city's *only* officer comes from a COPS grant. "Look, for years we got along pretty well without any," explains area resident Richard Hew. "We can't sustain two or three cops. There would be more officers than burglars." Suburbs of bigger cities that have larger, more established police departments—such as Verona and Plum outside Pittsburgh, Pennsylvania—find themselves in similar predicaments, straining to take over the expense of current COPS officers while having Washington push more officers on them than they can likely afford.

So why has the administration remained so persistent? Justice Department spokesman Bert Brandenburg says the academic studies don't match what's really happening. Few communities, he said, have told Justice that they're having trouble. "The mayors have to sign a pledge to keep the officers, so they are finding creative ways," he added. Some are even increasing their sales tax to raise the necessary money. But Donny Tye, a former California police officer who is writing a book about the COPS grants, says Justice would be the last to find out if a city was having problem. "If you are scrambling to uphold your end of the deal, you're not going to tell the lender until the very last minute," he said. "Otherwise you might lose more money."

It's not hard to see where this is going: "What I predict is that by 1999 you are going to have the same lobbyists who come back every year to get farm subsidies starting to work for police departments," Pyrne said. "They are going to need cop subsidies. If anything, cops are politically more compelling than peanuts." That, in fact, may already be happening. During her swing through downstate Illinois, Senator Moseley-Braun announced that she would soon be introducing a bill making the federal government's grant for officers permanent. Asked by an officer if permanent funding conflicted with the whole idea of seed money, Moseley-Braun reportedly rolled her eyes and said they both achieve the same goal: 100,000 more cops.

**F**rom the outset, the third major provision of Clinton's crime bill—the three-strikes law—was wildly popular with the voters. It was also wildly controversial in academia, as scholars from different disciplines—and different political perspectives—argued that the idea either makes no difference or, in some cases, makes matters worse. In particular,

many experts believe that mandatory sentence laws keep people in jail long after they would commit any more crimes. Not only does this drive up costs (keeping somebody in prison is expensive). It also fills up so many prison beds that younger criminals—the ones most likely to commit crimes again—are released earlier.

It was this kind of objection that prompted Attorney General Janet Reno to solicit the opinion of criminologists. In a 1994 speech before the American Society of Criminology (ASC), Reno told the scholars that the White House “urgently” wanted to know the scholarly consensus on twelve major issues. The next day, the ASC formed a task force for each area; within months, each committee had agreed upon a set of common principles drawn from existing research.

The reports, however, did not reflect well on the crime bill. Most damning was the “three-strikes” report, which said the “short term effects of this [mandatory sentencing] include a clogged court system causing rising court costs and intolerable delays in civil cases; early release of sentenced felons to make room for three-strikes detainees; and increased discretionary power for prosecutors. . . .” “Criminologically speaking,” the report said, three strikes “makes little sense.”

The report specifically looked at the efficacy of state-level three-strikes statutes.

In Nevada, for example, the cost of a state three-strikes law would be more than \$287,000 per inmate. A Nevada criminologist estimated that the federal statute would cost one and one-half times more than that since Nevada is more efficient in housing prisoners. (So far, it’s too early to tell precisely how much it’s going to cost since three-strikes is so new.) In state after state, three-strikes laws have strained court resources, because criminals litigate their cases rather than pleading guilty to a felony which would put them behind bars for life. The report concluded with a plea for the National Institute of Justice, the research wing of the Justice Department, to study alternatives and help convince the public of the “true cost and consequences” of three strikes.

After receiving the report, Jeremy Travis, NIJ’s director, thanked the ASC for “this remarkable contribution to improving our understanding of the issues of crime and the challenges of justice.” But months went by and NIJ didn’t publish it. Eventually, ASC’s outgoing president, Jim Short, called NIJ officials to see if they ever intended to publish the findings. “The ASC would not have coordinated this, if it hadn’t been for Janet Reno’s request,” former ASC president Freda Adler said. After all, the study’s authors invested hundreds of research hours—all for no pay.

