



United States Senate
WASHINGTON, DC 20510-0504

JOSE / EK / CR

September 17, 1997

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

Dear Mr. President:

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

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

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

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

Administrative Action on Imported HCMs

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

President William J. Clinton
September 17, 1997
Page Two

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

Bureau of Alcohol, Tobacco and Firearms - Enforcement and Staffing

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

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

yes

Importation of Israeli Galils and Uzis

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

?

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

President William J. Clinton
September 17, 1997
Page Three

Child Support Enforcement System Automation

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

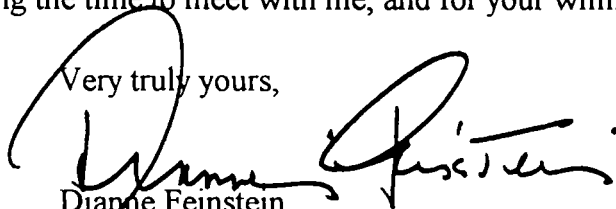
Without your intervention, California could lose \$3.7 billion in TANF funds and \$300 million in child support system funding. I am asking you to impose a temporary 6 month moratorium on the penalties for failure to meet the October 1st deadline in order to give California and other States the ability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

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

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

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

Very truly yours,

A handwritten signature in black ink, appearing to read "Dianne Feinstein", with a large, sweeping flourish extending from the end of the signature.

Dianne Feinstein
United States Senator

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

11-14-97

THE WHITE HOUSE

WASHINGTON

November 13, 1997

'97 NOV 13 PM 5:21



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. Cristen

Revised final 11/15/97 3:30pm

PRESIDENT WILLIAM J. CLINTON

RADIO ADDRESS ON

CRIME AND ASSAULT WEAPONS

November 15, 1997

Good morning. Today I want to talk about the strong progress we are making in our fight against crime -- and the steps we are taking to build on that progress.

All over the country, crime is dropping; responsibility and respect for the law are on the rise. But the true measure of our progress is whether our children can play in their front yards ... whether our parents can unlock their front doors ... whether our grandparents can walk down the streets with confidence, free from the fear of violence.

To give our families that security, we put in place a comprehensive plan, with 100,000 new community police officers, tougher punishment, and stronger anti-gang prevention. And we have led an unprecedented effort to join the forces of national, state, and local law enforcement to fight crime in every community in America.

Three years since I signed the Crime Bill into law, we know our strategy is having a real, measurable impact. Crime has dropped for a record five years in a row. And today, we have even more dramatic proof of our progress: the annual National Crime Victimization Survey.

It says that in 1996, crime rates fell to their lowest recorded level in nearly 25 years. Property crime is down. Violent crime is down. Since 1993, murder has dropped by 22% -- by 10% in 1996 alone.

This remarkable drop in the crime rate is no accident -- our hard work made it happen. And community policing is at the center of our success. In only 3 years, we have already funded 65,000 new police officers, and we are close to meeting our goal of putting 100,000 police officers on the street.

Our nation's police officers will tell you that our ongoing effort to ban lethal assault weapons has been critical to their ability to do their job. We banned these guns because you don't need an Uzi to go deer hunting -- and everyone knows it.

But as effective as the assault weapons ban has been, we know that some foreign gun manufacturers are getting around the ban by making minor modifications to their weapons that amount to nothing more than cosmetic surgery.

We did not fight as hard as we did to pass the assault weapons ban only to let a few gun manufacturers sidestep our laws and undermine our progress. Assault weapons in the hands of civilians exist for no reason but to inspire fear and wreak deadly havoc. They don't belong on our streets, or in our school yards. That is why we banned them three years ago, and that is why we are taking action today.

Effective immediately, the Secretary of the Treasury is suspending 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.

We must continue to do everything we can to crack down on illegal firearms, and the organized criminals, terrorists, and drug lords who seek them. Yesterday, President Zedillo of Mexico and I signed an unprecedented international convention that will help fight illegal gun trafficking in our hemisphere, and strengthen law enforcement's ability to combat this deadly trade.

Working together over the past five years, we have proven that we can drive down the crime rate. Now we must press on, confident that we can take back our streets from crime, take assault weapons and illegal firearms out of the hands of criminals, enact a tough juvenile justice bill, and give our families the security they deserve.

Thanks for listening.

THE WHITE HOUSE
WASHINGTON

November 4, 1997

MEMORANDUM FOR THE PRESIDENT

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

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.



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

September 26, 1997

TO : Honorable Dianne Feinstein
Attention: Wilkie Green
Susan Kennedy

FROM : American Law Division

SUBJECT : (1) Standards Used to Determine Whether a Firearm Is
"Particularly Suitable for or Readily Adaptable to Sporting
Purposes" in Order to Permit the Issuance of an Import
License
(2) Authority of the President or Other Executive Officer to
Ban Importation of Particular Firearms, Ammunition and/or
Related Accessories Without Reference to Their Country of
Origin

This is in response to your request for information as to (1) what standards have been, are or might be used to determine whether a particular firearm, type of ammunition, or firearm accessory (e.g. an ammunition clip) is "particularly suitable for or readily adaptable to sporting purposes" in order to permit the issuance of an import license under 18 U.S.C. 925(d)(3); and (2) what authority the President enjoys to ban the importation of such firearms, ammunition, or accessories without reference to the country in which they were manufactured, have been assembled or from which they are to be shipped.

Summary

The first "suitability" standard used by the Bureau of Alcohol, Tobacco and Firearms (ATF) was based upon a presumption that only handguns were likely to be found unsuitable and that those least likely to survive scrutiny were those that most closely resembled "Saturday Night Specials." Under this standard, quality and price weighed heavily, and simple amusement was stripped from the concept of "sporting purpose" (if it ever resided there) with the determination that "plinking" or target practice on randomly selected bottles and cans was a pastime and not a "sport."

Next, ATF abandoned the "only-handguns" presumption with respect to two varieties of shotgun whose features rendered them particularly suitable for nonsporting purposes, e.g., military or law enforcement purposes, but were "generally recognized" as not suitable for purposes of hunting or competitive shooting.

Finally, ATF moved to a process under which it determined the class of a firearm for which an import license was being sought, e.g., semiautomatic assault rifle, according to the type of firearm involved; its principle purpose or use; which of its features made it particularly suitable for its principle use and which made it particularly unsuitable for sporting purposes; and whether, among those particularly conversant with hunting and competitive shooting, the firearm was generally recognized as suitable or adaptable for use in their sport.

The President and the Secretary of the Treasury enjoy extensive authority to impose an import ban upon a particular type of firearm, ammunition or accessory. The Gun Control Act of 1968 as enacted vested virtually unbridled discretion in the Secretary. The amendments to the Act which support the contention that the Secretary is compelled to permit importation when faced with the applications qualifying for exceptions under section 925(d) have thus far been interpreted generously.

The President has either explicit or apparent authority to impose a import ban covering various firearms, ammunition or accessories under a number of other statutes. The International Emergency Economic Powers Act, 50 U.S.C. 1701 et seq., gives him general authority to regulate foreign commercial transactions when he considers it necessary to deal with an "unusual and extraordinary threat, which has its source in whole or in part outside the United States, to the national security, foreign policy, or economy of the United States."

He has already invoked this authority to revive provisions of the Export Administration Act of 1979 and the Arms Export Control Act, E.O. 12924, 59 Fed. Reg. 43437 (Aug. 10, 1994), 50 U.S.C. 1701 note. The reach of the Arms Export Control Act is particular pertinent since it declares that "in furtherance of world peace and the security and foreign policy of the United States the President is authorized to control imports . . . of defense articles and services," 22 U.S.C. 2778(a)(1). The Export Administration Act empowers to President to regulate military exports including the authority to restrict the transfer of goods within the United States, 50 U.S.C. App. 2404(a). ATF's reference in *Gun South, Inc.* to the smuggling of foreign semiautomatic assault rifles out of this country suggests the kind of predicate that might bolster a claim that the Export Administration Act under appropriate circumstances authorizes an import ban on various types of firearms, ammunition or accessories.

These statutory powers supplement and carry into execution broad powers the Constitution vests in the President to conduct foreign affairs, act as commander-in-chief, and to see to the faithful execution of the law, U.S. Const. Art. II §§2, 3. Judicial descriptions of these powers and of plenary authority to control the flow goods and persons across our borders document the breadth of discretion they convey.

Evolution of the Search for a Standard

The 1968 Gun Control Act prohibits importing firearms or ammunition except as authorized by the Act, 18 U.S.C. 922(I). The Act authorizes the

Secretary of the Treasury to license imports, *inter alia*, if the firearm or ammunition in question "is of a type that does not fall within the definition of a firearm as defined in section 5845(a) of the Internal Revenue Code of 1954 and is generally recognized as particularly suitable for or readily adaptable to sporting purposes, excluding surplus military firearms, except in any case where the Secretary has not authorized the importation of the firearm pursuant to this paragraph, it shall be unlawful to import any frame, receiver, or barrel of such firearm which would be prohibited if assembled," 18 U.S.C. 925(d)(3)(emphasis added).¹

Shortly after passage of the 1968 Act, the Secretary of Treasury appointed a Firearms Evaluation Panel "to provide guidelines for implementation of the 'sporting purposes' test of section 925(d)(3)," Bureau of Alcohol, Tobacco and Firearms, *Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles (Report)* 3 (1989). At the time, the most often cited example of firearm abuse involved "Saturday Night Specials," inexpensive and usually poor quality handguns, and the Panel's considerations apparently dealt almost exclusively the development of guidelines to determine whether a particular handgun should be considered a Saturday Night Special and consequently be subject to an import bar, *Report* at 3. The Panel "did not propose criteria for evaluating rifles and shotguns under section 925(d)(3)," *Report* at 3.² And for many years thereafter, the question of what type of firearm other than a handgun might fail the "sporting purposes" test never arose, *Report* at 4. As the statute then required, applicants for licenses were simply asked to indicate how a particular firearm qualified under the "sporting purposes" test, see e.g., §3(b)(4)(interim regulations), 33 *Fed. Reg.* 15733 (Oct. 24, 1968). But it does seem to have been agreed early on that "plinking" -- shooting a bottles and cans randomly -- should be considered more of a pastime than a sport -- and that otherwise virtually every firearm might thought suitable for "sporting purposes," *Report*, Attachment 3 at 2.

Apparently, the first instance of a failure to meet the "sporting purposes" test occurred with a 1984 attempt to import South African shotguns designed for riot control. When the import was asked to provide evidence of sporting purposes for the weapon, ATF was provided information that the weapon was

¹ The full text of section 925(d) and of 26 U.S.C. 5845 cited above are appended.

² See also Hurst, "Debate Rages on Imported Guns: Just What Is a Sporting Weapon?" *Los Angeles Times* 27-8 (Feb. 26, 1989). The Bureau of Alcohol, Tobacco and Firearms (ATF) did use the panel recommendations to develop criteria and an evaluation sheet (ATF Form 4590) to determine whether import licenses should be issued for a particular type of handgun that favored larger, heavier, higher caliber, multi-featured handguns (i.e., handguns that were more likely to be well made, more expensive, and less easily concealed; not Saturday night specials), see ATF Form 4590 in *Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles* at Attachment 2.

suitable for police/combat style competitions," *Report* at 4. The license was denied.

Two years later a second shotgun application was denied when the Bureau concluded that due to the weight, size, bulk, design, magazine capacity, configuration, and other factors, the shotgun (a "USAS-12") was not generally recognized as particularly suitable for or readily adaptable to a sporting purpose, *Gilbert Equipment Co., Inc. v. Higgins*, 709 F.Supp. 1071, 1074 (S.D.Ala. 1989). At least then, the ATF was of the view that "the 'generally recognized' component requires both that the firearm itself or the 'type' of firearm to which the subject firearm is being compared, has attained general recognition as being particularly suitable for or readily adaptable to sporting purposes, and that a particular use of a firearm has attained general recognition as having a 'sporting purpose,' or that an event has attained general recognition as being a 'sport' before those uses and/or events can be 'sporting purposes' or 'sports' under §925(d)(3)," *Gilbert Equipment Co., Inc. v. Higgins*, 709 F.Supp. at 1075. "The bureau determined that the USAS-12 weighed 12.4 pounds unloaded, and this weight makes the gun extremely awkward to carry for extended periods, as used in hunting, and cumbersome to lift repeatedly to fire at multiple small moving targets as used in skeet and trap shooting. The bureau also determined that the USAS-12 contains detachable magazines which permit more rapid reloading. A large magazine capacity and rapid reloading are military features, according to the bureau. The bureau also opined that the overall appearance of the weapon was radically different from traditional sporting shotguns, and strikingly similar to shotguns designed specifically for or modified for combat/law enforcement/anti-personnel use. Further, the bureau determined that the activities that the USAS-12 was designed for, various police combat competitions, have not attained "general recognition" as shotgun sports," *Gilbert Equipment Co., Inc. v. Higgins*, 709 F.Supp. at 1075.

During the same year, Congress amended section 925(d)(3) and removed the provision that compelled import permit applicants to demonstrate that the firearm they sought to import was generally recognized as suitable or adaptable for sporting purposes. Congress also added a provision for conditional import approval and rephrased the statute so that where it had once declared that the Secretary "may" issue import licenses, it now states that the Secretary "shall" issue such licenses, compare, 18 U.S.C. 925(d)(3)(1982 ed.), with, 18 U.S.C. 925(d)(3)(1988 ed.).

Soon thereafter, President Bush was asked about the prospect of increasing gun control measures during a series of question-and-answer sessions with the press. There were references to the killing of school children with a Chinese AK-47 and the President indicated he felt there were sufficient laws on the books to cover importation and criminal use firearms, 25 *Weekly Compilation of Presidential Documents*, 209-10, 222 (Feb. 16, 21, 1989). The President later noted that he had asked William Bennett, the newly named "Drug Czar," to look into the extent to which the availability of automatic and semi-automatic weapons contributed to drug-related violence and whether adjustments in the understanding of "suitable for sporting purposes" could be made consistent with

the interests of law abiding firearm owners, 25 Weekly Compilation of Presidential Documents, 294, 370 (Mar. 7, 17, 1989).

Within days, Mr. Bennett and ATF announced a temporary suspension of import licenses for an array of "assault type weapons," in order to allow ATF "to reassess its approval of several applications to import the suspended rifles. Under an accelerated review, the Bureau [reviewed] each permit to determine if it erroneously concluded that the rifles are 'generally suitable for a sporting purpose,'" *Gun South, Inc. v. Brady*, 877 F.2d 858, 859 (11th Cir. 1989). The ban applied to licenses for AK47 type, Galil type, Uzi carbine, Beretta AK70 type, M16/22 type and Galil/22 type rifles, among others, Report, Attachment 1.

A licensed dealer with an import license held under suspension challenged ATF's authority to suspend existing licenses. The Court of Appeals found the temporary suspension within the implicit authority of ATF under section 925(d)(3) and reasonable in light of the fact that (1) law enforcement agencies and officials reported a dramatic proliferation in the use of assault-type rifles in criminal activity; (2) the Bureau's tracings branch showed a 57-percent increase in races of assault-type rifles recovered from crime scenes; (3) several highly publicized murders in which assault rifles were used indicate their increased use in criminal activity; and (4) the Bureau's statistics revealed the smuggling of substantial numbers of firearms out of this country for use in foreign crime," *Gun South, Inc. v. Brady*, 877 F.2d at 866.

The Court quoted from the section's original legislative history in support of the proposition that Congress intended to prohibit the importation of firearms subject to narrow exceptions and looked to Secretary of the Treasury to effectuate their intent, *Gun South, Inc. v. Brady*, 877 F.2d at 862-63:

Several portions of the legislative history emphasize Congress's intent to ban the importation of firearms, and the Secretary's discretion in complying with this mandate. The Senate report to the Gun Control Act of 1968 provides that "[t]he existing Federal controls over interstate and foreign commerce in firearms are not sufficient to enable the states to effectively cope with firearms traffic within our borders." S.Rep.No. 1097, 90th Cong., 2d Sess. 80. In addition, the Senate report explains that Congress intended section 925(d)(3) to "curb the flow of surplus military weapons and other firearms being brought into the United States which are not particularly suitable for target shooting or hunting" to prevent such weapons being used for criminal means. S.Rep.No. 1097 at 80. Furthermore, the sponsor of the legislation, Senator Dodd, stated, Title IV prohibits importation of arms which the Secretary determines are not suitable for research, sport, or as museum pieces The entire intent of the importation section is to get those kinds of weapons that are used by criminals and that have no sporting purpose. 114 Cong.Rec. S5556, S5582, S5585 (daily ed. May 14, 1968).

To accomplish its purpose, the Court felt Congress had given the Secretary fairly broad discretion to do its bidding, *Gun South, Inc. v. Brady*, 877 F.2d at 863:

The Senate Report notes that the Act gives the Secretary of the Treasury unusually broad discretion in applying section 925(d)(3): "The difficulty of defining weapons characteristics to meet this target [of eliminating the importation of weapons used in crime], without discriminating against sporting quality firearms, was a major reason why the Secretary of the Treasury has been given fairly broad discretion in defining and administering the import prohibition. . . ." S.Rep.No. 1501, 90th Cong., 2d Sess. 38 (1968). In fact, such broad discretion was a major concern of the opponents of the bill: "The proposed restrictions of Title IV would give the Secretary of the Treasury unusually broad discretion to decide whether a particular type of firearm is generally recognized as particularly suitable for, or readily adoptable to, sporting purposes. . . ." S.Rep.No. 1097, 90th Cong., 2d Sess. 255 (1968)(Individual Views of Sens. Dirksen, Hruska, Thurmond and Burdick on Title IV).

The Court did acknowledge, however -- and the dissent emphasized -- that Congress, by its amendment, had "mandated the Secretary to authorize the importation of firearms falling within one of the four excepted categories," *Gun South, Inc. v. Brady*, 877 F.2d at 863.

The review, conducted during the temporary suspension of the licenses under attack in *Gun South, Inc.*, began by identifying the type of firearm under consideration, i. e., "assault-type rifles . . . which generally met the following criteria: a. military appearance[,] b. large magazine capacity[, and] c. semiautomatic version of a machinegun," *Report* at 1. It felt compelled to do so because of its reading of the legislative history of section 925(d)(3): "[S]ection 925(d)(3) expressly provides that the Secretary shall authorize the importation of a firearm that is of a type that is generally recognized as particularly suitable for sporting purposes. . . . [I]n its explanation of section 925(d)(3), the Senate Report on the Gun Control Act stated: This subsection gives the Secretary authority to permit the importation of ammunition and certain types of firearms. . . . S.Rep.No. 1501, 90th Cong., 2d Sess. 38 (1968)," *Report* at 5-6.

They concluded that the weapons under review represented a "distinctive type of rifle distinguished by certain general characteristics which are common to the modern military assault rifle" and that "the modern military assault rifle contains a variety of physical features and characteristics designed for military applications which distinguishes it from traditional sporting rifles."

³ "These features and characteristics are as follows: 1. Military Configuration. a. Ability to accept a [large capacity] detachable magazine. . . . b. Folding/telescoping stocks. . . . c. Pistol grips [that protrude conspicuously beneath the action of the weapon]. . . . d. Ability to accept a bayonet. . . . e. Flash suppressor. . . . f. Bipods [as an integral part of the firearm, either attached or as an easily accommodated feature]. . . . g. Grenade launcher. . . . h.

Whether these types of rifles were suitable or could be adapted for sporting purposes depends in part on the meaning of "sporting purposes." The report again cited legislative history.

Section 925(d)(3) had originally been enacted as part of Omnibus Crime Control and Safe Streets Act where its purpose had been described as an attempt to "curb the flow of surplus military weapons and other firearms being brought into the United States which are not particularly suitable for target shooting or hunting. The provisions concerning the importation of firearms would not interfere with the bringing in of currently produced firearms, such as rifles, shotguns, pistols, or revolvers of recognized quality which are used for hunting and for recreational purpose, or personal protection," S.Rep.No. 1097, 90th Cong., 2d Sess. 80 (1968). The AFT report points to other segments of the legislative history the firearms used for "sporting purposes" are distinguished from those used for military purposes including references in Senate committee report on the Gun Control Act that noted an intent to permit importation of "quality made, sporting firearms, including . . . rifles such as those manufactured and imported by Browning and other such manufacturers and importers of firearms," S.Rep. No. 1501, 90th Cong., 2d Sess. 38 (1968). This at a time when "the rifles being imported by Browning . . . were semiautomatic and manually operated traditional sporting rifles of high quality," *Report* at 2. More telling is the colloquy where one of the Senate sponsors of the legislation confirms a colleague's assessment "that despite the fact that a military weapon may be used in a sporting event, it [does] not, by that action become a sporting rifle," 114 *Cong.Rec.* 27461-462 (1968)(remarks of Senators Hansen and Dodd).