But this spring, Short says he received a response

from NIJ: the reports would not be published. “I don’t know exactly what happened,” Short explained. “They didn’t have to publish it.” Brandenburg, the Justice spokesman, says NIJ didn’t publish it because the reports weren’t peer reviewed. Reno did, however, meet with the authors; Justice posted the reports on a web site, printed summaries in the NIJ journal, and sold it through the National Criminal Justice Reference Service. But many ASC members and one senior Justice staffer says all that is just a masterful way to avoid actually publishing the report, which in criminology means more than just disseminating—it’s also giving a stamp of approval. “It didn’t need to be peer reviewed—it was a summary of already peer-reviewed studies,” says the Justice staffer. “In the end, they didn’t publish it because it’s embarrassing. This is how you kill a report.”

And, over the past two months, I found the reports not to be available from NCJRS. On two occasions, NCJRS told me that the study did not exist. On the third try, they again said the report did not exist; when I insisted that it did, the order-taker promised to look into the matter and call me back. Hours later, I received a voice-mail message from a woman identifying herself as “NCJRS reference.” She said she was sorry, “but we can’t send you that document—we’ve been told that it was not intended for public consumption.” •



DRAWING BY VINT LAWRENCE FOR THE NEW REPUBLIC

*Crime - assault weapons*

**STUDY GROUP ON THE SPORTING USE SUITABILITY OF CERTAIN SEMIAUTOMATIC ASSAULT-TYPE RIFLES:**

**Objectives:**

The study group will conduct a review within 120 days to determine whether modified semiautomatic assault-type rifles are properly importable under the statutory sporting purposes test.\*

The study will focus on semiautomatic rifles that are modified versions of firearms which failed to meet the sporting purposes test in 1989 but were later found to be importable when certain military features were removed.

The study group will ensure that the statute is being applied correctly and that the current use of these modified rifles is consistent with the statutory criteria for importability.

Based on the findings of the study, the group will make recommendations for any necessary administrative action.

- \* The requirements of 18 U.S.C. section 925(d)(3) which provide, in pertinent part:

"The Secretary shall authorize a firearm . . . to be imported or brought into the United States . . . if the firearm . . . (3) is of a type that does not fall within the definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1954 and is generally recognized as particularly suitable for or readily adaptable to sporting purposes, excluding surplus military firearms."

*Study on the Sporting Use  
Suitability of Certain  
Semiautomatic Rifles*

**Technical Working Group  
(TWG) Plans  
Bureau of Alcohol, Tobacco  
and Firearms**



# *I. Objectives of Study*

- Execute the President's directive to conduct a review within 120 days to determine whether modified semiautomatic assault-type rifles are properly importable under the statutory sporting purposes test.

# *I. Objectives of Study, cont.*

- Focus on semi-automatic rifles that are modified versions of firearms that failed to meet the sporting purposes test in 1989 but were later found to be importable when certain military features were removed.

# *I. Objectives of Study, cont.*

- Ensure that the statute is being applied correctly and that the current use of these modified rifles is consistent with the statutory criteria for importability.
- Based on the findings of the study, make recommendations for any necessary administrative action.

# *The Statute: “The Sporting Purposes Test”*

- The Gun Control Act (18 U.S.C. section 925 (d) (3) ) provides, in pertinent part:
  - “The Secretary shall authorize a firearm . . . to be imported or brought into the United States . . . if the firearm . . . is of a type that . . . is generally recognized as particularly suitable for or readily adaptable to sporting purposes . . . .”

## *II. Background Information*

- Review provisions of pertinent Statute
  - Define “sporting purposes test”
  - Define ‘suitability’ and “adaptability”
- Provide historical review
- Identify the firearms in question
  - provide narratives and illustrations

### *III. Information Collection Phase*

- Review previous study for information that remains relevant
- Request broad scope information
  - Solicit general public comments
    - Federal Register and ATF Internet
    - Letters to affected importers
    - Open letter to industry and interest groups

# *III. Information Collection*

## *Phase Cont*

- Request specialized source information
  - Licensed hunting guides
  - Competitive shooting groups
  - State fish and game commissions
  - Editors of sporting/shooting publications
  - Law enforcement agencies

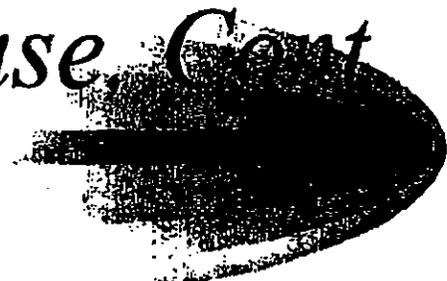
# *III. Information Collection*

## *Phase Cont*

- **Technical Working Group research**
  - Review available published source information
    - Marketing materials
    - Text books
    - Magazine articles
    - News clips
- **ATF investigative information**
  - Review trace data
  - Review case studies, trends and patterns

# *III. Information Collection*

## *Phase Cont*



- **Import data**
  - Review Forms 6 and 6a current and past years
    - determine total firearms imported
    - determine total rifles imported
    - determine total questioned rifles imported
- **Compile all data collected**
  - Contractor support
  - TWG and extended TWG support

## *IV. Analysis Phase*

- Collate all comments
  - Sporting category
  - Non-sporting category
- Review all comments
  - “weigh” and rank
    - Factual & opinion

## *IV. Analysis Phase, Cont.*

- Evaluation of conformity with statute:  
questioned rifles v. traditional sporting  
rifles
  - Technical evaluation
  - Actual use evaluation
  - Suitability for sporting purposes evaluation
  - adaptability for sporting purposes evaluation

• ?

# *V. Conclusion and Recommendations Phase*





Congressional Research Service • The Library of Congress • Washington, D.C. 20540-7000

September 26, 1997

**TO** : Honorable Dianne Feinstein  
Attention: T.J. Wilkinson Green

**FROM** : Charles Doyle <sup>C Doyle</sup>  
American Law Division

**SUBJECT** : Suspension or Revocation of Permits to Import Firearms  
Based Upon an Erroneous "Sporting Purposes" Determination  
in Light of *Gun South, Inc. v. Brady*, 877 F.2d 858 (11th Cir.  
1989)

This is in response to your request for an assessment of constitutional limitations imposed upon suspension or revocation of permits to import firearms based upon an erroneous sporting purposes determination (18 U.S.C. 925(d)(3)) in light of *Gun South, Inc. v. Brady*, 877 F.2d 858 (11th Cir. 1989).

The Gun Control Act of 1968 imposes a general import ban on firearms, 18 U.S.C. 922(D). It demands, however, that the Secretary of the Treasury allow imports under four circumstances, one of which is that the firearms for which the permit is sought are "generally recognized as particularly suitable for or readily adaptable to sporting purposes," 18 U.S.C. 925(d)(3). The authority has been delegated to the Bureau of Alcohol Tobacco and Firearms (ATF).

*Gun South, Inc.* involved the challenge by a firearms dealer holding import permits for firearms that had been seized by customs officials pursuant to a temporary import ban directed at various semi-automatic military assault weapons in order to reassess their status under the "sporting purposes" exception.

The court declined to enjoin suspension of the import permits on the grounds that suspensions were "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," 5 U.S.C. 706(2)(A), a standard grounded in substantive due process.

*Gun South* contended ATF had acted capriciously by not "adequately consider[ing] sufficient evidence before imposing the temporary suspension." The court responded by pointing to the agency explanation for its action: (1) law enforcement agencies reports of "a dramatic proliferation in the use of assault-type rifles in criminal activity;" (2) tracing branch statistics revealing "a 57-percent increase in traces of assault-type rifles recovered from crime scenes;" (3) several highly publicized murders in which assault rifles were used indicat[ing]

Jose Centa

CRS-2

their increased use in criminal activity," and (4) ATF information showing "smuggling of substantial numbers of firearms out of the country for use in foreign crime," 877 F.2d at 866. The court did not suggest that these were the only facts upon which ATF could ever reasonably rely. Gun South alleged the absence of a rational predicate for the agency's action; the court concluded the agency had a rational reason for its action. Other cases suggest the standard is not particularly demanding in light of the judicial deference to agency judgment of what constitutes reasonable administrative actions with respect to matters within their jurisdiction, see e.g., Smiley v. Citibank, 116 S.Ct. 1730, 1733 (1996) ("It is our practice to defer to the reasonable judgments of agencies with regard to the meaning of ambiguous terms in statutes that they are charged with administering").