This history -- coupled with the language and structure of the Gun Control Act and interpretation of earlier evaluation (rejecting random target practice on bottles and cans as a "sport") -- led to the AFT report's conclusion that "sporting purpose" should be narrowly limited to "the traditional sports of hunting and organized marksmanship competition", *Report* at 10.

The ATF report decided whether the firearms subject to the temporary import suspension were suitable or adaptable for these traditional sporting purposes by using their own observations and by consulting with those associated with traditional sporting uses. So in addition to determining whether a rifle in question was marked by features more in keeping with military than sporting purposes or how it was described by technical writers, in advertising and by importers, AFT solicited the views of state game commissioners, hunting guides, hunting and shooting sports journalists, and the organizers of shooting competitions as to whether they considered the rifles in question suitable or readily adaptable for sporting purposes, *Report*, Attachment 10.

The ATF report recommended that the temporary import ban be made permanent for most of the rifles under consideration; for a few, like the Valmet

Night sights 2. [S]emiautomatic version of a machinegun, [and] 3. [T]he rifle is chambered to accept a centerfire cartridge case having a length of 2.25 inches or less [in combination with other military features], *Report* at 6-9.

Hunter and Galil/22 type, it recommended the ban be lifted, *Report* at 15, Attachments 7, 8. The impact of its recommendation was muted in 1994 when the Violent Crime Control and Law Enforcement Act outlawed until September 13, 2004 semiautomatic assault weapons manufactured after September 13, 1994 and large capacity ammunition feeding devices, 18 U.S.C. 922(v), (w).

The ATF report identifies the most recent process used to develop the standards by which to assess suitability or adaptability for sporting purposes. It does not suggest that this is the only process that it might employ in the future. In this context, it might be worth noting that the current process does not explicitly require consideration of the extent of criminal use or the suitability for criminal purposes of a particular type of firearm, notwithstanding the importance of those considerations in the history of section 925(d)(3) and its subsequent interpretation.

Executive Authority

The Executive Branch has considerable authority under existing law to impose an import ban on various firearm, ammunition or accessories. First, the Gun Control Act makes it unlawful to import any firearms or ammunition without the approval of the Secretary of the Treasury: "Except as provided in section 925(d) of this chapter, it shall be unlawful for any person knowingly to import or bring into the United States or any possession thereof any firearm or ammunition. . . ." 18 U.S.C. 922(l). The provisions of section 925(d) were amended in 1986, so where it had been previously said that the Secretary "may" authorize imports under various conditions, it now provides that the Secretary "shall" authorize them under those circumstances.

Gun South, Inc. concluded that Congress intended in the Gun Control Act to ban firearm importation subject to the exceptions found in section 925(d) and meant to afford the Secretary of the Treasury, through ATF, with fairly broad discretion to flesh out those exceptions, *Gun South, Inc. v. Brady*, 877 F.2d at 861-65.

This authority unquestionably includes the power to proscribe importation of firearms, ammunition or accessories that may not be lawfully be possessed. It seems beyond contention for example, that the Secretary may bar the importation of those semiautomatic assault weapons and large capacity ammunition feeding devices whose possession Congress made unlawful under the 1994 Violent Crime Control and Law Enforcement Act, 18 U.S.C. 922(v), (w).⁴

The Secretary also appears to enjoy broad authority to define the standards for determining suitability or adaptability to sporting purposes and to promulgate the regulations governing the application of those standards. As a

⁴ See e.g., 27 C.F.R. 178.119 (application requirements for those seeking to import ammunition feeding devices).

general principle of administrative law, the courts will give great deference to the construction of a statute by the agency responsible for its administration. They will in fact accept the agency's reading where it is at all creditable, *Auer v. Robbins*, 117 S.Ct. 905, 909 (1997).

The history of Treasury Department interpretation of its prerogatives under the statute reveals a general inclination to allow firearms to be imported unless it becomes apparent that a particular type of firearm no longer fits comfortably beneath the cloak of a sporting purpose. Thus, it concluded that cheap, poorly made handguns seemed more likely to be devoted to robbing convenience stores than to being used for hunting or marksmanship contests. And it similarly deduced that shotguns designed for South African riot control during the days of apartheid could not reasonably be called sporting. Finally, it announced that semiautomatic assault rifles whose characteristics made them particular well suited for military purposes but especially ill suited for hunting or competitive shooting did not qualify for the sporting purposes exception.

There is nothing in any of these decisions to suggest that these examples exhaust the universe of all possible nonconforming types of firearms or of standards by which to assess them. In fact, ATF's analysis described in *Gilbert Equipment* and its report on semiautomatic assault rifles seem to verify that the list of firearms now under an import ban is not necessarily complete and that any number of other types of firearms, ammunition or accessories under the proper circumstances might be found unsuitable for sporting purposes and thus ineligible for importation under a standard developed by using the process described in the ATF report or under some other standard. ATF enjoys considerable discretion to formulate future standards for the sporting purposes exception under the Gun Control Act as long as they appear to have some reasonable foundation.

But there seem to be other authorities upon which the Executive might call upon to regulate or outlaw the importation of various types of firearms, ammunition or accessories.

The International Emergency Economic Powers Act (IEEPA) empowers the President to partially or completely bar various international commercial transactions when he considers it necessary to deal with an "unusual and extraordinary threat, which has its source in whole or in part outside the United States, to the national security, foreign policy, or economy of the United States," 50 U.S.C. 1701, 1702.

The President has used this authority to revive portions the Export Administration Act and Arms Export Control Act. The Arms Export Control Act, 22 U.S.C. 2778, expressly authorized the President to regulate trade in firearms and other defense articles and services "in furtherance of world peace and the security and foreign policy of the United States." The regulations implementing this authority for purposes of importing firearms, ammunition and accessories, 27 C.F.R. pt.47 (esp. §47.2), adopt the regulations that implement the authority under section 925(d), 27 C.F.R. pt. 178, but this

distinct authority appears sufficient to support a different treatment if the President thought it appropriate.

Somewhat more tangentially, the Export Administration Act of 1979, as its name suggests, addressed exports primarily with an eye, in part, to the use of export controls "to restrict the export of goods and technology which would make a significant contribution to the military potential of any other country or combination of countries which would prove detrimental to the national security of the United States" or "where necessary to further significantly the foreign policy of the United States or to fulfill its declared international obligations," 50 U.S.C.App. 2402(2)(A),(B). To this end, the President may under some circumstances "curtail the transfer of goods or technology within this country," 50 U.S.C.App. 2404(a)(1).

These statutory authorities carry into execution powers the Constitution grants the President. The power of the President as commander in chief of the armed forces; his power over foreign relations, and his responsibility to see that the laws are faithfully executed have been called upon in the past to fill in gaps in statutory authority. With statutory adornment, they are exceptionally broad. "When the President acts pursuant to an express or implied authorization from Congress, he exercises not only his powers but also those delegated by Congress. In such a case the executive action 'would be supported by the strongest presumptions and the widest latitude of judicial interpretation, and the burden of persuasion would rest heavily upon any who might attack it,'" *Dames & Moore v. Regan*, 453 U.S. 654, 668 (1981), quoting *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579, 637 (Jackson, J. concurring).

In the case of imports, "[s]ince the founding of our Republic, Congress has granted the Executive plenary authority . . . to prevent the introduction of contraband into this country," *United States v. Montoya de Hernandez*, 473 U.S. 531, 537 (1985). When, as will often occur, the regulation of imports coincides with the overall conduct of nation's relation with other nations, then we are "dealing not alone with an authority vested in the President by an exertion of legislative power, but with such an authority plus the very delicate, plenary and exclusive power of the President as the sole organ of the federal government in the field of international relations -- a power which does not require as a basis for its exercise an act of Congress. . . ." *United States v. Curtiss-Wright Export Corp.*, 299 U.S. 304, 319-20 (1936).

It does not seem unlikely that any number of circumstances might exist that would justify a President to exercise the powers of his office in the form of an import ban on a particular type of firearm, or a particular kind of ammunition or accessory. In fact, the trade sanctions imposed against Iran, Iraq, Libya, and Cuba already do this and more, see 50 U.S.C. 1701 note; 31 C.F.R. pt. 515, 535, 550, 560, 575.


Charles Doyle
Senior Specialist
7-6006

18 U.S.C. 925(d)

(d) The Secretary shall authorize a firearm or ammunition to be imported or brought into the United States or any possession thereof if the firearm or ammunition--

(1) is being imported or brought in for scientific or research purposes, or is for use in connection with competition or training pursuant to chapter 401 of title 10;

(2) is an unserviceable firearm, other than a machinegun as defined in section 5845(b) of the Internal Revenue Code of 1954 (not readily restorable to firing condition), imported or brought in as a curio or museum piece;

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

(4) was previously taken out of the United States or a possession by the person who is bringing in the firearm or ammunition.

The Secretary shall permit the conditional importation or bringing in of a firearm or ammunition for examination and testing in connection with the making of a determination as to whether the importation or bringing in of such firearm or ammunition will be allowed under this subsection.

26 U.S.C. 5845

For the purpose of this chapter--

(a) Firearm.--The term "firearm" means (1) a shotgun having a barrel or barrels of less than 18 inches in length; (2) a weapon made from a shotgun if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 18 inches in length; (3) a rifle having a barrel or barrels of less than 16 inches in length; (4) a weapon made from a rifle if such weapon as modified has an overall length of less than 26 inches or a barrel or barrels of less than 16 inches in length; (5) any other weapon, as defined in subsection (e); (6) a machinegun; (7) any silencer (as defined in section 921 of title 18, United States Code); and (8) a destructive device. The term "firearm" shall not include an antique firearm or any device (other than a machinegun or destructive device) which, although designed as a weapon, the Secretary finds by reason of the date of its manufacture, value, design, and other characteristics is primarily a collector's item and is not likely to be used as a weapon.

(b) Machinegun.--The term "machinegun" means any weapon which shoots, is designed to shoot, or can be readily restored to shoot, automatically more than one shot, without manual reloading, by a single function of the trigger. The term shall also include the frame or receiver of any such weapon, any part designed and intended solely and exclusively, or combination of parts designed and intended, for use in converting a weapon into a machinegun, and any

combination of parts from which a machinegun can be assembled if such parts are in the possession or under the control of a person.

(c) Rifle.--The term "rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed cartridge to fire only a single projectile through a rifled bore for each single pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed cartridge.

(d) Shotgun.--The term "shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive in a fixed shotgun shell to fire through a smooth bore either a number of projectiles (ball shot) or a single projectile for each pull of the trigger, and shall include any such weapon which may be readily restored to fire a fixed shotgun shell.

(e) Any other weapon.--The term "any other weapon" means any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive, a pistol or revolver having a barrel with a smooth bore designed or redesigned to fire a fixed shotgun shell, weapons with combination shotgun and rifle barrels 12 inches or more, less than 18 inches in length, from which only a single discharge can be made from either barrel without manual reloading, and shall include any such weapon which may be readily restored to fire. Such term shall not include a pistol or a revolver having a rifled bore, or rifled bores, or weapons designed, made, or intended to be fired from the shoulder and not capable of firing fixed ammunition.

(f) Destructive device.--The term "destructive device" means (1) any explosive, incendiary, or poison gas (A) bomb, (B) grenade, (C) rocket having a propellant charge of more than four ounces, (D) missile having an explosive or incendiary charge of more than one-quarter ounce, (E) mine, or (F) similar device; (2) any type of weapon by whatever name known which will, or which may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter, except a shotgun or shotgun shell which the Secretary finds is generally recognized as particularly suitable for sporting purposes; and (3) any combination of parts either designed or intended for use in converting any device into a destructive device as defined in subparagraphs (1) and (2) and from which a destructive device may be readily assembled. The term "destructive device" shall not include any device which is neither designed nor redesigned for use as a weapon; any device, although originally designed for use as a weapon, which is redesigned for use as a signaling, pyrotechnic, line throwing, safety, or similar device; surplus ordnance sold, loaned, or given by the Secretary of the Army pursuant to the provisions of section 4684(2), 4685, or 4686 of title 10 of the United States Code; or any other device which the Secretary finds is not likely to be used as a weapon, or is an antique or is a rifle which the owner intends to use solely for sporting purposes.

(g) Antique firearm.--The term "antique firearm" means any firearm not designed or redesigned for using rim fire or conventional center fire ignition with fixed ammunition and manufactured in or before 1898 (including any matchlock, flintlock, percussion cap, or similar type of ignition system or replica thereof, whether actually manufactured before or after the year 1898) and also

any firearm using fixed ammunition manufactured in or before 1898, for which ammunition is no longer manufactured in the United States and is not readily available in the ordinary channels of commercial trade.

(h) Unserviceable firearm.--The term "unservicable firearm" means a firearm which is incapable of discharging a shot by means of an explosive and incapable of being readily restored to a firing condition.

(i) Make.--The term "make", and the various derivatives of such word, shall include manufacturing (other than by one qualified to engage in such business under this chapter), putting together, altering, any combination of these, or otherwise producing a firearm.

(j) Transfer.--The term "transfer" and the various derivatives of such word, shall include selling, assigning, pledging, leasing, loaning, giving away, or otherwise disposing of.

(k) Dealer.--The term "dealer" means any person, not a manufacturer or importer, engaged in the business of selling, renting, leasing, or loaning firearms and shall include pawnbrokers who accept firearms as collateral for loans.

(l) Importer.--The term "importer" means any person who is engaged in the business of importing or bringing firearms into the United States.

(m) Manufacturer.--The term "manufacturer" means any person who is engaged in the business of manufacturing firearms.

ORRIN G. HATCH, UTAH, CHAIRMAN

STROM THURMOND, SOUTH CAROLINA
CHARLES E. GRASSLEY, IOWA
ARLEN SPECTER, PENNSYLVANIA
FRED THOMPSON, TENNESSEE
JON KYL, ARIZONA
MIKE DEWINE, OHIO
JOHN ASHCROFT, MISSOURI
SPENCER ABRAHAM, MICHIGAN
JEFF SESSIONS, ALABAMA

PATRICK J. LEAHY, VERMONT
EDWARD M. KENNEDY, MASSACHUSETTS
JOSEPH R. BIDEN, JR., DELAWARE
HERBERT KOHL, WISCONSIN
DIANNE FEINSTEIN, CALIFORNIA
RUSSELL D. FEINGOLD, WISCONSIN
RICHARD J. DURBIN, ILLINOIS
ROBERT G. TORRICELLI, NEW JERSEY

MANUS COONEY, Chief Counsel and Staff Director
BRUCE A. COHEN, Minority Chief Counsel

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

Facsimile Cover Sheet

Please deliver the following pages to Rahm Emanuel

From: Ed Pagano, Sen. Leahy

Number of pages including cover: 3

COMMENTS:

Letter from Sen. Leahy to
the President on assault weapons
directive attached.

Number to be reached _____

THE DOCUMENT TRANSMITTED IS CONFIDENTIAL AND INTENDED
FOR RECEIPT BY THE ABOVE NAMED INDIVIDUAL ONLY. PLEASE
CALL (202) 224-7703 IMMEDIATELY IF YOU HAVE ANY QUESTIONS.

ORRIN G. HATCH, UTAH, CHAIRMAN

STROM THURMOND, SOUTH CAROLINA
CHARLES E. GRASSLEY, IOWA
ARLEN SPECTER, PENNSYLVANIA
FRED THOMPSON, TENNESSEE
JON KYL, ARIZONA
MIKE DEWINE, OHIO
JOHN ASHCROFT, MISSOURI
SPENCER ABRAHAM, MICHIGAN
JEFF SESSIONS, ALABAMA

PATRICK J. LEAHY, VERMONT
EDWARD M. KENNEDY, MASSACHUSETTS
JOSEPH R. BIDEN, JR., DELAWARE
HERBERT ICING, WISCONSIN
DIANNE FEINSTEIN, CALIFORNIA
RUSSELL D. FEINGOLD, WISCONSIN
RICHARD J. DURBIN, ILLINOIS
ROBERT G. TORRICELLI, NEW JERSEY

MANUS COONEY, Chief Counsel and Staff Director
BRUCE A. COHEN, Minority Chief Counsel

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-8275

October 30, 1997

The Honorable William J. Clinton
The White House
Washington, D.C. 20500

Dear Mr. President:

I understand that you may soon issue a directive to limit the importation of some firearms that may have been modified to meet the requirements of the Violent Crime Control and Law Enforcement Act of 1994 (1994 Crime Act). I respectfully urge you to reconsider such a directive and instead to work with Congress on issues relating to the assault weapons ban in the 1994 Crime Act.

I grew up hunting and fishing in the Vermont outdoors, and I know from first-hand experience that there are many semiautomatic firearms used for legitimate purposes. This is a fact known by many Vermonters, as our State enjoys one of the highest per capita ownership of firearms in America, as well as one of the lowest crime rates. Unfortunately, many Americans live in cities and other areas in our country where they are unable to enjoy the safety of Vermont. Furthermore, I have heard testimony of law enforcement officers who increasingly found themselves outgunned by criminals.

I voted for and continue to support the assault weapons ban as a reasonable step to make our streets safer. The 19 weapons subject to the assault weapons ban, including the so-called "Street Sweeper," have no place outside a target range or battlefield, let alone in our cities' streets. The assault weapons ban also reaffirmed our right to own firearms, as it contained a list of more than 600 firearms commonly used for sporting purposes that were expressly exempted from the ban.

I was surprised, however, when I read in the newspapers that some in the Administration may want to expand the assault weapons ban by issuing a presidential directive. A White House official was quoted regarding the proposed directive as saying: "We are taking the law and bending it as far as we can to capture a whole new class of guns." I strongly believe that using a presidential directive to avoid the normal legislative process regarding any changes to the assault weapons ban is the wrong way to go.

October 30, 1997
The Honorable William J. Clinton
Page Two

The law enforcement community is just now learning about the impact of the assault weapons ban. As required by the 1994 Crime Act, the Department of Justice, through a grant to the Urban Institute, recently studied the results of the assault weapons ban. This March 1997 report found that the available post-ban crime data was too partial and preliminary to determine long-term effects and recommended "future research to update and refine our results at this early post-ban stage."

As the Ranking Member of the Senate Judiciary Committee, I continue to look forward to working with you and members of your Administration in the normal legislative process to enact carefully crafted laws to prevent crime and support law enforcement officers across the country.

Sincerely,



PATRICK LEAHY
Ranking Member

202 707 8596


CRS

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 *C Doyle*
 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]

CRS-2

Jose Certa

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 constitute 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.*

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").

FAX TRANSMITTAL



Office of the General Counsel
DEPARTMENT OF THE TREASURY
1500 Pennsylvania Ave., N.W., Room 3000
Washington, DC 20220
Telephone: (202) 622-0287
FAX: (202) 622-2882

DATE: 10/24/97TO: Jose Cerda

PAGES TO FOLLOW: _____

FROM: Neal Wolin

SUBJECT: _____

Addressee FAX No.: 456-7028 Confirmation No.: _____

Notes and Special Instructions:

JOHN D. DINGELL
16TH DISTRICT, MICHIGAN

RANKING MEMBER
COMMITTEE ON COMMERCE
CO-CHAIR
HOUSE GREAT LAKES
TASK FORCE
MEMBER
MIGRATORY BIRD
CONSERVATION COMMISSION

Congress of the United States
House of Representatives
Washington, DC 20515-2216

WASHINGTON OFFICE:
ROOM 3320
RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-2216
(202) 225-4071

DISTRICT OFFICES:
1445 SCHAEFER ROAD
DEARBORN, MI 48136-3277
(313) 246-1276

22 EAST FRONT STREET
SUITE 103
MONROE, MI 48161-2225
(313) 243-1809

October 24, 1997

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

Several news organizations have reported that you intend to issue a directive suspending the importation of several dozen models of assault weapons which are believed to have been modified for the purpose of meeting the requirements of the Violent Crime Control and Law Enforcement Act of 1994 (1994 Crime Bill) and the 1968 Gun Control Act. It is also thought that you intend to reconvene a working group to again review the "sporting purposes" test under current law.