\* \* \*

\* \* \*

The court also addressed two issues that it expressly characterized as due process challenges. It held that procedural due process did not require pre-seizure notice or opportunity to be heard even in situations like that of Gun South where the dealer had been issued an import permit prior to announcement of the ban. The test applied is that of *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976) and balances: "(1) the nature of the private interest; (2) the risk of an erroneous deprivation of such interest; and (3) the government's interest in taking its action including the burdens that any additional procedural requirement would have. The court identified the protection of the public's health and safety as "a paramount government interest" for purposes of the test, 877 F.2d at 867. It mentioned the government's interest in avoiding a contribution "to this country's violence crime epidemic" that the large number of firearms covered by existing applications (not permits) would reflect, but it made no specific reference to the factors considered in its rational basis analysis, *id.*

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The Supreme Court has suggested another view of the government's interest under the *Mathews* test, i.e. that the government's interest is "in seizing . . . property before [providing an opportunity to be heard]. The question . . . is whether *ex parte* seizure is justified by a pressing need for prompt action," *United States v. James Daniel Good Real Property*, 510 U.S. 43, 56 (1993). The Court contrasted the circumstances of *Good* with those where the absence of prompt action might lead to a frustration of legitimate government interests, including the observation that "no pre-seizure hearing is required when customs officials seize an automobile at the border," *id.* at 57.

The nature of the private interest also figures in the second due process issue - Gun South's due process right to compensation for a governmental taking. The court concluded that the government's action did not constitute a taking for due process purposes, 877 F.2d at 869, a view that apparently has continued vitality, see e.g., *B-West Imports, Inc. v. United States*, 75 F.3d 633, 638-39 (Fed.Cir. 1996) (the right to import and sell arms in the United States is "subject at all times to the hazard that their permits [will] be revoked, pursuant to statute and regulation, on foreign policy grounds or for other reasons. The Due Process Clause does not require the government to stand as a surety against the adverse consequences sometimes suffered by persons who knowingly undertake that kind of commercial risk").

Crime-assault  
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11-14-97  
weapery

THE WHITE HOUSE  
WASHINGTON

November 13, 1997

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MEMORANDUM FOR THE PRESIDENT

FROM: CHARLES F.C. RUFF  
ELENA KAGAN

SUBJECT: Importation of Modified Semiautomatic Assault Type Rifles

As you requested, attached is a redraft of the directive. The directive now includes a more detailed discussion of the predicate for the actions to be taken by the Secretary. We have also separated the action of suspending existing permits from the discussion regarding the review process and pending applications.

Attachment

THE WHITE HOUSE

WASHINGTON

November 14, 1997

MEMORANDUM FOR THE SECRETARY OF THE TREASURY

SUBJECT: Importation of Modified Semiautomatic  
Assault-Type Rifles

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

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

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

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

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

Accordingly, as we discussed, you will:

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

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

William J. Curran

THE WHITE HOUSE  
WASHINGTON

November 13, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: CHARLES F.C. RUFF  
ELENA KAGAN

SUBJECT: Importation of Modified Semiautomatic Assault Type Rifles

As you requested, attached is a redraft of the directive. The directive now includes a more detailed discussion of the predicate for the actions to be taken by the Secretary. We have also separated the action of suspending existing permits from the discussion regarding the review process and pending applications.

Attachment

THE WHITE HOUSE  
WASHINGTON

November 14, 1997

MEMORANDUM FOR THE SECRETARY OF THE TREASURY

SUBJECT: Importation of Modified Semiautomatic Assault Type Rifles

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

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

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

Accordingly, as we discussed, you will:

- 1) Conduct an immediate expedited review not to exceed 120 days in length to determine whether modified semiautomatic assault type rifles are properly importable under the statutory sporting purposes test. The results of this review will govern action on pending and future applications for import permits, which shall not be acted upon until the completion of this review.
- 2) Suspend outstanding permits for importation of modified semiautomatic assault type rifles for the duration of the 120 day review period. The temporary suspension does not constitute a permanent revocation of any license. Permits will be revoked only if and to the extent that you determine that a particular weapon does not satisfy the statutory test for importation, and only after an affected importer has an opportunity to make its case to the Department.

Crime-assault weapons

THE PRESIDENT HAS BEEN  
11-12-97

'97 NOV 4 PM6:33

THE WHITE HOUSE  
WASHINGTON

November 4, 1997

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Ruff  
Reed  
Emanuel  
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MEMORANDUM FOR THE PRESIDENT

FROM: CHARLES F.C. RUFF  
BRUCE REED  
RAHM EMANUEL

*Handwritten notes:*  
Ruff  
Reed  
Emanuel  
COS  
Crawford  
TFC

SUBJECT: "Sporterized" Assault Weapons Directive

This memorandum is in response to questions you raised concerning the options described in our memorandum of October 30 concerning the importation of "sporterized" assault weapons. Under Option 2, Treasury would suspend action on all pending applications and future permits but not suspend existing permits pending its full review of the sporting purposes criteria. As part of this approach, Treasury would review the importation and criminal use of sporterized weapons and suspend existing permits if the evidence so warranted. You asked how long it would take for Treasury to conduct this interim review and make such a decision.

We have been informed by attorneys at Treasury and ATF that the plan for the review process is still being written. The plan is expected to have 3 separate tracks running simultaneously, the first two of which could be completed within 5 to 10 weeks. The first track would involve gathering and analyzing law enforcement statistics and other information relating to the use of the imported weapons in criminal activity. These "tracing" figures and other anecdotal information could support, depending on their quality, the immediate suspension of existing permits.

The second track would focus on a technical analysis of the weapons, comparing them to other acceptable sporting rifles. This analysis would include reviewing the existing sporting purposes criteria and its application to the weapons at issue. This process is also estimated to take 5 to 10 weeks and could uncover new facts that would warrant immediate suspension of the existing permits.

The final track, which is expected to take 120 days, will focus on the actual purpose and use for which these weapons are acquired. This process will include a nationwide survey of the buyers and users of these weapons. This track offers the best chance for acquiring information supporting modification of the sporting purposes test to prohibit the importation of these weapons.

Treasury and ATF attorneys also noted that if there is a drastic increase in the numbers of weapons actually being imported through existing permits during the 120 day period, in conjunction with favorable facts gathered from any of the review tracks, our claim that sufficient circumstances exist to warrant the suspension of existing permits would be substantially stronger.

In sum, it is unlikely that the review process will uncover additional facts supporting the suspension of existing permits in less than 5 weeks. Based upon our conversations with the attorneys at Treasury and ATF, we believe a more accurate estimate is 10 weeks, but that the entire 120 day review may be necessary. And, as the Treasury and ATF attorneys emphasize, even the full 120 day review may not uncover sufficient additional information that would justify changing the sporting purposes test or suspending any existing permits.

Finally, our respective recommendations, as set forth in the attached October 30 memorandum, have not changed as a result of this additional information.

THE WHITE HOUSE  
WASHINGTON

October 31, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: PHIL CAPLAN *Phil*  
SEAN MALONEY *SM*

As you know, the directive on modified or "sporterized" assault weapons is ready except for one outstanding issue, as outlined in the attached Rahm/Bruce Reed memo. They seek a decision on whether the directive should temporarily suspend existing importation permits in addition to pending and future permits.

**Background.** ATF estimates that about 600,000 sporterized weapons can be imported under existing permits, including about 175,000 under a permit that ATF staff approved last week. (ATF approved the permit in the face of an informal departmental directive not to act on pending applications until the scope of this directive was determined.) Pending applications will permit importation of another million weapons. Everyone agrees your directive should (a) require Treasury to reexamine and, if necessary, modify the importation criteria to keep non-sporting weapons out; and (b) temporarily suspend the approval of all pending and future applications. The issue is whether to suspend also the permits ATF has already granted.

**Options.** You have three options: (1) suspend action only on pending and future permits; (2) suspend pending and future permits; require Treasury to monitor importation levels and criminal use of the weapons; and authorize Treasury to suspend existing permits during the review period if warranted; or (3) suspend pending, future and existing permits.

**Views.** There is no real support for Option 1. *Chuck Ruff and DOJ* support Option 2. They believe an existing-permit suspension (Option 3) would not survive in court -- there is not a sufficient factual basis for upholding such an action as there was in 1989 when a court last addressed this issue. Furthermore, they believe such a loss could cripple efforts to modify the importation criteria. *Rahm and Bruce* are comfortable with either Option 2 or Option 3. They note Option 3 looks stronger but may well result in a quick loss in court; Option 2 could be subject to criticism as "weaker" but may well hold up best over time. *Secretary Rubin* supports Option 3.