As you may recall, I voted reluctantly in favor of the 1994 Crime Bill. This followed assurances between us that modifications could be made to alleviate some of the most objectionable concerns expressed by myself and other Democrats, including Congressman Jack Brooks, then the Chairman of the Judiciary Committee. Despite the improvements ultimately agreed to, I remained opposed to the assault weapons provisions because I knew then that they would have very little practical impact in reducing crime.

Our agreement was quickly threatened. Immediately after you signed the Crime Bill, the Bureau of Alcohol, Tobacco and Firearms (ATF) implemented a freeze on the import of magazines which clearly were eligible to enter the country under the new law. It took almost two years of fighting with ATF before it decided to honor our agreement by lifting this freeze, which clearly could not have withstood a challenge in Federal Court.

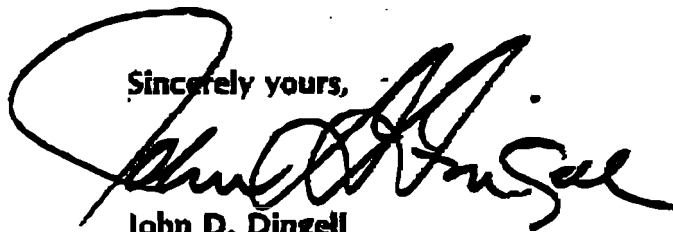
As you consider whether to issue a new directive, I wish to remind you of the report which was ordered under Sec. 110104 of the 1994 Crime Bill. Under this provision, the Attorney General was required to study the effect of the ban and its impact on violent and drug trafficking crime. The Justice Department awarded a grant to the Urban Institute to meet this requirement. The final report, issued on March 13, 1997, found that, "At best, the assault weapons ban can have only a limited effect on total gun murders, because the banned weapons and magazines were never involved in more than a modest fraction of all gun murders." The report continued, "We were unable to detect any reduction to date in two types of gun murders that are thought to be closely associated with assault weapons."

The President
October 24, 1997
Page 2

I respectfully submit that, given the results of the Urban Institute's study, and its recommendation for future research, any additional review should be conducted before ATF is again directed to implement action outside of the law and the clear intent of Congress. I appreciate your consideration of my views, and hope that you will act in a manner that respects the rights of all law abiding citizens.

With every good wish,

Sincerely yours,

A handwritten signature in black ink, appearing to read "John D. Dingell". The signature is fluid and cursive, with a large initial "J" and "D".

John D. Dingell
Member of Congress

cc: Hon. Robert Rubin

10/24/97 00:01 2024566220
OCT-24-97 11:58 FROM:

ID:

PAGE 2

JOHN D. DINGELL
16TH DISTRICT, MICHIGAN

RANKING MEMBER
COMMITTEE ON COMMERCE
CO-CHAIR
HOUSE GREAT LAKES
TASK FORCE
MEMBER
MIGRATORY BIRD
CONSERVATION COMMISSION

Congress of the United States
House of Representatives
Washington, DC 20515-2216

WASHINGTON OFFICE
ROOM 3281
RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-2216
(202) 225-4571
DISTRICT OFFICE:
1405 SCHAEFER ROAD
DEARBORN, MI 48126-3777
(313) 848-1371
25 EAST FRONT STREET
SUITE 103
MONROE, LA 70101-3328
(504) 333-1989

October 24, 1997

The President
The White House
Washington, D.C. 20500

Dear Mr. President:

Several news organizations have reported that you intend to issue a directive suspending the importation of several dozen models of assault weapons which are believed to have been modified for the purpose of meeting the requirements of the Violent Crime Control and Law Enforcement Act of 1994 (1994 Crime Bill) and the 1968 Gun Control Act. It is also thought that you intend to reconvene a working group to again review the "sporting purposes" test under current law.

As you may recall, I voted reluctantly in favor of the 1994 Crime Bill. This followed assurances between us that modifications could be made to alleviate some of the most objectionable concerns expressed by myself and other Democrats, including Congressman Jack Brooks, then the Chairman of the Judiciary Committee. Despite the improvements ultimately agreed to, I remained opposed to the assault weapons provisions because I knew then that they would have very little practical impact in reducing crime.

Our agreement was quickly threatened. Immediately after you signed the Crime Bill, the Bureau of Alcohol, Tobacco and Firearms (ATF) implemented a freeze on the import of magazines which clearly were eligible to enter the country under the new law. It took almost two years of fighting with ATF before it decided to honor our agreement by lifting this freeze, which clearly could not have withstood a challenge in Federal Court.

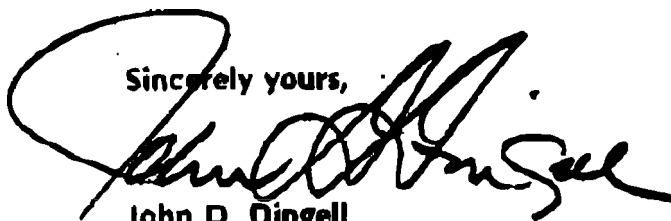
As you consider whether to issue a new directive, I wish to remind you of the report which was ordered under Sec. 110104 of the 1994 Crime Bill. Under this provision, the Attorney General was required to study the effect of the ban and its impact on violent and drug trafficking crime. The Justice Department awarded a grant to the Urban Institute to meet this requirement. The final report, issued on March 13, 1997, found that, "At best, the assault weapons ban can have only a limited effect on total gun murders, because the banned weapons and magazines were never involved in more than a modest fraction of all gun murders." The report continued, "We were unable to detect any reduction to date in two types of gun murders that are thought to be closely associated with assault weapons."

The President
October 24, 1997
Page 2

I respectfully submit that, given the results of the Urban Institute's study, and its recommendation for future research, any additional review should be conducted before ATF is again directed to implement action outside of the law and the clear intent of Congress. I appreciate your consideration of my views, and hope that you will act in a manner that respects the rights of all law abiding citizens.

With every good wish,

Sincerely yours,

A large, stylized handwritten signature in black ink, which appears to read "John D. Dingell".

John D. Dingell
Member of Congress

cc: Hon. Robert Rubin

FOCUS - 6 OF 6 STORIES

Copyright 1997 Times Mirror Company
Los Angeles Times

August 24, 1997, Sunday, Home Edition

SECTION: Part A; Page 1; Metro Desk

LENGTH: 4659 words

SERIES: **OUTGUNNED.** The Holes in America's Assault Weapon Laws. First in a series

HEADLINE: COLUMN ONE;
CRACKDOWN ON ASSAULT WEAPONS HAS MISSED MARK;
CALIFORNIA AND THE FEDERAL GOVERNMENT RESTRICTED MILITARY-STYLE GUNS SEVERAL YEARS AGO. BUT THEY REMAIN WIDELY AVAILABLE BECAUSE OF LOOPHOLES, POLITICS AND INDUSTRY INGENUITY.

BYLINE: JEFF BRAZIL and STEVE BERRY, TIMES STAFF WRITERS

BODY:

They streak through the air at twice the speed of sound, a stream of menacing metal. Tearing through timber fences, stucco walls and steel-girded car doors, they tumble through body tissue and ricochet off bones like searing-hot pinballs, carving the kidneys, the heart, the lungs.

And when their destruction is complete, families must learn to go on without a child's grin. Or a brother's wit. Or a mother's love.

So fearsome is the size, speed and sheer number of slugs let loose from assault weapons that lawmakers cracked down on them.

Or so most people thought.

In fact, the popular laws--adopted in 1989 by California and five years later by the federal government--are in tatters. Today, thousands of assault weapons are changing hands because of gaping holes in the laws--the result of industry guile, spotty oversight and political neglect.

Born in controversy and compromise, the state and federal statutes did not actually ban assault rifles and pistols, despite the fanfare surrounding passage of the measures. Instead, the state restricted specific models and, along with the federal government, allowed countless others to legally remain in circulation.

The fallout:

* Gun manufacturers have flooded the country with so-called copycats--legal assault weapons that are cosmetically different from restricted firearms but that function with lethal similarity.



LEXIS·NEXIS

A member of the Reed Elsevier plc group



LEXIS·NEXIS

A member of the Reed Elsevier plc group



LEXIS·NEXIS

A member of the Reed Elsevier plc group

* Previously undisclosed documents reveal that legislators, in a political compromise, exempted some assault weapons because they were considered too popular among gun owners to ban, even though they often had been traced to criminal activity.

* Federal lawmakers allowed the gun industry to continue selling assault weapons and high-capacity ammunition clips that were manufactured before the law's implementation. Given that opening, major gun makers doubled and even tripled production in the year before the restrictions took effect so they would have a stockpile of weapons and clips to sell, according to newly obtained production figures. That pool of weapons is deeper than gun opponents and lawmakers had anticipated. Under both the federal and state statutes, anyone who owned weapons manufactured before the restrictions took effect were allowed to keep them.

* Assault weapon laws are so filled with vagaries and political undercurrents that police say they are often stymied in trying to crack down on the illegal gun trade. Among other things, they say, it often is impossible to distinguish between weapons that are lawful and those that are not. Moreover, some lawmakers and gun opponents accuse the U.S. Bureau of Alcohol, Tobacco and Firearms of being soft on the arms industry.

Virtually anyone can walk into a gun store or show, log onto the Internet or open up the classified section of Shotgun News and select one of dozens of copycat assault weapons or pick from among thousands of guns manufactured before the laws took effect.

They also can cross the border.

Listen to this conversation at a Nevada gun show in which a dealer offers a Poly Tec AK47 to a potential buyer from California, where the rifle is restricted.

"You could fit this under a coat," the dealer suggests to the customer, who actually is a reporter. "You could sling it over your shoulder and walk out of here and no one would know."

"Even though I'm from California?"

"This is a private party transaction. There's no wait."

"I could walk out of here with this today?"

"That's right."

"What do you do with a gun like this, hunt deer?"

"The only kind of hunting this is good for is the two-legged variety."

"Two legged? You mean . . . "

"Humans."



LEXIS·NEXIS

A member of the Reed Elsevier plc group



LEXIS·NEXIS

A member of the Reed Elsevier plc group



LEXIS·NEXIS

A member of the Reed Elsevier plc group

"I gather you're joking?"

"Yeah, I'm joking. I'm a big jokester."

Anguished victims are hard-pressed to find the humor.

From under his pillow, Samly Nakhonesy removes a framed portrait of his family. He points to his wife, his daughter, his son: "Dead. Dead. Dead."

They were gunned down with an assault rifle in April 1995--six years after the state restrictions--by one of his daughter's old boyfriends. Nakhonesy's wife of 27 years and their 20-year-old daughter died in the driveway. His 12-year-old boy was fatally wounded by a round that pierced the wall of his bedroom while he was doing homework. Nakhonesy now lives alone in a converted garage in Northern California. Alongside him in bed, where his wife once slept, a rifle rests for protection.

"Why," he asks repeatedly, "did this have to happen to my family?"

Cheerleader Sonya Woods, 17, was eating dinner with her family in their Compton home when she felt a vicious punch to her stomach. A bullet fired from an assault rifle and intended for a neighborhood gangbanger had passed through a stucco wall, two bags of groceries and a metal bucket before lodging in her abdomen, where it remains two years later.

"Nearly every day," the teenager says, "I go through the whole thing again."

The pain never ebbs for Eligio Reyes either. He recently lost his wife, Laura, and 3-year-old daughter, Celeste. A single bullet fired a block from his Lynwood home crashed through a fence and struck mother and child, both in the head.

"I don't know what this world is coming to," says Reyes. "When Celeste would go to sleep and she'd say, 'I'm scared,' I would say, 'Don't worry. Papa will take care of you.' That night, I failed."

Clearly, most assault weapon owners are law-abiding gun collectors or target-shooting enthusiasts who handle their firearms with caution and believe that the 2nd Amendment guarantees them the right to bear assault weapons. What's more, such high-powered weapons represent just a fragment of overall gun ownership in the United States--a fact that gun advocates say belies what they consider to be the overblown nature of the controversy.

"The whole assault thing is 99% hysterical," says Andrew Molchan, president of a national gun dealers association.

Not entirely.

Although handguns are far more prevalent in society, authorities say that assault weapons are proportionately more likely to be involved in crimes--and to injure more people in a single incident because of the velocity and number of bullets rocketing from the barrel.

According to a study released in February by the Urban Institute, assault



LEXIS·NEXIS

A member of the Reed Elsevier plc group



LEXIS·NEXIS

A member of the Reed Elsevier plc group



LEXIS·NEXIS

A member of the Reed Elsevier plc group

weapons constitute a mere 1% of the gun market. But they accounted for 8% of all requests made to the federal authorities for traces of guns found at crime scenes during a seven-year span. The report, prepared at Congress' request, found evidence that assault weapons are "disproportionately involved in murders with multiple victims, multiple wounds per victim and police officers as victims."

Although no government agency tracks individual assault weapon attacks, reports of such incidents routinely appear in newspapers across the country. In California during the last few years, assault weapon attacks have caused death or injury at a rate of once every three weeks. One of the most recent: A family of six was strafed three weeks ago by gang members while trying to retrieve their disabled car in South Los Angeles. Four were wounded, including two children, one of whom, a 9-year-old boy, died after being struck in the head and back.

U.S. Sen. Dianne Feinstein, who championed the federal assault weapon law, calls this situation intolerable. She says that when lawmakers passed the measure with some substantial compromises, they underestimated the industry's ingenuity.

"They'll get around any piece of legislation to ply their wares," she says of the makers of semiautomatic assault weapons, which can hold large-capacity ammunition clips and have folding stocks making them easily concealable and flash suppressors to hide barrel flame.

"Here we have the perfect weapon for someone who wants to go against the police, for the grievance killer, for the drug traffickers and for the drive-by shooters. That's what these weapons are designed for," says the California Democrat. "To me, their indiscriminate sale makes no sense at all in a civilized society."

Across State Line, Guns to Go

If you've got the inclination and cash, an assault weapon can be had with stunning ease, even in California, one of a handful of states with laws similar to the federal statute, which governs the rest of the nation. Prices range from \$ 150 for a no-frills model to thousands for a well-crafted number with laser sight and night scope.

Plenty of dealers are quick to offer encouragement and advice on how to smuggle guns from states with loose laws into those with tighter restrictions.

At the gun show in Nevada, where the federal rules apply, two reporters, appearing to be customers, are repeatedly solicited to make unlawful purchases.

At one booth, a man says he has a 32-round AP 9 assault pistol for sale--a copycat of the California-banned TEC-9.

"If you're from California, you need to buy this and get the hell out of here. You don't know me. I don't know you. It's a quick and easy transaction."

Yet another dealer offers a Colt AR-15 rifle, also restricted in California.



LEXIS·NEXIS

A member of the Reed Elsevier plc group



LEXIS·NEXIS

A member of the Reed Elsevier plc group



LEXIS·NEXIS

A member of the Reed Elsevier plc group

"You can just walk away with it now," he says. "You may never know when you might need it to protect your block. . . . It can pierce body armor and knock down a cop if you have to."

And then there's the merchant who says \$ 500 buys a notorious AK47 rifle, no matter that it's restricted in the neighboring state.

"Just don't display it when you drive it back to California," he says, offering this final tip: "If they ask you about anything, just look them in the eye and lie about it. But no one will ask."

At the manufacturing level, top gun executives also don't hide their disdain for the law. Some seem to take pride in their use of loopholes.

During a recent tour of Olympic Arms Inc. in Washington state, company controller Bruce Bell volunteers that his company sells an AR-15 copycat called a "PCR." The initials, he says with a grin, stand for "Politically Correct Rifle."

He then picks up another AR-15-type rifle called the "MFR." "Officially," he says, "it stands for Multi Function Rifle." Unofficially, he says, the initials are intended as a profane dig at the government: "Mother F-----g Rifle." Says Bell: "If this gun was an AR-15--and it is an AR-15--you couldn't own it in California."

Many in the industry scoff at the notion that assault weapons have a greater capacity for harm because of their firing characteristics and ammunition capacity.

Dick Dyke is president of Bushmaster Firearms, a Windham, Maine, firm that makes several copycat versions of the restricted Colt AR-15. He also owns 10 other companies that manufacture, among other things, poker chips and perfume. To him, assault weapons are just another "commodity."

Asked about the tragic incidents involving assault weapons, Dyke says: "I guess I don't see that happening enough to feel that it's a legitimate social issue."

Dyke and other purveyors of assault weapons say they should not be called to task when their guns are used in crimes. Such tragedies are the reflection of a violent society, they say, not of something intrinsically bad about any class of firearm.

"If it was not my weapon, it could be another weapon," Carlos Garcia, president of Navegar Inc. of Miami, says in court papers. "It could have been a knife. It could have been anything. It could have been a fire. A man snaps, he snaps. There is nothing you can do about it."

Garcia speaks from experience.

A Navegar firearm was used in one of the nation's most shocking assault weapon attacks--the 1993 massacre of eight people in a San Francisco law firm. The gunman was armed with two TEC-DC9s--copycat pistols that Navegar began marketing after a virtually identical weapon made by the company was restricted



LEXIS·NEXIS™

Ⓜ A member of the Reed Elsevier plc group



LEXIS·NEXIS™

Ⓜ A member of the Reed Elsevier plc group



LEXIS·NEXIS™

Ⓜ A member of the Reed Elsevier plc group

by the state the previous year.

Reality Falls Short of Laws' Intent

Enacted in 1989, the California Legislature's restrictions on assault weapons were the nation's first. Like many public safety laws, this one was rooted in tragedy. Earlier that year, a drifter named Patrick Edward Purdy had returned to his childhood elementary school in Stockton and opened fire, killing five children and wounding 30. Purdy squeezed off more than 100 rounds in one minute before turning the weapon on himself.

Despite overwhelming public support for the Assault Weapons Control Act, it was, in retrospect, probably destined to fall far short of its backers' hopes.

As conceived, the measure would have restricted the sale and possession of guns based on a description of their characteristics, preventing manufacturers from producing copycats. But amid strong opposition from gun interests, that language was abandoned in favor of listing 54 specific models, later increased to 75.

Arms manufacturers promptly took advantage of the wiggle room, sometimes doing nothing more than stamping a new name on a restricted weapon, thus making it legal.

One of those companies was Calico Light Weapons Systems of Bakersfield. It renamed its outlawed M-900 rifle and M-950 pistol, calling them Liberty 1 and Liberty 2, equipped with 50- and 100-round ammunition clips.

The firm also made sure it was poised to deal with the looming 1994 federal law--and another loophole. That law allowed the sale of ammunition clips with more than 10 bullets if they were manufactured before the legislation went into effect. Calico produced so many high-capacity clips in the months leading to passage of the measure that, as of last April, the company still had 6,000 on hand.

Calico President Mike Miller makes no apologies. "Personally, I don't think ammunition magazine capacity has anything to do with crime. The guy's going to be a criminal anyway."

The federal statute has also made it easy for gun makers to comply with the letter of the law, if not the spirit, by making almost imperceptible changes to their weapons.

Unlike California's measure, the federal legislation does describe an assault weapon's characteristics but narrowly defines them. High-capacity semiautomatic weapons with a bayonet lug and flash suppressor on the barrel, for example, are restricted. Manufacturers responded by simply removing those accessories, and continued selling.

Former acting Los Angeles Police Chief Bayan Lewis, among many others, is appalled by this end run.

"Just because it doesn't have a bayonet doesn't mean it's not just as dangerous," he says. "There are a whole bunch of rifles that became modified



LEXIS·NEXIS

A member of the Reed Elsevier plc group



LEXIS·NEXIS

A member of the Reed Elsevier plc group



LEXIS·NEXIS

A member of the Reed Elsevier plc group

after the law, but they are still like assault rifles."

In some cases, there was no attempt made by state or federal legislators to restrict certain firearms that are as deadly as any others. The reason: They were deemed too popular.

One was the Ruger Mini 14, manufactured by Connecticut-based Sturm, Ruger & Co., a weapon used by a Montreal gunman who, shouting, "You're all a bunch of feminists!" killed 14 female students at an engineering school in 1989. It was the worst massacre in Canadian history.

An internal state Department of Justice memorandum acknowledged that the restricted AK47 and Ruger Mini 14 "are the same caliber, magazine capacity, size, etc." But the memorandum went on to say: "It was agreed that certain weapons probably had too large a constituency to ever be worth the risk of including, including the Mini 14."