\_\_\_ Option 1    \_\_\_ Option 2    \_\_\_ Option 3

THE WHITE HOUSE  
WASHINGTON

October 30, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED  
RAHM EMANUEL

SUBJECT: "Sporterized" Assault Weapons Directive

Attached is a draft directive on the importation of a new class of modified, or "sporterized," assault weapons. As you know, the 1994 Crime Bill bans 19 specific assault weapons, their duplicates, and certain other semiautomatic weapons with military-style features. The 1968 Gun Control Act more generally prohibits the importation of firearms that are not "generally recognized as particularly suitable or readily adaptable to sporting purposes." In recent years, certain gun manufacturers have redesigned "assault-type" weapons in minor ways to circumvent the 1994 ban and to meet the criteria currently used to apply the sporting purposes provision of the 1968 Act. This directive is intended to address importation of such redesigned weapons.

The directive essentially mirrors the action you took in 1993 to ban the importation of assault pistols and the action President Bush took in 1989 to ban the importation of assault rifles. Everyone agrees that the directive should: (1) require Treasury to reexamine, and if necessary, modify the criteria used to keep non-sporting weapons out of the country; and (2) temporarily suspend the approval of all pending and future applications for permits to import sporterized assault weapons. Although only a limited number of these firearms has come into the country since passage of the assault weapons ban (approximately 14,000 in 1994, 12,000 in 1995, 30,000 in 1996, and nearly 20,000 to date this year -- as opposed to nearly 160,000 in 1993), applications are now pending to import as many as 1.1 million more of these firearms. The directive would halt importation of these firearms while Treasury conducts its review -- and depending on the outcome of that review, could lead to a permanent ban on such weapons.

As you know, we have not yet resolved whether the Administration should take the additional step of temporarily suspending permits that already have been granted. While ATF originally estimated that 300,000 sporterized assault weapons could be legally imported under roughly 50 existing permits, the Bureau now puts the figure at about 600,000. The difference is due largely to ATF staff's approval last week of 3 permits for an additional 175,000 sporterized firearms -- action taken in the face of an informal departmental directive not to act on pending applications until the scope of this directive was determined.

We have asked Treasury, Justice, and White House Counsel to develop the strongest possible case for temporarily suspending existing permits. Justice litigators continue to have

serious doubts that we have a sufficient factual basis for taking this action. They point out that, in upholding the Bush Administration's suspension of existing permits in 1989, the court relied on a combination of specific facts, including: a large number of approved and pending permits for assault rifles; a 57% increase in the number of assault rifles recovered at crime scenes; and several highly publicized shootings involving assault rifles, such as the Stockton, CA murders. Arguably, the same combination of circumstances does not exist today. While the number of approved and pending permits is comparable, the 145% increase in the number of sporterized weapons traced since 1994 is largely attributable to an expanded tracing program (indeed, other makes of guns have shown a larger increase in tracings), and no highly publicized crimes have involved these weapons.

Given these circumstances, Justice litigators believe that a court is very likely to enjoin our suspension of existing permits. Justice also points out that a loss on this issue could undermine our ability to defend any future action taken by Treasury to modify the test for non-sporting weapons: for example, a court that believes we stepped over the line in suspending existing permits may doubt whether we have a bona fide basis for modifying the criteria used to apply the sporting purposes test. The Justice Department, however, has stated clearly that it will defend in court an Administration decision to suspend existing permits.

You have the following options with respect to the scope of the directive:

**Option 1:** Suspend action only on applications for pending and future permits (covering about 1.1 million firearms). Allow imports under the 50 existing permits (covering 600,000 firearms) during the review period. If Treasury ultimately changes the sporting purposes test, revoke permits for firearms inconsistent with the new criteria. Treasury and Justice lawyers believe this option is entirely defensible. Senator Feinstein and other Members of Congress would complain that this action is not sufficiently bold.

**Option 2:** Suspend action on pending and future permits, and require Treasury to closely monitor the levels of importation and criminal use of sporterized firearms during the review period. If during the review period, the Secretary determines that circumstances warrant additional action, including suspension of existing permits, then Treasury would be directed to take such action. Although this solution will not be acceptable to Senator Feinstein, it may dampen criticism from others -- and substantially reduce our litigation risk.

**Option 3:** In addition to suspending action on pending and future permits, temporarily suspend all existing permits (50 permits for 600,000 firearms) while ATF reviews the sporting purposes criteria. After this review, if Treasury changes the sporting purposes test, revoke permits for firearms inconsistent with the new criteria. Justice litigators believe that this option presents a substantial litigation risk and could undermine our ability to defend future action by Treasury to modify the sporting purposes test. Additionally, key Treasury staff would spend much of the review period in court -- and not necessarily working on re-examining the sporting purposes test.

**Recommendation:**

Chuck Ruff believes that, although it would be consistent with the Justice Department's professional obligations to defend the revocation of existing permits, there is a substantial risk that any ensuing litigation would ultimately undermine ATF's ability to make defensible changes in the sporting purposes criteria. Not only would discovery reveal the current weaknesses in ATF's analysis -- and thus potentially in the predicate for any changes it may propose -- but an adverse decision in the district court (and in the court of appeals) would adversely affect our ability to defend challenges to the new criteria. Thus, he would prefer Option 2.

We are comfortable with either Option 2 or Option 3. (Option 1 looks weak in not holding out even the possibility of a suspension of existing permits.) Option 3 looks stronger to start with, but may well result in a quick loss in court. Option 2 will be subject to immediate criticism by Feinstein and others, but may hold up best over time.

**DRAFT - DRAFT - DRAFT**

October xx, 1997

MEMORANDUM FOR THE SECRETARY OF THE TREASURY

Subject: Importation of Uzi and Galil Firearms

The historic Violent Crime Control and Law Enforcement Act of 1994 banned 19 specific assault weapons, duplicates of those 19 firearms and certain other semiautomatic weapons possessing various military style features. The Administration and Congress worked to ban these deadly firearms because -- as the weapon of choice for gangs and drug dealers -- they were being recovered at numerous crime scenes and resulting in criminals being better armed than some of the nation's law enforcement officers. Last year, in part as a result of the ban on assault weapons, fewer police officers were slain in the line of duty than in any year since 1960, and fewer law enforcement officers were killed by assault weapons.

In addition to the prohibitions contained in the 1994 ban on assault weapons, the 1968 Gun Control Act further restricts the importation of firearms unless they are determined to be particularly suitable for or readily adaptable for sporting purposes. To enforce this law, the Treasury Department has developed a factoring system to determine whether handguns meet this sporting purposes test and are thus importable. The Department also determined that semiautomatic assault type rifles do not meet the sporting purposes test and are not importable.

I am now informed that 2 of the 19 assault weapons that were specifically banned from importation in 1989, the Galil and the Uzi, have been redesigned in order to circumvent the ban. The Galil and Uzi, which are manufactured by Israeli Military Industries, were banned because -- in their military configurations -- they were found to have no legitimate sporting purpose. It is now appropriate to determine whether the redesigned weapons would have legitimate sporting purposes in this country and are suitable for continued importation under the provisions of the Gun Control Act of 1968.

My Administration has aggressively enforced all applicable laws to keep non-sporting firearms and other munitions posing a threat to public safety from entering the country. Therefore, I direct you to:

- 1) Take the necessary steps to reexamine and determine whether the sporting purposes test should be modified with respect to the importation of the Galil, Uzi and any other firearms that have been similarly adapted or re-engineered since the 1989 ban on the importation of semiautomatic assault rifles or the 1994 ban on semiautomatic assault weapons;

**[Option 1]-**

- 2) *Effective immediately, suspend action on pending and future applications to import these weapons until this review is complete.*

**[Option 2]**

- 2) *Effective immediately, suspend action on pending and future applications to import these weapons until this review is complete; and*
- 3) *During this review period, closely monitor the continued importation and criminal use of these modified assault-type weapons, and -- if you determine that circumstances warrant additional action -- take any other appropriate action including the suspension of existing permits.*

**[Option 3]**

- 2) *Effective immediately, suspend all existing permits and action on pending and future applications for permits to import these weapons until this review is complete.*

Nothing herein shall be construed to require actions contrary to applicable provisions of law.