Sometimes called the "poor man's assault weapon," the Mini 14 has a loyal following because of its accuracy, reliability and entry-level price of about \$ 350. Farmers and ranchers often use the weapon to shoot such predators as coyotes and foxes.

An exception also was made for a version of the Chinese-produced SKS assault rifle, another cheap, popular gun that the Bureau of Alcohol, Tobacco and Firearms found was the fourth most-traced firearm at crime scenes in 1995. The top three were Saturday night specials.

Earlier this year, Los Angeles police officers killed a man in South-Central Los Angeles who, after a car chase, brandished an SKS--"a scary incident" that officers encounter much too often, says LAPD Lt. Anthony Alba.

In Richmond, Calif., Officer David Haynes was not as lucky as his brethren to the south. He was shot to death with an assault rifle while responding to a domestic dispute. Although the gun had all the earmarks of an assault weapon, it was not specifically named in the law, making it legal. He left behind a wife and two children.

Today, his widow, Kyle, is president of Concerns of Police Survivors, a support group for families of officers slain in the line of duty--one in 10 of whom were felled by assault weapons, according to one 1995 study. "The gun that killed my husband put out 13 rounds in 15 seconds," she says. "That's a gun that shouldn't be on the streets."

Looking back, authors of the California and federal measures insist that there was little they could do to stitch the loopholes because of the fierce and organized opposition they faced.

"The bottom line is, I've learned a lot," says Feinstein. "The biggest and most arrogant lobby back there in Washington is 'Big Gun.' They pack a clout, particularly in the House, that I have never seen in my entire life."

With a membership estimated as high as 3.5 million and a staff of hundreds, the National Rifle Assn. spent about \$ 3 million in contributions to politicians throughout the country during the 1995-96 election cycle.

**LEXIS·NEXIS**

A member of the Reed Elsevier plc group

**LEXIS·NEXIS**

A member of the Reed Elsevier plc group

**LEXIS·NEXIS**

A member of the Reed Elsevier plc group

Still, Feinstein says her weapons law represents progress, if mostly symbolic, because it has prompted assault weapon legislation in several cities and states--and because many on Capitol Hill predicted it would never pass.

Former Assemblyman Mike Roos, co-author of the California law, agrees that inroads have been made. The Assembly is considering legislation to strengthen the law by including a generic description of an assault weapon.

"We did what we wanted to do," Roos says. "We got our nose under the tent. We saw this as a beginning. That's what politics is, a beginning point."

Dennis Bridges doesn't care about such political realities. They can't bring back his easygoing kid brother, a father of three young children.

On May 19, 1995, Schun Bridges and two friends were gunned down with an AK47-style rifle during an argument over a woman in the small Northern California community of Pittsburg. The gunman first pumped multiple rounds into Bridges' friends and then pursued him into a nearby street. There, as a wounded Bridges pleaded for his life, the gunman took aim and fired from 40 yards away.

"The switchboard just lit up. People said it was like a war zone," recalls Pittsburg Police Sgt. William Zbacnik. "Those . . . slugs were literally taking out chunks of flesh from this guy."

Authorities refused to let Dennis Bridges see his brother's body because so much damage had been inflicted. All told, police recovered 30 expended shell casings, two 30-round magazines and several 15-round clips.

"That weapon not only took my brother from me and ruined my life, it ruined everybody's life," he says. "My brother had a newborn baby that will never get to see his father. . . . What do you need with an AK47? With a 30-round clip? Why do you need a weapon that's going to go through a wall?"

Complaints, Criticism of Enforcement

Laws--even flawed ones--need the muscle of government to back them up if they are to serve as a deterrent. But when it comes to targeting assault weapons, enforcement efforts pack a weak punch, according to police around the country.

Local authorities complain that the laws are so confusing, vague and incomplete that officers who try to make them stick are left exasperated. Over and over, they say, police officers seize guns they believe to be illegal assault weapons, only to learn later they are not covered under the statutes and must be given back.

"We confiscate these kinds of weapons all the time," says Zbacnik. "Our officers check to make sure they're not the ones on the ban list because there's literally no difference. We're always surprised when they're not on the list."

"To have a certain type of weapon banned and have the exact same types available out there doesn't make much sense to me," Zbacnik says. "If you're going to ban an AK47, then you're going to ban anything that looks like, smells like an AK47."



LEXIS·NEXIS™

Ⓜ A member of the Reed Elsevier plc group



LEXIS·NEXIS™

Ⓜ A member of the Reed Elsevier plc group



LEXIS·NEXIS™

Ⓜ A member of the Reed Elsevier plc group

Los Angeles County Sheriff's Sgt. Wes McBride is one of the nation's premier gang experts and is well versed in assault weapons. But even he has a hard time keeping track of what's illegal. He says he was surprised recently when his son called and described a new gun he had purchased. Based on the description, McBride concluded it was restricted.

"I told him, 'You can't buy that gun.' He said, 'Oh yes I can. I just did.' It was one of these look-alikes, an SKS."

Some officers also question the resolve of the agency primarily responsible for weapons violations, the Bureau of Alcohol, Tobacco and Firearms.

In Southern California, there are about 65 ATF agents to police the entire population of 20 million. And those few agents are handcuffed when it comes to what they can do.

The ATF is permitted, for instance, to conduct only one surprise inspection a year of a licensed firearms dealer--the legacy of a National Rifle Assn.-sponsored law passed by Congress in May 1986.

Called the Firearms Owners' Protection Act, the law was written and passed after the NRA complained that federal agents were harassing law-abiding gun owners. Opposing the measure were the country's major law enforcement organizations, which predicted that it would "pose an immediate and unwarranted threat" to the community.

"The firearms lobby didn't want ATF looking at firearms dealers' records unless they had a reason to," says Dennis Anderson, the agency's expert on regulatory matters.

In another concession to the NRA, field agents are not allowed to attend the burgeoning number of gun shows across the country without permission from supervisors, although the events are fertile ground for illegal transactions. "We only go in the course of the investigation of a specific case," says one ATF official.

Just two weeks ago, two companies--one domestic, one foreign--announced that the ATF had granted them permission to manufacture and import redesigned versions of Uzi and Galil assault rifles--eight years after a ban on their import.

Asked why the agency would do so, an ATF official in Los Angeles said the agency does not comment on "proprietary information" of gun importers.

This development followed the ATF's recent decision to allow foreign weapon manufacturers to continue exporting to the United States large-capacity gun clips, as long as they were made before September 1994, when the federal ban on such clips went into effect. The difficulty, observers say, is that U.S. authorities cannot confirm the production dates--a fact the ATF acknowledges.

"It is impractical for the government to conduct investigations abroad to determine the date of manufacture of these foreign clips," the agency conceded while still approving the sales.



LEXIS·NEXIS™

A member of the Reed Elsevier plc group



LEXIS·NEXIS™

A member of the Reed Elsevier plc group



LEXIS·NEXIS™

A member of the Reed Elsevier plc group

On top of all this, many local law enforcement agencies say the ATF sometimes is not responsive to assault weapon cases unless the number of guns is large.

"My experience with them is that individual cases aren't a priority," says one state parole agent. "I had a case here a while back where a convicted felon had purchased one of these assault rifles from a dealer." He says he asked the ATF to investigate the transaction but never heard back. "Nothing," he says.

Josh Sugarmann, executive director of the Violence Policy Center in Washington, D.C., has monitored the ATF's relationship with gun makers for a decade. The agency's recent decisions, he says, are "not nibbling at the edges of the assault weapons law. They're taking big bites out of it."

For its part, the ATF says that, despite chronic personnel shortages, it is deeply committed to enforcing weapons laws. The agency says it conducted 77,000 firearms traces in 1995, the lion's share at the request of other law enforcement agencies investigating crimes ranging from burglary to murder.

In Southern California and at field offices around the country, ATF agents lead or participate in numerous high-profile weapons seizure cases, including one in Los Angeles in March in which they confiscated an illegal cache of 400 guns, including a machine gun.

John D'Angelo, the ATF's spokesman in Los Angeles, says the agency enforces the law to the best of its ability but adds: "If we had more agents, there's definitely enough work to go around."

Victims' Families Seek Answers

From Manhattan Beach to Maine, there are many people who wonder each day: How many more must die?

People like Rebecca Valdez of Westminster. As her 19-year-old son Daniel said goodbye and unlatched the screen door to head out for a night with friends, shots rang out from a legal assault rifle. He grabbed his chest, wobbled backward and collapsed. "Mom, give me some help," he whispered. She could offer none. Moments later, he was gone, the victim of mistaken identity.

People like Mary Gaugh of El Cajon, who lost her 9-year-old daughter, Jessica, on Oct. 30, 1993, when a man with a Colt AR-15 began firing at children from his second-story window. Wounded in the back, Jessica made it to the doorstep of her apartment, where she crumpled into the arms of her older brother, Joshua. To this day, he can still vividly remember the way Jessica's skin turned cold.

And people like Darrel Southall of Compton.

Last December, his 16-year-old daughter, Angie, and two of her closest friends were getting ready to go roller-skating when they were felled by repeated shots from a high-powered assault weapon fired from a passing car. All three teenagers died, the victims of a mistaken retaliatory shooting by gang members.



LEXIS·NEXIS™

Ⓜ A member of the Reed Elsevier plc group



LEXIS·NEXIS™

Ⓜ A member of the Reed Elsevier plc group



LEXIS·NEXIS™

Ⓜ A member of the Reed Elsevier plc group

"It's just too easy for these kinds of guns to fall into the wrong hands," Southall says. "There are gun collectors and there are very responsible gun owners, but it's the other half that does the damage."

Sitting in his daughter's bedroom one recent afternoon, Southall has the look of a man gazing hard at memories.

"If you take the most expensive piece of crystal and drop it from the highest building, it shatters on the street, and if you go down to try to put the pieces back together, it will be impossible. That is the way my life is right now."

He speaks haltingly of the baby girl he once held and promised to protect, and of her final words before her body stilled.

"Daddy," she said, "there's blood in my mouth."

Times photographer Carolyn Cole and researcher Janet Lundblad contributed to this story.

(BEGIN TEXT OF INFOBOX / INFOGRAPHIC)

About This Series

Six months ago, after the nation saw two North Hollywood bank robbers terrorize scores of police officers and civilians with a seemingly endless spray of assault rifle bullets, Times staff writers Jeff Brazil and Steve Berry set out to answer this question:

Why, years after federal and state laws were passed to restrict these lethal semiautomatic guns, do they continue to proliferate, felling innocent people from coast to coast?

Through documents obtained under public records laws and interviews with victims, gun makers and law enforcement officials, the reporters found that the country's assault weapon statutes have been circumvented and undermined--that the law has been **outgunned**.

* Today: How the arms industry has exploited flaws in the law, with tragic consequences.

* Monday: The questions surrounding California Atty. Gen. Dan Lungren's commitment to enforcing the state's landmark assault weapon restrictions.

* Tuesday: A look at assault weapon owners, who represent a fraction of the overall arms market but exercise significant clout in the nation's gun policy debate.

* Wednesday: Australia's answer to assault weapon violence in the wake of the world's worst attack by a lone gunman.

GRAPHIC: PHOTO: Steve Wagner of Carter Lake, Iowa, fires his AR-15, restricted in California, at the Fun and Freedom Shoot in Kearney, Neb. He said he attends several such events each year. PHOTO: Eligio Reyes, far left, is supported at the burial service for his wife and daughter, the victims of a single bullet



LEXIS·NEXIS

A member of the Reed Elsevier plc group



LEXIS·NEXIS

A member of the Reed Elsevier plc group



LEXIS·NEXIS

A member of the Reed Elsevier plc group

from an assault rifle. The 3-year-old's toys, above, now sit idle. Sonya Woods, left, was eating dinner when she was injured by a similar bullet. PHOTO: Samly Nakhonesy, left, whose wife and two children died in an attack two years ago, now sleeps with a gun for protection. At Costa Mesa Fairgrounds in Orange County, a man sells a "pre-ban" assault rifle. PHOTO: Olympic Arms in Washington state sells copycat versions of assault weapons that have been banned. Other makers have done the same. PHOTO: Cheap, popular guns--such as the SKS assault rifle in this photo illustration--are easy to buy despite restrictions, police say. PHOTO: (BullDog Edition, A1) Mary Gaugh and daughter, Denice. Gaugh lost daughter Jessica, 9, in an assault-weapon shooting in El Cajon on Oct. 30, 1993. PHOTOGRAPHER: CAROLYN COLE / Los Angeles Times

LANGUAGE: English

LOAD-DATE: August 24, 1997



LEXIS·NEXIS
A member of the Reed Elsevier plc group



LEXIS·NEXIS
A member of the Reed Elsevier plc group



LEXIS·NEXIS
A member of the Reed Elsevier plc group

THE WHITE HOUSE

WASHINGTON

September 13, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: RAHM EMANUEL
BRUCE REED

RE: MEETING WITH SENATOR FEINSTEIN ON FIREARMS ISSUES

Senator Feinstein wants to discuss 3 firearms issues with you that were recently featured in an LA Times series criticizing the California and federal laws banning assault weapons. These include: (1) the importation of large capacity ammunition feeding devices; (2) "copycat" or "sporterized" assault weapons; and (3) enforcing federal firearms laws at gun shows. This memorandum summarizes these issues and provides some suggested talking points for your meeting.

I. LARGE CAPACITY AMMUNITION FEEDING DEVICES

The assault weapons ban generally prohibited the possession of ammunition clips with a capacity of more than 10 rounds, but specifically grandfathered clips manufactured on or before September 13, 1994. Initially, The Bureau of Alcohol, Tobacco and Firearms (ATF), with guidance from the Domestic Policy Council (DPC), interpreted this prohibition to include the continued importation of all large capacity clips -- no matter when they were manufactured. This interpretation was based on the fact that clips not in the country before the effective date could not have been lawfully possessed at that time and, thus, were banned from importation.

Several importers, however, brought suit challenging this narrow interpretation of the law, and the Department of Justice advised that the ATF/DPC position was not likely to hold up in court and should be reversed. As a result, in July of 1996, ATF reinterpreted the clip provision acknowledging that pre-ban clips could be imported, but requiring importers to present reasonable evidence that clips to be imported were manufactured on or before the ban's enactment. Thus, as of March 1, 1997, approximately 160,000 large capacity clips had entered the country under 21 approved permits; another 20 permits had been denied for lack of evidence; and a total of 83 approved permits seeking to import more than 2 million large clips remained outstanding. (NB: There are no definitive numbers about how many domestically produced clips have been grandfathered, but it is estimated that there are many millions of existing -- and reusable -- clips that will last a lifetime.)

Senator Feinstein opposed the language in the assault weapons ban grandfathering large clips and supports repealing it. This language, however, was inserted during the crime bill conference by Representative John Dingell, and Administration officials and Members of Congress involved in the negotiations have been reluctant to seek its repeal.

The Senator has also suggested that the Administration can, by executive order, further restrict the number of large clips imported or increase the number of ATF agents investigating the production of clips overseas. We are not optimistic about either of these options. First, as previously mentioned, the Department of Justice has already overturned the ATF/ DPC initial policy to ban the importation of all large clips. And second, ATF agents have no overseas jurisdiction to conduct investigations and can only do so by convention or through mutual assistance treaties with other countries.

II. "COPYCAT" OR "SPORTERIZED" ASSAULT WEAPONS

The assault weapons ban prohibits 19 specific firearms, duplicates of those 19 and other semiautomatic weapons that meet various criteria (i.e., those that accept a detachable magazine and possess characteristics such as folding stocks, bayonet lugs and flash suppressors). Since passage of the assault weapons ban, some gun manufacturers have adapted or "sporterized" their assault weapons to meet the law's criteria. As a result, there are guns on the market today with either similar names or certain similar features as assault weapons, but that otherwise comply with the terms of the ban. In fact, despite their appearance, some of these firearms -- such as the Israeli Military Industries Galil -- have been re-engineered and are considerably more difficult to convert to fully automatic than their previous versions. Nonetheless, a lucrative market still exists for "assault-type" weapons, and some manufacturers -- either through brand names or appearances -- continue to target this segment of the market.

Senator Feinstein believes that we can do more to crack down on these new "copycat" versions of assault weapons. We do not think this is possible without additional authority from Congress. This was a limitation of the assault weapons ban that the Administration and Congress accepted when they decided to endorse the Feinstein/DeConcini approach over Representative Schumer's. The Schumer ban granted the Treasury Department the authority to add or delete firearms from the prohibited list.

III. ENFORCING FEDERAL FIREARMS LAWS AT GUN SHOWS

Gun shows and flea markets are the last bastion of unregulated and undocumented firearms transfers. Most participants are private gun owners who do not sell firearms for a living and are generally there to buy and sell from each others' private collections. As such, these secondary sales are generally exempt from most state and federal firearms laws, including the 1968 Gun Control Act that gives the Treasury Department the authority to license and regulate federal firearms dealers. However, anecdotal evidence repeatedly has shown that violations of state and federal firearms laws often do take place at these shows. Senator Feinstein believes that ATF should amend its internal policies and police these shows more aggressively.

As of March 16, 1994, ATF's policy on gun shows provides that agents must get authorization from their local Special Agent in Charge (SAC) and have an intended subject or target before they can attend a gun show. Prior to this date -- and in response to congressional hearings on ATF's policies -- ATF had an even more restrictive policy that required approval from the Washington headquarters before an agent could attend a gun show. This is no longer

the case, and ATF agents do attend gun shows in the course of investigations and to follow-up on tips from legitimate gun dealers. Additionally, ATF inspectors do attend and sponsor booths at all of the major gun shows -- those attended by manufacturers and gun dealers, not just private collectors -- and disseminate information on federal gun laws.

IV. SUGGESTED TALKING POINTS

- Senator, I share your concerns with respect to the assault weapons ban and am willing to use the full authority of the executive branch to make sure that we do our best to enforce the ban's provisions.
- In fact, on 3 separate occasions I have taken executive action to crack down on assault weapons and gun dealers. In August of 1993, I banned the importation of assault pistols and toughened requirements for federal gun dealers. And in May of 1994, for foreign policy reasons, I banned the importation of firearms from China -- including millions of assault-type weapons and large capacity clips.
- Equally important, we have tried to interpret the provisions of the ban on large capacity clips as strictly as possible, but litigation forced us to change our position.
- So, unfortunately, I think we will need to pass new legislation that expands Treasury's authority if we want to include more guns and more clips -- and you know that will not be easy. But I am pleased to ask Rahm Emanuel, Bruce Reed and our attorneys to take one more look at the law and your suggestions, and to see if there is anything more we can do short of legislation.
- With respect to gun shows, I think you have hit on an important issue. We have had much success through the Brady Bill, assault weapons ban and reforms to the federal firearms licensing system, and gun shows should not be allowed to undermine these efforts.
- Still, it seems that we have little authority in this area, and that Congress has a history of restricting ATF's ability to aggressively enforce our gun laws. But I agree with you that there must be more we can do. Again, I would like to ask Rahm and Bruce to do some research on this and see what administrative options are available to us -- to see what more we might be able to do in terms of federal enforcement at these shows.

Where in Jose?

Clinton To Propose FDA Authority Over Food Imports. Evening Television. CBS (9/29, Attkisson) reported last night, "The problem of contaminated imported food is affecting more Americans than ever before. ... Oddly enough, the Food and Drug Administration lacks the authority to stop contaminated food from entering the country. CBS News has learned that President Clinton this week will launch a proposal to give the FDA that authority."

Heroin Use On The Rise. Morning Television. NBC (9/30) reported, "Drug Czar Barry McCaffrey says heroin use is on the rise, especially among young people. McCaffrey says eighth graders are now more likely to use heroin than high school seniors. He says there are now an estimated 600,000 heroin addicts in the United States."

US Reacts To France-Iran Gas Deal. Newspapers and Wires. USA (9/30, A6, Slavin) reported, "France signaled its defiance Monday of a US law that attempts to dictate the commercial policies of other nations, insisting that a \$2 billion contract with Iran will go through. A French company, Total...signed a contract Sunday to develop offshore Iranian gas fields despite repeated warnings from Clinton Administration officials that it would be subject to retaliation. ... In Washington, State Department spokesman Christopher Bush said the 1996 act 'is the law and we will apply it fully.' Under the law, the United States can exclude companies that do big business with Iran from exporting to the USA. Total, based in Paris, owns three refineries and 1,800 gas stations in the USA."

Study Sounds Alarm Over Russian Organized Crime. Evening Television. ABC (9/29, Jennings) said last night there is "a fairly alarming report published today which adds to the growing concern about the growing reach of Russian organized crime. The Center for Strategic and International Studies in Washington says that there are more than 200 Russian criminal groups operating in more than 50 countries now. And the US should be worried, says this group of Americans, because organized crime in Russia is uniquely placed to traffic in Russian nuclear material. If something is not done to fight organized crime, says this study, Russia is in danger of being ruled by a criminal syndicate which would include corrupt businessmen and crooked officials."

Israeli Gun Imports Spur Congressional Fight. Morning Television. NBC (9/30) reported, "There's a new fight in Congress over the sale of Israeli-made weapons to American arms dealers." Added NBC (Johns): "Tens of thousands of rapid fire uzls and galils, coveted firearms from Israel, have gotten Federal clearance to be specially modified and shipped to the US for sale. It's all perfectly legal even though critics of the deal charge that the weapons come too close to the classification of assault rifles which were outlawed by an act of Congress in 1994. California Senator Dianne Feinstein wrote a letter urging the President to declare a temporary suspension. Thirty senators, mostly Democrats, signed the letter, including Richard Durbin of Illinois." Durbin was shown saying, "I think the bottom line is this - who in the world thinks America is a safer country with 20,000 more assault weapons on the street?" Continued NBC: "The National Rifle Association, which bitterly opposed the assault weapons ban, says there should be no more gun control than the law already allows. ... The Administration has not taken a position on the request to suspend importation of the weapons. If the White House doesn't act, supporters of gun control say the US will leave the market wide open for other countries to sell their guns."

Botha To Be Questioned By S. Africa Truth Commission. Radio. National Public Radio (9/30) reported this morning, "South Africa's Truth Commission has issued a subpoena to a former president. P.W. Botha has been ordered to appear to answer questions about his government's efforts to put down black resistance to apartheid."

Senate "Hold" Tradition To Be Reconsidered. Newspapers and Wires. USA (9/30, A4, Leavitt) reported Sens. Ron Wyden (D-OR) and Chuck Grassley (R-IA) will today "attack" the Senate's "tradition" of the "secret 'hold' a senator may place on legislation to block it." Wyden and Grassley will offer an amendment that "would still allow holds, but the senator placing the hold would have to be identified." Currently, "Senate rules allow any member to anonymously, and without giving a reason, prevent legislation from coming to the floor for debate."

Lawmakers' Trips To Libya Not Penalized. Newspapers and Wires. The AP (9/30) reported, "Several members of Congress have visited Libya in the same manner as Rep. Earl F. Hilliard (D-AL) and none



SHIMABUKUR L @ A1
10/23/97 09:51:00 AM

Record Type: Record

To: Jose Cerda III, Leanne A. Shimabukuro

cc:

Subject: CLINTON TO LIMIT IMPORTS OF FOREIGN ASSAULT-STYLE WEAPONS

Date: 10/23/97 Time: 08:45

CClinton to limit imports of foreign assault-style weapons

WASHINGTON (AP) President Clinton is planning to limit imports of foreign assault-style weapons that have been modified to circumvent a federal ban.

Clinton is expected to sign a two-part directive that would suspend pending and future applications to import modified assault weapons, White House officials said Wednesday. The directive also would examine the criteria used to allow import of nonsporting weapons and adjust that criteria as necessary.

The National Rifle Association denounced the plan as a backhanded attempt to curtail Americans' right to bear arms.

``This is the most disturbing step in 50 years to ban an entire class of firearms," said Wayne LaPierre, NRA executive vice president. ``What is next to be banned? The Benelli semiautomatic shotgun like the one the president used for duck hunting?"

White House spokesman Mike McCurry said Clinton is concerned that certain types of weapons are being sneaked into the United States with only a few cosmetic changes to avoid a 1994 ban.

``We now are seeing manufacturers who are able, in a sense, to clone assault weapons and slip underneath the standards that exist," McCurry said.

The president's directive would affect about 30 weapons, said senior adviser Rahm Emanuel. He would not say when Clinton would issue the order.

Thirty Democratic senators, led by Dianne Feinstein of California, wrote Clinton last month asking that he temporarily suspend imports of all semiautomatic weapons to block an Israeli manufacturer's export of thousands of modified military-style weapons for commercial sale.

The guns, known as the Uzi American and the Galil Sporter, were modified so that they do not violate the 1994 assault weapons ban, the senators said. They noted that the Bureau of Alcohol, Tobacco and Firearms has said the guns remain capable of firing rapidly but were approved for import because they did not violate the ban.

``They have become the weapon of choice for grievance killers, gangs and those who use them against police," Feinstein wrote.

``They are designed to kill large numbers in close combat, and as such have no place on the streets of a civilized society."

The NRA, however, said gun control, not crime, was the real motivating factor behind Clinton's directive. It noted FBI

statistics showing rifles of all types were involved in only 3 percent of homicides nationwide.

``More people are murdered each year by fists and feet than by a so-called assault weapon," LaPierre said. ``This is a massive effort by the Clinton administration to begin the process of banning full ownership of firearms by the American public."

The Uzi and Galil both are made by Israel Military Industries, a government-owned manufacturer.

Feinstein also has put together a list of 36 or so weapons from 15 countries that she believes can be categorized as modified assault weapons. According to the Clinton administration, 35,000 of these guns mostly modified AK-47s arrived in the United States over the past two years.

Besides Israel, the weapons come from Argentina, Austria, Brazil, Bulgaria, Egypt, Germany, Greece, Hungary, Poland, Portugal, Romania, Russia, South Korea and Switzerland.

Under Clinton's plan, the ATF would study the various ways that about 30 foreign-made modified assault rifles are being used. Feinstein asked Clinton to halt import of all assault weapons immediately, pending the outcome of the study, and also appealed to Israeli Prime Minister Benjamin Netanyahu to ``personally intervene" to halt the export.

The White House said Clinton's directive does not cover imports for which permits already have been issued, but Feinstein said she understood her request is being considered.

``Right now, the jury's out and I have to wait and see what they come up with," she said. ``I have no doubt the president has the authority to do this."

APNP-10-23-97 0848EDT

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. Cristen

IV. PRESS PLAN

Closed Press.

V. SEQUENCE OF EVENTS

- You meet with Senator Feinstein in the Oval Office.
- The Senator departs.

VI. REMARKS

Suggested talking points are attached.

VII. ATTACHMENTS

- Fact sheet on Senator Feinstein's issues
- Suggested talking points
- LA Times article, "Outgunned"

FACT SHEET

LARGE CAPACITY AMMUNITION FEEDING DEVICES

The assault weapons ban generally prohibited the possession of ammunition clips with a capacity of more than 10 rounds, but specifically grandfathered clips manufactured on or before September 13, 1994. Initially, The Bureau of Alcohol, Tobacco and Firearms (ATF), with guidance from the Domestic Policy Council (DPC), interpreted this prohibition to include the continued importation of all large capacity clips -- no matter when they were manufactured. This interpretation was based on the fact that clips not in the country before the effective date could not have been lawfully possessed at that time and, thus, were banned from importation.

Several importers, however, brought suit challenging this narrow interpretation of the law, and the Department of Justice advised that the ATF/DPC position was not likely to hold up in court and should be reversed. As a result, in July of 1996, ATF reinterpreted the clip provision acknowledging that pre-ban clips could be imported, but requiring importers to present reasonable evidence that clips to be imported were manufactured on or before the ban's enactment. Thus, as of March 1, 1997, approximately 160,000 large capacity clips had entered the country under 21 approved permits; another 20 permits had been denied for lack of evidence; and a total of 83 approved permits seeking to import more than 2 million large clips remained outstanding. (NB: There are no definitive numbers about how many domestically produced clips have been grandfathered, but it is estimated that there are many millions of existing -- and reusable -- clips that will last a lifetime.)

Senator Feinstein opposed the language in the assault weapons ban grandfathering large clips and supports repealing it. This language, however, was inserted during the crime bill conference by Representative John Dingell, and Administration officials and Members of Congress involved in the negotiations have been reluctant to seek its repeal.

The Senator has also suggested that the Administration can, by executive order, further restrict the number of large clips imported or increase the number of ATF agents investigating the production of clips overseas. We are not optimistic about either of these options. First, as previously mentioned, the Department of Justice has already overturned the ATF/DPC initial policy to ban the importation of all large clips. And second, ATF agents have no overseas jurisdiction to conduct investigations and can only do so by convention or through mutual assistance treaties with other countries.

"COPYCAT" OR "SPORTERIZED" ASSAULT WEAPONS

The assault weapons ban prohibits 19 specific firearms, duplicates of those 19 and other semiautomatic weapons that meet various criteria (i.e., those that accept a detachable magazine and possess characteristics such as folding stocks, bayonet lugs and flash suppressors). Since passage of the assault weapons ban, some gun manufacturers have adapted or "sporterized" their assault

weapons to meet the law's criteria. As a result, there are guns on the market today with either similar names or certain similar features as assault weapons, but that otherwise comply with the terms of the ban. In fact, despite their appearance, some of these firearms -- such as the Israeli Military Industries Galil -- have been re-engineered and are considerably more difficult to convert to fully automatic than their previous versions. Nonetheless, a lucrative market still exists for "assault-type" weapons, and some manufactures -- either through brand names or appearances -- continue to target this segment of the market.

Senator Feinstein believes that we can do more to crack down on these new "copycat" versions of assault weapons. We do not think this is possible without additional authority from Congress. This was a limitation of the assault weapons ban that the Administration and Congress accepted when they decided to endorse the Feinstein/DeConcini approach over Representative Schumer's. The Schumer ban granted the Treasury Department the authority to add or delete firearms from the prohibited list.

ENFORCING FEDERAL FIREARMS LAWS AT GUN SHOWS

Gun shows and flea markets are the last bastion of unregulated and undocumented firearms transfers. Most participants are private gun owners who do not sell firearms for a living and are generally there to buy and sell from each others' private collections. As such, these secondary sales are generally exempt from most state and federal firearms laws, including the 1968 Gun Control Act that gives the Treasury Department the authority to license and regulate federal firearms dealers. However, anecdotal evidence repeatedly has shown that violations of state and federal firearms laws often do take place at these shows. Senator Feinstein believes that ATF should amend its internal policies and police these shows more aggressively.

As of March 16, 1994, ATF's policy on gun shows provides that agents must get authorization from their local Special Agent in Charge (SAC) and have an intended subject or target before they can attend a gun show. Prior to this date -- and in response to congressional hearings on ATF's policies -- ATF had an even more restrictive policy that required approval from the Washington headquarters before an agent could attend a gun show. This is no longer the case, and ATF agents do attend gun shows in the course of investigations and to follow-up on tips from legitimate gun dealers. Additionally, ATF inspectors do attend and sponsor booths at all of the major gun shows -- those attended by manufacturers and gun dealers, not just private collectors -- and disseminate information on federal gun laws.

SUGGESTED TALKING POINTS

- Senator, I share your concerns with respect to the assault weapons ban and am willing to use the full authority of the executive branch to make sure that we do our best to enforce the ban's provisions.
- In fact, on 3 separate occasions I have taken executive action to crack down on assault weapons and gun dealers. In August of 1993, I banned the importation of assault pistols and toughened requirements for federal gun dealers. And in May of 1994, for foreign policy reasons, I banned the importation of firearms from China -- including millions of assault-type weapons and large capacity clips.
- Equally important, we have tried to interpret the provisions of the ban on large capacity clips as strictly as possible, but litigation forced us to change our position.
- So, unfortunately, I think we will need to pass new legislation that expands Treasury's authority if we want to include more guns and more clips -- and you know that will not be easy. But I am pleased to ask Rahm Emanuel, Bruce Reed and our attorneys to take one more look at the law and your suggestions, and to see if there is anything more we can do short of legislation.
- With respect to gun shows, I think you have hit on an important issue. We have had much success through the Brady Bill, assault weapons ban and reforms to the federal firearms licensing system, and gun shows should not be allowed to undermine these efforts.
- Still, it seems that we have little authority in this area, and that Congress has a history of restricting ATF's ability to aggressively enforce our gun laws. But I agree with you that there must be more we can do. Again, I would like to ask Rahm and Bruce to do some research on this and see what administrative options are available to us -- to see what more we might be able to do in terms of federal enforcement at these shows.

Flood of Assault Guns Aimed at U.S.

By JEFF BRAZIL
and STEVE BERRY
TIMES STAFF WRITERS

President Clinton's effort to block the flow into the country of military-style assault weapons modified to skirt U.S. law has become complicated by the revelation that federal regulators have already approved the importation of up to 600,000 of the high-powered guns.

The 600,000 figure, which is significantly higher than most observers anticipated, is certain to complicate a heated debate at the White House over whether to broaden the administration's recently proposed restrictions on future import permits for

foreign assault weapons.

If the White House doesn't widen its three-week-old proposed directive—which has been criticized as a lukewarm response to the problem of redesigned assault weapons—the 600,000 guns would be allowed into the country.

"We all were more than a little surprised" at the figure, said a knowledgeable source in the Treasury Department, which has been researching the arms importation issue at the request of the White House.

Tuesday's developments come three weeks after a senior White House official confirmed that President Clinton planned to sign a directive to limit the influx of foreign-made assault weapons. At

the time, the administration was committed to temporarily suspending the issuance of new import permits. Almost immediately, however, the administration's proposed plan was criticized because it would not prohibit the importation of weapons that had already been granted permits by the U.S. Bureau of Alcohol, Tobacco and Firearms.

It was unclear, then, exactly how many weapons had been granted permits. But in recent days, researchers at the Treasury Department have discovered that, in the last 12 months alone, ATF has approved import licenses for up to 600,000 modified assault weapons.

That discovery is sure to fan the internal debate at the White House, where lawyers are concerned that any action against import licenses that have already been granted may prompt lawsuits from gun importers.

Thirty U.S. senators, led by California's Dianne Feinstein, have implored Clinton in a letter to use his executive authority to prevent the entrance into the country of foreign-made weapons that have come to symbolize the substantial shortcomings of the nation's laws on assault weapons and weapons that don't meet the legal definition of "sporting" guns.

Feinstein's push came after a series in The Times revealed that gun makers have eluded restrictions on such weapons by making slight modifications that leave intact the lethal ability to accept high-capacity ammunition magazines of up to 100 rounds.

"What this clearly shows is that these weapons are coming into the country in the hundreds of thousands," said Feinstein. "This country will be flooded with these weapons, which means that the president's executive order is more

important than ever.

"It's pretty clear," Feinstein added, "that two-thirds to four-fifths of the American people believe that we have no need for semiautomatic assault weapons in the United States of America. The people draw the line there."

Josh Sugarmann, head of the Violence Policy Center in Washington, D.C., reacted strongly to the news that more than half a million modified assault weapons have been approved for import. "This shows that it is essential that these weapons be stopped," Sugarmann said.

A White House official contacted Tuesday would not comment.

Until the president's directive on foreign-made weapons is finalized and signed—an action expected to be completed more than a week ago—the ATF has suspended action on any import licenses, a move that has drawn the ire of

CIN

93

GUN

some in the firearms industry.

7. Tanya K. Metaksa, chief lobbyist for the National Rifle Assn., criticized ATF for refusing to act on new applications for import permits.

"That's clearly illegal for them to do under the procedures of the federal government," Metaksa said.

Metaksa also argued that the foreign-made guns at the center of the discussion have a legitimate "sporting purpose" as is required by law and, perhaps more important, are not unlike domestically-produced weapons that are also legal under current law. She blamed Feinstein and other lawmakers for creating the loopholes that allow for cosmetically altered weapons to be made legal. "What the gun manufacturers have done has been to adhere to the law," Metaksa said. "Now the government is saying we didn't really mean what the law says."

Gun-control advocates, however, urged President Clinton to do as President Bush did in 1989 when he suspended importation of 43 models of semiautomatic assault weapons, including some that had already been approved for importation by the ATF.

"We call on the president to stand as firm as President Bush did," said Luis Tolley, western director of Handgun Control Inc. "And we urge our allies who have a special relationship with the U.S. to be sensitive to America's concern about the deadly carnage these weapons cause on our streets."

"The Uzis and other weapons have a clear record of destruction and mass murder," Tolley added, "and just because the manufacturers have made a couple of cosmetic changes doesn't legitimize them."

Times staff writer Elizabeth Shogren in Washington contributed to this story.

98

Date: 11/15/97 Time: 10:02

bTranscript of President Clinton's Radio Address to the Nation

To: National Desk

Contact: White House Press Office, 202-456-2100

WASHINGTON, Nov. 15 /U.S. Newswire / -- Following is a transcript of President Clinton's weekly radio address to the nation:

The Roosevelt Room

THE PRESIDENT: Good morning. Today I want to talk about the progress we're making in our fight against crime and the steps we're taking to build on that progress. All over our country, crime is dropping. Responsibility and respect for the law are on the rise. But the true measure of our progress is whether our children can play in their front yards, whether they can walk to school in safety, whether our parents can unlock their front doors, whether our grandparents can walk down the streets with confidence, free from the fear of violence.

To give our families that security, we've put in place a comprehensive plan to bring the crime rate down -- with 100,000 new community police officers, tougher punishment, stronger anti-gang prevention, the Brady Bill. And we've led an unprecedented effort to join the forces of national, state and local law enforcement to fight crime in every community in America.

In the three years since I signed the Crime Bill into law, we know our strategy is having a real, measurable impact. Crime has dropped now for a record five years in a row. Today, we have even more dramatic proof of our progress -- the Annual National Crime Victimization Survey. It says that in 1996, crime rates fell to their lowest recorded level in nearly 25 years. Property crime is down. Violent crime is down.

Since 1993, murder has dropped by 22 percent, 10 percent in 1996 alone. This remarkable drop in the crime rate is no accident. The hard work of people from Washington to every community in the country made it happen.

Community policing is at the center of this success. In only three years, we've already funded 65,000 new police officers under the Crime Bill and we're close to meeting our goal of putting 100,000 new police officers on our streets.

Our nation's police officers will tell you that our ongoing effort to ban lethal assault weapons has also been critical to their ability to do a better job. We've banned these guns because you don't need an uzi to go deer hunting, and everyone knows it.

But as effective as the assault weapons ban has been, we know that some foreign gun manufacturers are getting around the ban by making minor modifications to their weapons that amount to nothing more than cosmetic surgery. Well, we didn't fight as hard as we have -- to pass the assault weapons in the first place -- only to let a few gun manufacturers sidestep our laws and undermine our progress.

Assault weapons in the hands of civilians exist for no reason but to inspire fear and wreak deadly havoc on our streets. They don't belong on our streets or in our schoolyards, and they

shouldn't be aimed at our children. That's why we banned them three years ago and why we're taking action today.

Effective immediately, the Secretary of the Treasury is suspending 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. We must continue to do

everything we can to crack down on illegal firearms and the organized criminals, terrorists and drug lords who seek them. Yesterday, President Zedillo of Mexico and I signed an unprecedented international convention to help fight illegal gun trafficking in our own hemisphere and to strengthen law enforcement's ability to combat this deadly trade.

Working together over the last five years, we've proven that we can drive down the crime rate. Now we have to press on, confident that we can take our streets back from crime, take assault weapons and illegal firearms out of the hands of criminals, enact a tough but smart juvenile justice bill, and eventually, give our families and our children the real security they deserve.

Thanks for listening.

-0-

/U.S. Newswire 202-347-2770/

APNP-11-15-97 1006EST

NRA-ILA FAX ALERT

11250 Waples Mill Road * Fairfax, VA 22030

Phone: 1-800-392-8683 * Fax: 703-267-3918 * GROOTS@NRA.org

SPECIAL

10/22/97

SPECIAL ALERT: CALL YOUR CONGRESSMAN!

"WE ARE TAKING THE LAW AND BENDING IT AS FAR AS WE CAN
TO CAPTURE A WHOLE NEW CLASS OF GUNS"

According to Jose Cerda a "White House official who specializes in gun control policy." Mr. Cerda was quoted in a Los Angeles Times story today, in response to a proposed presidential memorandum that would prohibit the import of a host of semi-automatic firearms. The story noted an imminent presidential directive that would halt the issuance of new import licenses while it reviews the "sporting purposes" criteria for certain guns. Simply put, this latest Clinton-Gore Administration initiative bans guns that conform in every way to the legal requirements of the Administration's own 1994 gun ban.

Clearly, this represents the next link in the Clinton-Gore Administration's gun ban chain -- a preview if you will of the 1998 Clinton Gun Ban. You've heard the verbiage before. The terminology used to justify assaults on our rights. For example, recall not too long ago, the gun ban lobby in California was working to ban so-called "junk guns," using the "logic" that if these guns don't meet the requirements for importation, why should they be legally manufactured in the U.S.? Well, that mantra, and the Clinton propaganda machine, is again in full swing using that same logic.

This latest development is unfortunate, but not surprising. For years, the National Rifle Association of America has argued that bans on firearms are worthless measures that impact only law-abiding citizens. Moreover, we have said that cosmetic features -- or lack thereof -- do not impact the way firearms function. Accordingly, we have predicted that the Clinton Gun Ban of 1994 would merely lead to more bans encompassing more guns than ever before. With unmistakable clarity, the Clinton-Gore Administration has confirmed both our appraisals and our forecast.

A press release issued today by the rabidly anti-gun Violence Policy Center says it all, "A White House plan to stop allowing the import of slightly modified assault weapons is only a first step toward closing gaping loopholes in the federal ban on these weapons."

NRA-ILA is current working with our allies on Capitol Hill to get more details on this latest crusade by the Clinton-Gore Administration, and this issue will be covered in greater detail in your regular Friday FAX Alert.

In the meantime, please contact your U.S. Representative at 202/224-3121, and urge him to oppose the President's attempt to use his executive power to ban your semi-automatic firearms. Remind him that the "sporting purposes" test is not mentioned in the Second Amendment! Call today, and stay tuned!

=+=+=+=+

This information is provided as a service of the National Rifle Association Institute for Legislative Action, Fairfax, VA.

A1

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

C i r 16

68

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."

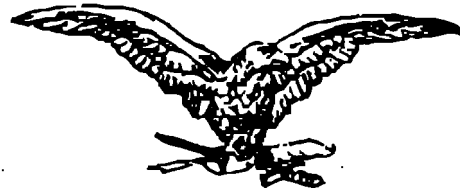
Less diplomatic was Josh Sugarmann, executive director of the Washington-based Violence Policy Center, which supports gun control.

"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."

69

1710

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.

Date: 11/15/97 Time: 14:54

CPresident halts import of assault weapons

LAS VEGAS (AP) President Clinton halted importation of Uzis and other military-style assault weapons that he said have been getting around a federal ban because they were altered to pass as sport guns.

``We didn't fight as hard as we have ... only to let a few gun manufacturers sidestep our laws and undermine our progress,'' the president said in his weekly radio address broadcast Saturday.

``We've banned these guns because you don't need an Uzi to go deer hunting, and everyone knows it.''

These guns ``exist for no reason but to inspire fear and wreak deadly havoc on our streets,'' Clinton said.

Clinton ordered a 120-day suspension on import permits for some 43 types of military-style rifles and told the Treasury Department to review its policies to determine whether rules should be tightened to keep out weapons that aren't really for sport.

Sen. Dianne Feinstein, D-Calif., who led a drive in Congress to urge the president to use his power to take this action, applauded the decision.

``I believe that when the review is completed, hundreds of thousands of military-style assault weapons that have been marketed under the guise of `sporting weapons' will be permanently barred from importation,'' Feinstein said. ``Anyone who needs an Uzi to hunt a deer should try another sport.''

Federal gun laws created in 1989 during the Bush administration ban the shipment of assault weapons and allow only guns for sporting purposes into the United States.

Some models, Clinton said, have been reconfigured by manufacturers in order to appear more ``sporting'' and skirt the federal ban.

The modifications ``amount to nothing more than cosmetic surgery,'' Clinton said. He directed Treasury to determine ``whether (the guns) can be permanently blocked from our borders and banned from our streets.''

``Now that we've banned them in America, you've got all these foreign gun manufacturers who are trying to modify their assault weapons to get them in under the `sporting' definition,'' Clinton told a reception of donors to the Democratic National Committee in Las Vegas late Friday.

``I'm not going to let people overseas turn our streets into battle zones where gangs are armed like they were guerrilla warriors halfway around the world if I can stop it,'' he declared to applause.

Clinton, long an advocate of tighter gun controls, was clearly piqued by a recent surge in permit applications for modified assault weapons. In 1994, he pushed Congress to pass a statutory ban on the import, manufacture or sale of 19 specific types of assault weapons.

This year, firearms importers have obtained permits to ship in nearly 600,000 altered guns, Clinton said, and applications are pending for an additional 1 million. Some 20,000 of the 600,000 weapons already have entered the country.

Clinton taped his radio broadcast in Washington on Friday before flying to Las Vegas to kick off a four-day, four-state swing to raise money for the Democratic Party.

APNP-11-15-97 1458EST

Date: 11/15/97 Time: 08:35

CPresident moves to choke off imports of assault weapons

LAS VEGAS (AP) President Clinton said today he has moved to halt the import of more than 1 million Uzis and other foreign-made assault weapons, declaring they do nothing but ``inspire fear and wreak deadly havoc on our streets.''

In a memo dated Friday and discussed in his weekly radio address today, the president directed the Treasury Department and its Bureau of Alcohol, Tobacco and Firearms to immediately bar imports of semiautomatic assault-type rifles.

Some models, Clinton said, have been reconfigured by manufacturers in order to appear more ``sporting'' and skirt a federal ban put in place by the Bush administration in 1989 on the shipment of some 43 types of military-style assault weapons.

The modifications ``amount to nothing more than cosmetic surgery,''' Clinton said in ordering the 120-day suspension of import permits while Treasury officials review current policy. He directed Treasury to determine ``whether (the guns) can be permanently blocked from our borders and banned from our streets.''

Federal gun law currently allows into the United States guns designed for ``sporting purposes.''

``Now that we've banned them in America, you've got all these foreign gun manufacturers who are trying to modify their assault weapons to get them in under the `sporting' definition,''' Clinton told a reception of donors to the Democratic National Committee in Las Vegas late Friday.

``I'm not going to let people overseas turn our streets into battle zones where gangs are armed like they were guerrilla warriors halfway around the world if I can stop it,''' he declared to applause.

Clinton, long an advocate of tighter gun controls, was clearly piqued by a recent surge in permit applications for modified assault weapons. In 1994, he pushed Congress to pass a statutory ban on the import, manufacture or sale of 19 specific types of assault weapons.

This year, firearms importers have obtained permits to ship in nearly 600,000 cosmetically altered guns, Clinton said, and applications are pending for an additional 1 million. Some 20,000 of the 600,000 weapons already have entered the country.

``We didn't fight as hard as we have ... only to let a few gun manufacturers sidestep our laws and undermine our progress,''' the president said. ``We've banned these guns because you don't need an Uzi to go deer hunting, and everyone knows it.''

Rather, he said, the guns ``exist for no reason but to inspire fear and wreak deadly havoc on our streets.''

Clinton taped his radio broadcast in Washington on Friday before flying to Las Vegas to kick off a four-day, four-state swing to raise money for the Democratic Party.

APNP-11-15-97 0839EST

Date: 11/15/97 Time: 13:02
Clinton trying to halt modified guns

LAS VEGAS, Nov. 14 (UPI) _ President Clinton announced an executive order halting the import of hundreds of thousands of assault rifles in a bid to ban those only slightly modified to ''skirt'' 1994 federal standards.

Clinton told a fund-raising dinner: ''I am not going to let people overseas turn our streets into battle zones where gangs are armed like they were guerrilla warriors...if I can stop it.''

Officials acknowledged permits were granted this year to 600,000 weapons similar to those specifically banned by the 1994 ban on assault-style rifles, and that permits were pending for another 1 million such weapons.

But only about 20,000 of the weapons already have been imported into the United States, and Clinton's order will halt any further imports pending a 120-day review of the 1994 law and the manner in which it is being applied.

Clinton has hailed the 1994 as a major achievement of his administration, but critics have contended its wording _ banning weapons by brand name or individual features _ allows loopholes so large as to make it meaningless.

But White House deputy press secretary Joe Lockhart said Clinton's order would give Treasury Secretary Robert Rubin, whose department oversees the Bureau of Alcohol, Tobacco and Firearms, more time to use another provision of the 1994 law to ban guns with modifications ''done primarily to skirt the law.''

Lockhart said Clinton's order will instruct Rubin to examine whether the 1.6 million rifles awaiting import fully comply with the 1994, and to recommend whether the law needs revisions.

He acknowledged critics have complained from the beginning about loopholes in the 1994 law, but said that with a sudden surge in permit applications: ''We're in a situation now where we ought to freeze what's going on.''

Clinton's actions follow reports that the ATF granted 150,000 of the 600,000 permits in a single week last last month, just as the president was considering action against assault rifles being modified slightly to meet exceptions under the 1994 law for ''sporting'' weapons.

All 150,000 permits involved weapons patterned after the Kalashnikov AK-47, which was specifically banned by the 1994 law. About 100,000 permits were for Egyptian-made MISTRs and 50,000 were for Romanian-made WUM-1s.

Lockhart said: ''If they meet the sporting test, they will be allowed in, and they will just have to have waited an extra 120 days.''

National Rifle Association leader Wayne LaPierre Jr. confirmed the recent rush in permit applications was a response by gun importers to indications of possible action by Clinton, and he suggested new loopholes would be found.

LaPierre said the gun industry named Clinton its ''gun salesman of the year'' in 1994 when he pushed Congress to enact the ban, and suggested the president's new actions might earn him a repeat of the title this year. _-

Copyright 1997 by United Press International.

All rights reserved. _-

U.S. Funds From Overhaul of Welfare Fatten States

By DANA MILBANK

Staff Reporter of THE WALL STREET JOURNAL

Federal welfare overhaul is producing big benefits for one not-so-needy group: the nation's states.

With welfare rolls down, many states are taking advantage of federal welfare aid to cut their own spending and use the funds to help pay for tax cuts and other popular projects. The falling rolls have given the states a windfall of \$3 billion to \$4 billion, says Jack Tweedie, welfare analyst for the National Conference of State Legislatures. And they are free to spend about \$2 billion of that in areas unrelated to poverty if they wish.

As states send the first accounting of their compliance with new welfare requirements to Washington today, it appears many have dropped their own welfare spending to a level at or near the minimum allowed by law. Only a handful are still spending as much of their own money as they had before the federal-law changes, which were designed to get people off welfare and into jobs.

The new federal welfare grants to states, known as Temporary Assistance for Needy Families, or TANF, total \$16.5 billion a year and are based on peak caseloads. But because welfare rolls are off 25% from those peak levels, states are getting a windfall. Some of the money is being used to expand child care, job programs and a variety of initiatives. But the windfall is also being used to displace states' own welfare outlays. "Welfare reform has become, in part, fiscal relief for the states," says Ed Lazere, an analyst with the Center on Budget and Policy Priorities in Washington.

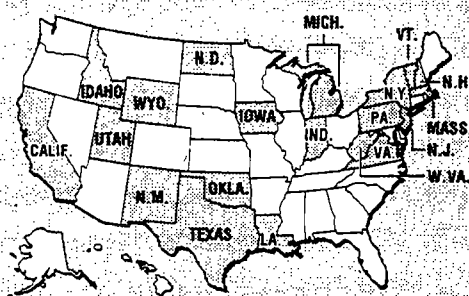
According to a new study by the National Conference of State Legislatures, 20 of the 44 states surveyed are spending 80% or less of the amount they previously spent on welfare. The federal welfare law, enacted last year, allows states to reduce their own spending, or "maintenance of effort," to 75% or 80% of past levels, depending on caseload reductions. Only five are spending at or above prior totals.

Using a Surplus

The larger the state and the larger its caseload decline, the more extra money it has to put to nonwelfare uses. New York, which has dropped its welfare spending to 75% of previous levels, plans to use \$268 million of surplus welfare funds for what it calls "state and local fiscal relief."

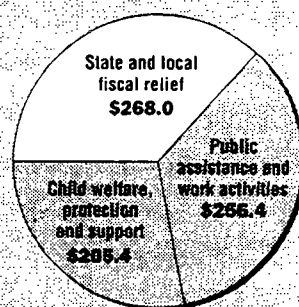
Welfare Windfall

Some of the states spending 80% or less of previous state welfare levels as new federal welfare aid kicks in



Sources: National Conference of State Legislatures; New York State Department of Social Services

How New York spends its windfall, in millions of dollars



Texas, according to an analysis by the Austin-based Center for Public Policy Priorities, is siphoning off \$152 million of federal welfare funds for other purposes; the state quarrels with that analysis but acknowledges it has dropped its own spending to 80% of previous levels. Ohio's human-services director, Arnold Tompkins, says earlier welfare savings contributed as much as \$200 million toward a state income-tax cut.

Even Wisconsin, widely regarded as a state willing to spend to make welfare changes work, dropped its "maintenance of effort" to the minimum 75% of previous levels, freeing some \$60 million for other uses. "We feel we're appropriately investing in the program," says Jean Rogers, who runs Wisconsin's welfare-to-work program.

States, of course, would have cut their own spending as rolls fell even if Washington had not changed the rules. Also, despite the cuts in state funding, the federal windfall is large enough that per-capita spending on welfare-related services has risen virtually everywhere. As a result, states say, they have enough funds for innovative new public-assistance efforts while boosting state reserves at the same time.

More Funds for Child Care

New Jersey has enough surplus to spend \$100 million more than it would have spent on an equivalent welfare population under the old law—while still putting aside another \$100 million for other state uses.

New Jersey has extended postwelfare child care to two years from one year, and boosted spending on teaching English to immigrants, vocational training and feeder routes to public buses. "If you're going to reform welfare, you've got to spend more on clients," says William Waldman, the human-services commissioner.

But even with the increased services, the states are using the new federal welfare law as a cash cow. A spokesman for the U.S. Health and Human Services Department, to which the states will submit their accounting, says it's "probably the case" that states aren't spending much more than the minimum needed to avoid federal penalties.

The law generally requires the federal TANF funds to be used for welfare and not such things as roads or prisons. But it also allows states to convert a small percentage of this money into federal grants classified for use on more general social services. Mr. Lazere says states sometimes use these transfers to save on what they otherwise would spend on these services.

It is difficult to track this money directly because the savings simply wind up in a state's general fund. Mr. Lazere says Connecticut transferred \$24 million from its TANF block grant into its social services block grant and then withdrew an equivalent amount from its social services, spending to return to its general fund. A spokeswoman for the state's welfare agency says she doesn't know the specifics of the transfer, but concedes, "We have used the federal dollars to replace state dollars that had been funding programs for kids."

'Rainy Day Fund'

Ohio has used its federal surplus to invest \$75 million in a "Human Services Rainy Day Fund," and it is one of the few states to increase cash welfare benefits—by 6%. It also has extra funds for new training programs and other welfare-related areas. But even after these increases, dropping its welfare spending to 80% of previous levels has freed up about \$100 million for other state uses, most likely education, Mr. Tompkins says.

In Wisconsin, the spending per welfare family climbed to \$15,000 this year from \$12,000 in 1996—even as the state's welfare spending, reflecting the falling caseload, dropped to 75% of levels earlier in the decade. Wisconsin has used its windfall to intensify its case management by assigning welfare workers fewer families.

But spending more than it already does on welfare, says Ms. Rogers, would be wasteful. "The key in being fiscally responsible," she says, "is to spend enough but not too much."

THE WALL STREET JOURNAL
FRIDAY, NOVEMBER 14, 1997

Clinton to Bar Assault Guns' Import Licenses

By MICHAEL K. FRISBY
And CHRISTINA DUFF

Staff Reporters of THE WALL STREET JOURNAL

WASHINGTON President Clinton is preparing to issue an executive order seeking to prevent U.S. gun dealers from importing military-style assault weapons, a curb aimed at stopping a rash of new requests for permits for the guns.

The order is imminent, and may be announced during the president's weekly radio address tomorrow, White House officials said. The ban is aimed at foreign guns that have been reconfigured as sports weapons to get around the law banning the sale of assault weapons.

The White House has been considering the executive order for the past month. But the matter grew urgent three weeks ago, when officials from the Treasury's Bureau of Alcohol, Tobacco and Firearms informed them that in the week in which an options memo on the ban was on Mr. Clinton's desk, ATF officials had approved permits for 150,000 of the weapons to be imported. Since 1994, White House officials said, permits were approved for 600,000 such weapons.

After being told about the new permits — which were first reported yesterday by the Los Angeles Times — White House aide Rahm Emanuel accused ATF officials of circumventing the president's wishes. It was clear, Mr. Emanuel said yesterday, that "there was an effort to skirt and get around the ban on assault weapons."

The administration yesterday was trying to play down the issue. Treasury Department officials would acknowledge only that there was "an inquiry" under way into why so many import permits were approved in such a short time. Plainly, though, any investigation would have to examine the more prickly question of whether ATF officials were involved in circumventing the assault weapons ban and whether there was a deliberate attempt made to rush in weapons before the executive order was released.

It was unclear last night whether the executive order would prevent the permit holders from getting the guns they have requested. So far, officials say, only about 15,000 of the 600,000 weapons expected to be imported actually have arrived in the U.S.

Mr. Clinton would like to stop them before they reach this country, but some aides were arguing that such a move would lead to a lawsuit that might threaten the president's authority to issue an executive order that would stop future permits.

Mr. Clinton met recently with Treasury Secretary Robert Rubin, White House Counsel Charles Ruff and Mr. Emanuel to discuss the issue

"The president is very concerned about the ability of some foreign weapons manufacturers to customize assault weapons and put them under the sporting requirements that allow some sport weapons to be imported," said Michael McCurry, the White House press secretary. "I fail to see how you use Uzis to go out deer-hunting."

Mr. McCurry also indicated that the ATF may freeze some of the license applications. "We think it's wise not to process some of these licenses that are out there."

There is pressure on from both sides of the issue. "The president needs to reverse the sporting purpose [loophole] and close this avenue," says Kristen Rand, the director of foreign relations for the Violence Policy Center. She added that the recent rash of permits should be investigated. "The process of how that clump got through is curious," she said.

Meanwhile, gun supporters, such as the National Rifle Association, argued that ATF should continue to approve import licenses.

THE WALL STREET JOURNAL
FRIDAY, NOVEMBER 14, 1997

Church Ruff/Karen Papp -
FYI. (From our weekly
report)

THE PRESIDENT HAS SEEN
10/27/97

Elmer

upon. (The Commission itself will make no recommendations on an enforcement mechanism in November.)

4. Health -- Mental Health Parity Regulations: *The New York Times* reported inaccurately last week on the Administration's likely interpretation of the "1 percent" exemption provision in the mental health parity statute. This provision allows businesses and health plans to opt out of the law's requirements if the costs of coming into compliance increase premiums by more than 1 percent. The *Times* reported that the White House will interpret the provision to allow companies to project that the costs associated with the law would exceed the threshold and to opt out of the law on the basis of that future projection. The mental health community strongly supports a fully retrospective approach, under which no business could obtain an exemption from the law until after paying premiums for the first year of the law's implementation. Some advocates apparently thought that the best way to kill a more prospective approach was to tell the *Times* that we were likely to adopt it. The truth is that HHS has not yet made a recommendation, let alone forwarded a proposed regulation to OMB. Our flexibility in interpreting the law is unclear, but if we have some leeway, we hope to opt for a more retrospective approach.

5. Health -- Satcher Nomination: The Senate Labor and Human Resources Committee favorably reported out Dr. Satcher's nomination on Wednesday by a vote of 12-5. Most of the members were effusive in their praise for Dr. Satcher, and called for the Senate to confirm his nomination before the recess. The dissenting members -- in particular, Senator Coats -- fought hard against the nomination because of Dr. Satcher's support for the Administration's position on partial birth abortion legislation. We have some concern that Republicans will try to use Dr. Satcher's confirmation vote as yet another vehicle to attack the Administration on this issue. While we remain generally optimistic that Dr. Satcher will be confirmed, we are working with the communications and legislative affairs offices to mount a strong Administration defense if needed.

6. Crime -- Assault Weapons Directive: We are working with Rahm on a directive to the Treasury Department that would (1) reexamine and, if necessary, modify the criteria used to keep non-sporting weapons out of the country; and (2) pending this reexamination, temporarily suspend any pending and future applications for permits to import modified -- or "sporterized" -- assault weapons, including the new Uzi American and Galil Sporter. Although only a limited number of these firearms has come into the country over the past few years (10,000 in 1995, 25,000 in 1996, and 20,000 to date this year), applications are now pending to import as many as 900,000 of these firearms.

The one issue we have not resolved is whether the Administration should take the additional step of temporarily suspending permits that already have been granted. These permits allow the future importation of about 300,000 sporterized assault weapons. Senator Feinstein is insisting that we temporarily suspend these permits, and she already has told the press that a directive would be meaningless unless it does so. Administration lawyers,

THE PRESIDENT HAS SEEN

10/27/97

however, have serious doubts that we have a factual basis for temporarily suspending existing permits, and they worry that a loss on this issue could undermine our ability to defend any future action by Treasury to modify the test for non-sporting weapons. Senator Biden thinks that a loss on the temporary suspension issue would have detrimental political consequences, and that we should not take the action unless we believe a court could sustain it.

We are pressing Treasury, Justice, and White House Counsel lawyers to develop the strongest possible case for suspending existing permits; when we are satisfied that they have done so, we will together evaluate the strength of that case and determine whether to recommend temporary suspensions. We have met with staff for Sens. Feinstein and Biden and Reps. Schumer and McCarthy to brief them on our concerns about this issue. We are also trying to develop some kind of compromise option.

7. Crime -- Juvenile Crime Bill: The Senate clearly will not vote on juvenile crime legislation this year. A pending issue is whether the FY 98 Commerce, Justice, State Appropriations bill will include funding for new juvenile crime and prevention programs (including our prosecutors and afterschool programs) given that Congress has failed to enact authorizing legislation. We recently heard that the CJS appropriators probably will rebuff our efforts to get funding for these programs this year.

8. Immigration -- Central Americans: House Republicans are close to unveiling legislation to remedy certain problems the 1996 immigration law created for Central Americans. Although we have yet to see the language, we have heard that it will: (1) grant amnesty for Nicaraguans in the country before December 1995; (2) ensure that certain Guatemalans and Salvadorans will have their suspension of deportation claims decided under the older, more lenient standards; (3) retroactively apply the tougher standards of the new law to the suspension claims of all *non*-Central Americans; and (4) eliminate the unskilled workers category, but clear out the pipeline by grandfathering all individuals with approved visa petitions (about 70-75,000 individuals, representing seven years' worth of immigration by unskilled workers).

The Senate is also preparing a bill granting amnesty to Nicaraguans and protecting Guatemalans and Salvadorans from retroactive application of the new law's tough standards, but probably extending this protection to certain *non*-Central Americans (contra #3, above). This extension would comport with the Administration's proposal. Two other aspects of the legislation are uncertain. First, it is unclear what the Senate will do with respect to the unskilled workers category. Chairman Abraham opposes reducing legal immigration, especially as a tradeoff for protecting illegal immigrants. But he knows that Lamar Smith will support a deal only if it includes this provision, and he therefore may consider a "moratorium" on the category, attached to a broad grandfathering provision (perhaps even broader than we expect from the House). Second, the Senate may decide to provide protection for certain Haitians who are not protected under either the House bill or our own proposal. The CBC is pressing strongly for such protection.

THE NEW CLINTON GUN BAN

Chip Walker ext 52931
Office of Cong. Barr

The following analysis is based on news reports and the best information available as of 10/27/97. The action discussed below has not officially been taken by the president. Thus, there may be changes when the action actually does take place.

SUMMARY

The 1994 Crime Bill banned 17 semi-automatic firearms by name and another 190 or so by characteristics that the guns possessed. Essentially, the bill outlined the criteria by which a firearm would be deemed a "good" or "bad" gun. As was pointed out during the debate, the distinguishing characteristics listed in the bill, such as a folding stock or bayonet lug had nothing to do with how powerful the gun was, or the way it operated internally. For example, if you had a semi-automatic rifle that had a folding stock and a bayonet lug, it was a "bad" gun. If you took that very same gun and removed the bayonet lug, it suddenly became a "good" gun.

The government had now created a manufacturing standard firearms had to meet to be deemed legal or "good" guns, and the manufacturers began making guns that met this criteria. Sen. Feinstein and others who promoted the original ban, now say they are outraged that these guns are still being made and that there is a "loophole" that must now be closed.

There is no loophole to close. The manufacturers are following the letter of the law. If the government passed a law that said car manufacturers can no longer make cars with sun roofs and trunks, would anyone be surprised if the automobile manufacturers continued to make cars, but without sun roofs or trunks? Would the manufacturers be accused of taking advantage of a loophole?

What the president is planning to do by executive order is ban the importation of semiautomatic rifles that are legal under the 1994 Crime Bill. Because the president has wide latitude in matters of trade and particularly trade in firearms, he can bypass the Congress.

Some of the firearms he wants to ban have the brand name Uzi. He will certainly use this term a lot, because the image is of a small light weight machine gun (FYI: A machine gun fires continuously while the trigger is held, until the gun runs out of ammunition. A semi-automatic fires one shot at a time, requiring that the trigger be pulled and released for each shot). Remember though, that Uzi is a brand name and there are numerous types. The one that Clinton wants to ban is a semi-automatic firearm, not the machine gun version.

Another argument that will be used is that the guns to be banned can be easily converted to fully automatic. This is untrue. A semiautomatic firearm that can be easily converted to fully automatic is considered to be a fully automatic firearm by BATF and is not available to the general public. These guns are not easily convertible.

The guns to be banned are no more powerful than the average semi-automatic deer rifle. It is clear that Clinton knew all along that his "good" gun "bad" gun charade in the 1994 Crime Bill was just that. Clearly, since he wants to ban the "good" guns now, he will stop at nothing to ban as many different types of firearms that he can. The president has been strongly supported in this effort by a group called the Violence Policy Center. The Violence Policy Center has the admitted goal of banning the possession of firearms for everyone except the military and the police.

ORRIN G. HATCH, UTAH, CHAIRMAN

STROM THURMOND, SOUTH CAROLINA
CHARLES E. GRASSLEY, IOWA
ARLEN SPECTER, PENNSYLVANIA
FRED THOMPSON, TENNESSEE
JON KYL, ARIZONA
MIKE DEWINE, OHIO
JOHN ASHCROFT, MISSOURI
SPENCER ABRAHAM, MICHIGAN
JEFF SESSIONS, ALABAMA

PATRICK J. LEAHY, VERMONT
EDWARD M. KENNEDY, MASSACHUSETTS
JOSEPH R. BIDEN, JR., DELAWARE
HERBERT KOHL, WISCONSIN
DIANNE FEINSTEIN, CALIFORNIA
RUSSELL D. FEINGOLD, WISCONSIN
RICHARD J. DURBIN, ILLINOIS
ROBERT G. TORRICELLI, NEW JERSEY

MANUS COONEY, Chief Counsel and Staff Director
BRUCE A. COHEN, Minority Chief Counsel

United States Senate

COMMITTEE ON THE JUDICIARY
WASHINGTON, DC 20510-6275

Facsimile Cover Sheet

Please deliver the following pages to Rahm Emanuel

From: Ed Pagano, Sen. Leahy

Number of pages including cover: 3

COMMENTS:

Letter from Sen. Leahy to
the President on assault weapons
directive attached.

Number to be reached _____

THE DOCUMENT TRANSMITTED IS CONFIDENTIAL AND INTENDED
FOR RECEIPT BY THE ABOVE NAMED INDIVIDUAL ONLY. PLEASE
CALL (202) 224-7703 IMMEDIATELY IF YOU HAVE ANY QUESTIONS.

ORRIN G. HATCH, UTAH, CHAIRMAN

STROM THURMOND, SOUTH CAROLINA
 CHARLES E. GRASSLEY, IOWA
 ARLEN SPECTER, PENNSYLVANIA
 FRED THOMPSON, TENNESSEE
 JON KYL, ARIZONA
 MIKE DEWINE, OHIO
 JOHN ASHCROFT, MISSOURI
 SPENCER ABRAHAM, MICHIGAN
 JEFF SESSIONS, ALABAMA

PATRICK J. LEAHY, VERMONT
 EDWARD M. KENNEDY, MASSACHUSETTS
 JOSEPH R. BIDEN, JR., DELAWARE
 HERBERT KOHL, WISCONSIN
 DIANNE FEINSTEIN, CALIFORNIA
 RUSSELL D. FEINGOLD, WISCONSIN
 RICHARD J. DURBIN, ILLINOIS
 ROBERT G. TORRICELLI, NEW JERSEY

MANUEL COONEY, Chief Counsel and Staff Director
 BRUCE A. COHEN, Minority Chief Counsel

United States Senate

COMMITTEE ON THE JUDICIARY

WASHINGTON, DC 20510-6275

October 30, 1997

The Honorable William J. Clinton
 The White House
 Washington, D.C. 20500

Dear Mr. President:

I understand that you may soon issue a directive to limit the importation of some firearms that may have been modified to meet the requirements of the Violent Crime Control and Law Enforcement Act of 1994 (1994 Crime Act). I respectfully urge you to reconsider such a directive and instead to work with Congress on issues relating to the assault weapons ban in the 1994 Crime Act.

I grew up hunting and fishing in the Vermont outdoors, and I know from first-hand experience that there are many semiautomatic firearms used for legitimate purposes. This is a fact known by many Vermonters, as our State enjoys one of the highest per capita ownership of firearms in America, as well as one of the lowest crime rates. Unfortunately, many Americans live in cities and other areas in our country where they are unable to enjoy the safety of Vermont. Furthermore, I have heard testimony of law enforcement officers who increasingly found themselves outgunned by criminals.

I voted for and continue to support the assault weapons ban as a reasonable step to make our streets safer. The 19 weapons subject to the assault weapons ban, including the so-called "Street Sweeper," have no place outside a target range or battlefield, let alone in our cities' streets. The assault weapons ban also reaffirmed our right to own firearms, as it contained a list of more than 600 firearms commonly used for sporting purposes that were expressly exempted from the ban.

I was surprised, however, when I read in the newspapers that some in the Administration may want to expand the assault weapons ban by issuing a presidential directive. A White House official was quoted regarding the proposed directive as saying: "We are taking the law and bending it as far as we can to capture a whole new class of guns." I strongly believe that using a presidential directive to avoid the normal legislative process regarding any changes to the assault weapons ban is the wrong way to go.

October 30, 1997

The Honorable William J. Clinton

Page Two

The law enforcement community is just now learning about the impact of the assault weapons ban. As required by the 1994 Crime Act, the Department of Justice, through a grant to the Urban Institute, recently studied the results of the assault weapons ban. This March 1997 report found that the available post-ban crime data was too partial and preliminary to determine long-term effects and recommended "future research to update and refine our results at this early post-ban stage."

As the Ranking Member of the Senate Judiciary Committee, I continue to look forward to working with you and members of your Administration in the normal legislative process to enact carefully crafted laws to prevent crime and support law enforcement officers across the country.

Sincerely,



PATRICK LEAHY
Ranking Member

California and the West Gun Import Fight Pressed ...

DOCUMENT 2 OF 4

LATM9729000783

Metro Desk

California and the West

Gun Import Fight Pressed by Feinstein

Firearms: Senator asks leaders of Russia, Greece and Bulgaria to prevent the export of assault weapons to U.S.

JEFF BRAZIL; STEVE BERRY

TIMES STAFF WRITERS

461 Words

3863 Characters

* 10/17/97

Los Angeles Times

Home Edition

A-3

Copyright 1997 / The Times Mirror Company

Escalating her campaign against the importation of assault weapons, U.S. Sen. Dianne Feinstein on Thursday appealed to the leaders of Russia, Greece and Bulgaria to prevent the export of thousands of the rapid-fire guns to the United States.

"These are exactly the kind of weapons many Americans are trying to keep off our streets," the California Democrat wrote in letters to Russian President Boris Yeltsin, Greek Prime Minister Konstandinos Simitis and Bulgarian Prime Minister Ivan Kostov.

The weapons in question are modified versions of the AK47 and Heckler & Koch 91, which were first restricted by federal law in 1989 and again in 1994. The weapons have been cosmetically changed to comply with those legislative restrictions. But, according to Feinstein, these high-capacity, semiautomatic assault weapons still "are not suitable or readily adaptable to sporting purposes," thus are in violation of the * 1968 Gun Control Act, and should be barred from import.

Feinstein is asking the leaders to intervene because, in each case, the companies exporting the weapons to the United States are at least partially owned by the governments in those countries.

"What is becoming more evident is the fact that other countries are beginning to export various mutations--cosmetic mutations--of assault weapons, but the military assault capability and capacity of the weapons are the same," Feinstein, a member of the Senate Foreign Relations Committee, said Thursday in an interview.

The importation of the weapons at issue was approved by the U.S.

Bureau of Alcohol, Tobacco and Firearms, which has said that it had no choice but to grant an import request if a weapon has been changed enough to comply with the 1994 federal assault weapons law. Feinstein, however, * says the agency is misinterpreting the 1968 Gun Control Act, which bars the import of even reconfigured assault weapons if they are not found to have legitimate "sporting purposes."

"We're looking into the issues that the senator is presenting," Brian Burns, an ATF spokesperson, said.

Thursday's action comes a month after Feinstein asked Israeli Prime Minister Benjamin Netanyahu to block the proposed export to a U.S. gun manufacturer of tens of thousands of modified Uzi and Galil assault weapons--a request the Israeli government is considering.

The action comes three weeks after Feinstein, joined by 29 other U.S. senators, urged President Clinton to suspend the importation of semiautomatic assault weapons until it can be determined that the weapons are in compliance with U.S. law. Clinton has met with Feinstein, and his staff is said to be considering what action, if any, to take.

"The president ought to shut it down," Feinstein said Thursday.

The proliferation of so-called copycat assault weapons and the pending Israeli transaction were detailed in a recent Times series on the glaring flaws in state and federal assault weapon laws.

I0607 * End of document.

Michelle Crisci

11/13/97 05:03:42 PM

Record Type: Record

To: Jose Cerda III/OPD/EOP

cc:

Subject:

----- Forwarded by Michelle Crisci/WHO/EOP on 11/13/97 04:48 PM -----



Laura Emmett

11/13/97 04:59:41 PM

Record Type: Record

To: Michelle Crisci/WHO/EOP

cc:

Subject:

Date: 11/13/97 Time: 16:36

WWhite House denies tale about irate aide

WASHINGTON (AP) It was an eyebrow-raising anecdote: A White House official was so irate about an agency's assault weapons policy that he reportedly put his hands around the neck of a law enforcement agent.

The White House said there's one problem with the story: It's not true.

"I saw that report and I checked with people who were present, and they indicate no such event occurred," press secretary Mike McCurry said.

The aide in question is Rahm Emanuel, the president's strong-willed adviser whose portfolio includes a bevy of anti-crime initiatives.

Emanuel has been working for weeks with the Bureau of Alcohol, Tobacco and Firearms to draft a presidential order to block the import of assault-style weapons that were modified to skirt a federal ban.

He recently learned that ATF had accelerated approval of import permits for 150,000 weapons, an act that Emanuel and other White House officials saw as directly contradicting Clinton's intentions.

ATF officials were summoned to a meeting where Emanuel berated them, angrily slammed shut a book and stormed out of the room, according to White House officials. They insisted that Emanuel did not lay a hand on the ATF agent.

11/21/97

10:49

RTF HQ'S DIRECTOR + 202 622 7301

NO. 600

D03

DIANNE FEINSTEIN
CALIFORNIAMO-1204-BP-
Imported Rifles.

98-195



United States Senate

WASHINGTON, DC 20510-0504

(202) 224-3841

October 29, 1997

COMMITTEE ON FOREIGN RELATIONS
COMMITTEE ON THE JUDICIARY
COMMITTEE ON RULES AND ADMINISTRATIONReid. 11/4/97
J. W. [unclear]Nelson [unclear] [unclear]
Baffardi will provide you
with [unclear] [unclear]
JWMr. Robert Pritchett
Chief, Disclosure Division
Bureau of Alcohol, Tobacco and Firearms
650 Massachusetts Avenue, N.W.
Room 8430
Washington, D.C. 20220**PRIORITY**

Dear Mr. Pritchett:

Pursuant to the Freedom of Information Act, I would like to request the following information on all rifles, including but not limited to the attached list, that have entered the United States or that import permits have been submitted for the period of September 1994 to September 1997. In addition, I would like to request the following information on each firearm: (1) the date of permit application; (2) the date of importation; (3) the country of manufacture; (4) the country of export; (5) the name of exporter; (6) the name of importer; (7) the number of firearms listed on the application to be imported and; (8) the quantity of firearms of each type and model that has actually entered the United States as a result of these permits.

Please contact Wilke Green of my Washington, D.C. office at (202) 224-1226 should you have any questions concerning this request.

With warmest personal regards.

RECEIVED

NOV 4 1997

DISCLOSURE DIVISION

Sincerely yours,

Dianne Feinstein
United States Senator

DF:gjc

FRESNO OFFICE:
1190 "O" STREET
SUITE 2448
FRESNO, CA 93721
(209) 485-7430LOS ANGELES OFFICE:
11111 SANTA MONICA BLVD.
SUITE 816
LOS ANGELES, CA 90025
(310) 814-7300SAN DIEGO OFFICE:
750 "B" STREET
SUITE 1030
SAN DIEGO, CA 92101
(619) 231-2712SAN FRANCISCO OFFICE:
525 MARKET STREET
SUITE 2670
SAN FRANCISCO, CA 94105
(415) 530-0888

61/81 P. 18/19 1022 622 202

O.P.D.

NOV-23-1997 16:31

<u>COUNTRY</u>	<u>MANUFACTURER</u>	<u>MODEL</u>
Argentina	P.M.A.P.	FAL Sporter
Austria	Steyr	USR rifle (Steyr AUG)
Brazil	IMBEL	FZSA, L1A1 Sporter, SAR4800
Bulgaria	Arsenal Co.	SA93, SA95, SLR95, SLR96, SLR97 Lux
Egypt	MAADI Co.	ARM, MISTR
Germany	Heckler and Koch	PSG1 rifle
Greece	Hellenic Arms	G3S, SAR8
Hungary	FEG	SA85M
Israel	IMI	Uzi American Galil Sporter
Poland	Zaklady Metalowe Lucznik	Radom Hunter
Portugal	FMP	XG3s, SLG95
Romania	Ratmil	CUR, ROMAK1, WOM1, SLG97, PSL
Romania	Cugir	CUR, ROMAK1, WOM1, SLG97, PSL
Russia	Izhevsk	Saiga rifle
South Korea	Daewoo	DR200
Switzerland	Brugger and Thomet	BT96
Switzerland	SIG	510-4, SG550-1SP

Israel Freezes Export of Assault Rifles to U.S.

By JEFF BRAZIL
and STEVE BERRY
TIMES STAFF WRITERS

The Israeli government, responding to a widening controversy in the United States over assault weapons that have been modified to evade U.S. law, on Tuesday slapped a 90-day moratorium on the export of Uzi and Galil assault rifles to America.

The decision appears to most immediately affect the pending shipment of 2,600 Galils to the United States; the Galils were to have arrived later this year.

Jonathan Mossberg, who represents the American firm that had received permission from the U.S. Bureau of Alcohol, Tobacco & Firearms to import the Uzis and Galils, believes the action is unwarranted.

"We worked very closely not to skirt the law, but to comply with it," Mossberg said Tuesday.

Mossberg, who has been in contact with federal authorities in recent days, surmised that the Israeli government may be taking the action to "score points" with the Clinton administration, which is weighing a wider ban on the import of modified assault weapons from several countries.

Thirty U.S. senators and several members of the House have urged Clinton to temporarily suspend imports of all foreign semiautomatic assault weapons until it is clear that such weapons comply with U.S. firearms laws. In the meantime, Clinton has directed that no more applications for import licenses be granted. That directive has temporarily stopped Mossberg from bringing in about 5,000 Uzis.

In a letter delivered to U.S. Sen. Dianne Feinstein, Israeli Ambassador Eliahu Ben-Elissar said his government would use the 90-day period to "work with" Feinstein "to

resolve the matter." The ambassador emphasized that Israel had done nothing to violate U.S. law, and expressed concern that Israel not be singled out, as numerous foreign countries export modified, military-style assault weapons to the United States.

"This matter reached the highest levels of government," said Gadi Baltiansky, a spokesman for the Israeli Embassy in Washington. "It's a goodwill gesture."

The letter to Feinstein indicated that if during the 90-day period other countries suspend sales of modified assault weapons to America, then Israel would do likewise.

In a carefully worded written response, Feinstein termed the Israeli action "a tentative step forward."

The announcement comes six weeks after Feinstein sent a letter to Israeli Prime Minister Benjamin Netanyahu urging him to

personally intervene and cancel the pending arms deal between a state-owned munitions factory and O.F. Mossberg & Sons Inc., a well-known Connecticut gun manufacturer. Feinstein believes the Uzis and Galils have been altered to get around the 1994 restrictions on assault weapons, but still do not have a legitimate "sporting purpose," as is required by the 1968 Gun Control Act.

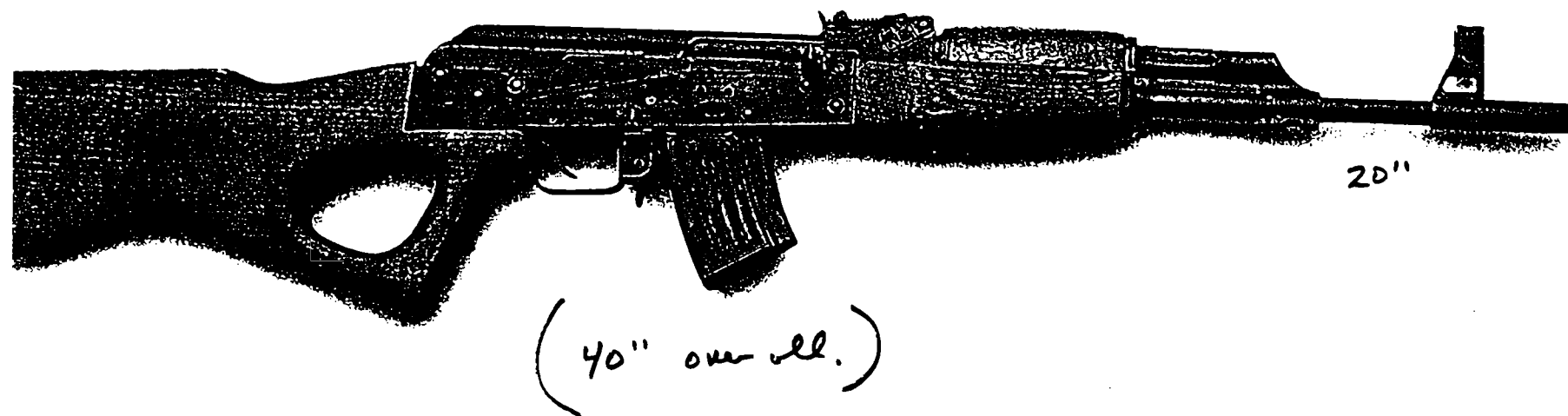
The California Democrat has appealed to the leaders of Russia, Bulgaria, Greece, Egypt, Poland and Romania, asking that they voluntarily "cease and desist" in their plans to export modified assault weapons to the United States from state-owned gun factories.

The proliferation of so-called copycat assault weapons made both in the U.S. and abroad and the pending Israeli gun transaction were recently detailed in a Times series on glaring flaws in state and federal assault weapon laws.

Post ban rifle based on the Galil design

Feature:

1. Pistol grip that extends conspicuously beneath action of weapon



NOTE: This weapon, a MAC-90, is very similar to the Galil recently approved for import. It is not that weapon exactly.



CENTER TO PREVENT HANDGUN VIOLENCE

MEMORANDUM

TO: John W. Magaw
Director, Bureau of Alcohol, Tobacco & Firearms

FROM: Dennis A. Henigan
Director, Legal Action Project

DATE: January 16, 1998

RE: Importability of Modified Assault Rifles

On November 14, 1997, President Clinton suspended permits previously granted for the importation of nearly 600,000 modified assault rifles. The President also ordered the Department of the Treasury (Secretary) to conduct an expedited review to determine whether the rifles are importable under the sporting purposes test of the Gun Control Act of 1968. The purpose of this Memorandum is to provide a broad outline of the argument for permanently barring the importation of the affected rifles.

I. LEGAL BACKGROUND: THE SPORTING PURPOSES TEST AND THE EXTENT OF AGENCY DISCRETION

The Gun Control Act of 1968 (the Act) generally forbids the importation of firearms unless they fall within one of four categories for which the Secretary must authorize importation. For present purposes, the pertinent category is firearms "of a type...generally recognized as particularly suitable for or readily adaptable to sporting purposes...." 18 U.S.C. 925(d)(3).

The Act gives the Secretary broad discretion to determine whether firearms meet the sporting purposes test. This discretion was recognized in Gun South, Inc. v. Brady, 877 F.2d 858 (11th Cir. 1989), in which the Court upheld the Secretary's 1989 suspension of assault rifle imports. The Court found support for the Secretary's broad discretion in the legislative history of the Act:

The Senate Report notes that the Act gives the Secretary of the Treasury unusually broad discretion in applying section 925(d)(3):

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

fairly broad discretion in defining and administering the import prohibition.... S. Rep. No. 1501, 90th Cong., 2d Sess. 38 (1968).

877 F.2d at 863. The Court added that “[i]n fact, such broad discretion was a major concern of the opponents of the bill....” *Id.* [quotation omitted].

II. HISTORY OF BUREAU APPLICATION OF THE “SPORTING PURPOSES” TEST

Since the 1968 Act, the Bureau of Alcohol, Tobacco and Firearms (ATF), using the authority delegated it by the Secretary, has continually used its discretion to reexamine and refine its interpretation of the sporting purposes test. At the time the Act was passed, the concern about criminal misuse of guns focused on inexpensive and unusually poor quality handgun known as “Saturday Night Specials”. The guidelines developed to implement the sporting purposes test therefore addressed almost exclusively whether a particular handgun should be considered a Saturday Night Special and thus banned from importation. No criteria were developed for determining whether rifles and shotguns met the sporting purposes test. Other than surplus military rifles, which Congress addressed separately, and rifles and shotguns covered by the National Firearms Act (e.g. machineguns and short-barreled rifles and shotguns), rifles and shotguns were generally presumed to have a sporting purpose. See generally, Gilbert Equipment Co., Inc. v. Higgins, 709 F.Supp. 1071, 1081-83 (S.D. Ala. 1989).

In 1984, for the first time, ATF determined that a shotgun failed to meet the sporting purposes test. ATF found that the Striker-12 shotgun, a military/law enforcement weapon initially designed and manufactured in South Africa for riot control, failed the test. ATF refused to recognize police/combat style competitions as sporting purposes and found the shotgun unsuitable for traditional sporting purposes, such as hunting and trap and skeet shooting. Importation was therefore denied. In 1986, ATF reached a similar conclusion about the USAS-12, another combat shotgun, deciding that due to its weight, size, bulk, designed magazine capacity and other factors, the shotgun was not suitable for a sporting purpose. This determination was upheld in Gilbert Equipment Co., Inc. v. Higgins, *supra*.

In 1989, the Bureau further refined its interpretation of the sporting purposes test in banning the importation of semiautomatic assault rifles. During the suspension of such imports upheld by the Court in the Gun South case, ATF conducted a review to determine whether the affected weapons fell within a type or category of firearm and whether that type or category was generally suitable for sporting purposes.

In defining the type of weapon under review, ATF determined that “semiautomatic assault rifles...represent a distinctive type of rifle distinguished by certain general characteristics which are common to the modern military assault rifle....” and that these “physical features and characteristics designed for military applications...distinguish[] it from traditional sporting rifles.” Report and Recommendation of the ATF Working Group on the Importability of Certain

Semiautomatic Rifles (July 6, 1989) at 6 (ATF Report). ATF cited three distinctive features and characteristics of such rifles: (1) military configuration, including such features as the ability to accept a large capacity magazine, folding/telescoping stocks, pistol grips, ability to accept a bayonet, flash suppressors, bipods, grenade launchers and night sights; (2) whether the weapon is a semiautomatic version of a machinegun; and (3) whether the rifle accepted intermediate caliber ammunition. ATF did not determine that a rifle must have all these features to be a semiautomatic assault rifle; nor did it determine that any one of these features is sufficient for a rifle to be classified as a semiautomatic assault rifle. Rather, "the criteria must be viewed in total to determine whether the overall configuration places the rifle fairly within the semiautomatic assault rifle category." ATF Report, at 9.

ATF then interpreted the scope of the sporting purposes test and concluded that based on the statute, its legislative history, applicable case law and prior ATF interpretations, "the term 'sporting purposes' should properly be given a narrow reading" which focused on "the traditional sports of hunting and organized marksmanship competition...." ATF Report, at 10. ATF also reiterated its prior conclusion that the activity commonly known as "plinking" was primarily a pastime and "could not be considered a sport for the purposes of importation...." ATF Report at 10.

Finally, ATF conducted a survey of manufacturers, importers, hunting guides, State game and fish commissions, hunting and shooting magazine editors and others regarding the suitability of semiautomatic assault rifles for hunting or target shooting. On the basis of the survey, ATF found that "the evidence was compelling that, as a type of firearm, the semiautomatic assault rifle is not generally recognized as particularly suitable for sporting purposes" and that "while there was some evidence that these rifles could be used for hunting and target shooting, there is not evidence of any widespread use for such purposes." ATF Report at 14.

III. THE MODIFIED ASSAULT RIFLES UNDER IMPORT SUSPENSION SHOULD BE PERMANENTLY BARRED FROM IMPORTATION

The President suspended import permits previously granted by ATF covering a variety of semiautomatic assault rifles, including the "Galil Sporter" and the "Uzi American." The denial of importation should be made permanent because certain of the rifles are banned from importation by the 1994 Violent Crime and Law Enforcement Act, 18 U.S.C. § 922(v) (the federal assault weapon ban) and because ATF, in the exercise of its broad discretion, should bar all the rifles because they do not meet the sporting purposes test for importation.

A. The Galils and Uzis Should Be Barred from Importation Because They Are Banned by the Federal Assault Weapon Statute

Among the weapons barred from importation by ATF in 1989 were the Galil 22 and the Uzi carbine. ATF recently, however, granted import permits for the "Galil Sporter" and the "Uzi American". The major design difference between the current models and the previously banned

models is that a thumbhole stock design has replaced the more conventional pistol grip. In a thumbhole stock, a narrow piece of wood or plastic connects the stock to the pistol grip, thus creating the "thumbhole".

As argued in detail below, these modified Galils and Uzi are no more sporting weapons than the earlier models that ATF had barred from importation. However, in the case of Galils and Uzis, the weapons must be barred from importation regardless of whether they meet the sporting purposes test. They cannot be imported because they are guns covered by the federal assault weapon ban and importation of them would involve an illegal "transfer" of the weapons.

The assault weapon statute makes it illegal to "manufacture, transfer, or possess a semiautomatic assault weapon." 18 U.S.C. §922(v)(1). "Semiautomatic assault weapon" is defined to include certain named guns, as well as guns with certain specified features. 18 U.S.C. §921(30). Among the named guns are "any of the firearms, or copies or duplicates of the firearms in any caliber known as...Action Arms Israeli Military Industries UZI and Galil." 18 U.S.C. §921(30)(A)(ii). Consistent with the purpose of the statute to curb the proliferation of assault weapons, it is reasonable for ATF to interpret the statute to include the "Galil Sporter" and the "Uzi American", both made by Israeli Military Industries, within the scope of guns "known as Action Arms Israeli Military Industries UZI and Galil." Although the current intended importer of these guns -- UZI America, Inc. -- is not the same as the importer named in the statute -- Action Arms -- to hold such a difference decisive would imply that the statute makes importability turn on the identity of the importer. Courts, of course, are required to avoid interpretations of statutes that lead to such absurd results. That Congress did not intend the interpretation of the named weapons to turn on such artificialities is underscored by the statute's coverage not only of the named guns, but also their "copies or duplicates". Thus, the courts are likely to uphold a reading of the statute that bars the importation of the Galil Sporter and the Uzi American as named assault weapons.

B. All the Modified Assault Rifles Should be Barred from Importation
Because They Fail the Sporting Purposes Test

The federal assault weapon ban defines "semiautomatic assault weapons" to include not only the assault weapons specifically listed by name in the statute, but also any gun that has certain specified features. 18 U.S.C. §921(30)(B)-(D). For purposes of this discussion, it is assumed, with the exception of the Galils and Uzis discussed above, that none of the modified assault rifles for which import permits are sought are either listed in the federal statute by name or have the requisite combination of features to be within the statutory definition of "semiautomatic assault weapons."

That the modified assault rifles do not fall within the statutory definition in no way limits ATF's discretion to find that they do not meet the sporting purposes test for importation. As described above, ATF's authority (and, indeed, duty) to bar non-sporting weapons from importation long preceded the enactment of the 1994 assault weapon statute. Nothing in that

statute, or its legislative history, remotely suggests that Congress intended to alter the sporting purposes test or limit ATF's discretion to apply it. Thus, the issue is whether the modified assault rifles meet the sporting purposes test, not whether they are within the definition of "semiautomatic assault weapons" in the federal assault weapon statute.

ATF's prior application of the sporting purposes test provides the basis for barring the importation of the modified assault rifles because each such rifle has two features that are essentially military features and are not generally found on sporting rifles: (1) the ability to accept large-capacity detachable ammunition magazines; and (2) a pistol grip or its functional equivalent, a "thumbhole" stock.

1. Large Capacity Detachable Magazines

ATF consistently, and correctly, has taken the position that large-capacity magazines are military, not sporting, in nature. In Gilbert Equipment Co., Inc. v. Higgins, the Court specifically noted the significance of the Bureau's conclusions about high-capacity magazines:

The bureau also determined that the USAS-12 contains detachable magazines which permit more rapid reloading. A large magazine capacity and rapid reloading are military features, according to the bureau.

709 F.Supp. at 1075. Moreover, ATF's 1989 assault rifle import ban cited large-capacity detachable magazines as a key feature distinguishing military from sporting rifles:

Virtually all modern military firearms are designed to accept large, detachable magazines. This provides the soldier with fairly large ammunition supply and ability to rapidly reload. *Thus, large capacity magazines are indicative of military firearms.* While detachable magazines are not limited to military firearms, most traditional semiautomatic sporting firearms, designed to accommodate a detachable magazine, have a relatively small magazine capacity. In addition, some States have a limit on the magazine capacity allowing for hunting, usually 8 rounds or less.

ATF Report at 7 (emphasis added).

2. Pistol grips or their equivalents

ATF consistently has taken the view that a pistol grip protruding from the receiver of a rifle is a military, not sporting feature. In upholding ATF's decision to bar importation of the USAS-12 shotgun, the Court noted the Bureau's reliance on the gun's "separate combat style pistol grip located on the bottom of the receiver forward of the buttstock...", Gilbert Equipment Co., 709 F.Supp. at 1080. The Court in Gilbert Equipment adopted the opinion of a federal magistrate, which described and relied upon ATF's conclusions about the pistol grip feature:

[T]he pistol grip facilitates the handling of the weapon when fired from positions other than the shoulder and also facilitates control of the weapon with one hand while traditional shotgun sports generally involve firing from the shoulder.

709 F.Supp. at 1087. This view of pistol grips was echoed by ATF in its analysis supporting the 1989 assault rifle import ban:

The vast majority of military firearms employ a well-defined pistol grip that protrudes conspicuously beneath the action of the weapon. In most cases, the "straight-line design" of the military weapon dictates a grip of this type so that the shooter can hold and fire the weapon. Further, a pistol grip can aid in one-handed firing of the weapon in a combat situation. Further, such grips were designed to assist in controlling machineguns during automatic fire. On the other hand, the vast majority of sporting firearms employ a more traditional pistol grip built into the wrist of the stock of the firearm since one-handed shooting is not usually employed in hunting or competitive target competitions.

ATF Working Group at 7.

The modified assault rifles subject to President Clinton's permit suspension have replaced the traditional pistol grip with a "thumbhole" stock. As noted above, a thumbhole stock is nothing more than a pistol grip with a thin piece of wood connecting the grip to the stock of the gun. Thus, there is no functional difference between the two configurations; the thumbhole stock, like the pistol grip, allows firing from positions other than the shoulder, including one-handed firing. ATF certainly could, in the exercise of its broad discretion, find that the addition of a thin piece of wood to a pistol grip does not convert a military weapon into a sporting weapon. Indeed, in its May 12, 1997 letter to UZI American, Inc. approving the importation of the "Galil Sporter" rifle, ATF finds that the rifle has both a thumbhole stock and a pistol grip:

The rifle is fitted with a fixed, one-piece shoulder stock having an elongated thumbhole style design. The rifle has a pistol grip that protrudes conspicuously beneath the action of the weapon.

See Exhibit A. Photographs of the Galil and the Galil Sporter show that the pistol grip is literally part of the thumbhole stock. See Exhibits B and C. The differences between the two configurations are in appearance, not function.

3. Application of the Sporting Purposes Test

Although the assault rifles barred from importation in 1989 generally had other military features in addition to the ability to accept large-capacity magazines and pistol grips, nothing in ATF's 1989 analysis is inconsistent with barring importation of any rifle with those features alone.

In 1989, ATF simply did not have cause to consider whether those two features themselves would be sufficient to render a rifle generally unsuitable for sporting purposes. In its 1989 analysis, ATF decided to make permanent the import ban on every weapon it had temporarily suspended from importation, with one exception -- the Valmet Hunter. However, it allowed the importation of the Valmet Hunter because it had undergone significant changes in design, *including removal of the pistol grip*. ATF Report at 9. Although it is true that since 1989 ATF has permitted the importation of a number of thumbhole stock design "sporterized" assault weapons, there is no question that ATF has the authority to change its approach. The Court in Gun South recognized the implied authority of administrative agencies "to reconsider and rectify errors even though the applicable statute and regulations do not expressly provide for such reconsideration." 877 F.2d at 862.

Therefore, to permanently bar the importation of the modified assault rifles would be entirely within ATF's broad discretion in the administration of the sporting purposes test.

VI. CONCLUSION

The modified assault rifles currently under suspended permits should be permanently barred from importation because they do not meet the sporting purposes test for importation under the Gun Control Act of 1968 and because certain of the rifles (Galils and Uzis) also are banned by the 1994 federal assault weapon law.

cc: ✓ Rahm Emanuel
Senior Advisor to the President

Robert E. Rubin
Secretary of the Treasury

Raymond W. Kelly
Undersecretary for Enforcement
Department of the Treasury

Imports



DEPARTMENT OF THE TREASURY
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
WASHINGTON, DC 20226

E:CE:FT:EMO
3311

MAY 12 1997

Mr. Jonathan Mossberg
UZI America, Inc.
7 Grasso Avenue
North Haven, Connecticut 06473

Dear Mr. Mossberg:

This refers to your letter of April 4, 1997, with which you submitted a semiautomatic rifle for evaluation as to its importability into the United States.

Examination of the submitted sample, serial number 97100171, indicates that it is a Galil Sporter model semiautomatic rifle in caliber 7.62mm NATO (.308 Winchester) manufactured by I.M.I. in Israel. The rifle has been originally designed and manufactured to permit only semiautomatic fire. The receiver was originally manufactured with no provision for installing an automatic sear or automatic sear pin. Additionally, the right bolt guide rail has never been cut out to allow clearance for the upper arm of the automatic sear. The bolt carrier has no provision for tripping an automatic sear.

The rifle is fitted with a fixed, one-piece shoulder stock having an elongated thumbhole style design. The rifle has a pistol grip that protrudes conspicuously beneath the action of the weapon. The rifle has no folding stock, bayonet mount, flash suppressor, threaded barrel designed to accommodate a flash suppressor, and no grenade launcher. The rifle as submitted is more in the configuration of a traditional sporting rifle. The firearm was submitted with a detachable, double column magazine having a maximum capacity of less than 10 cartridges.

Based on the above examination, the Galil Sporter model rifle as submitted is not a semiautomatic assault weapon as that term is defined in 18 U.S.C., Chapter 44, Section 921(a)(30)(A) and (B). The rifle is suitable for importation under the provisions of § 925(d)(3) of the cited chapter.

-2-

Mr. Jonathan Mossberg

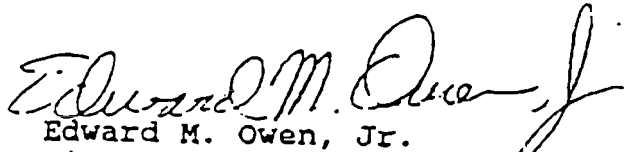
Please be advised that this determination is based on the sample as submitted. If the design, dimensions, configuration, material used or method of construction is changed, this classification is subject to review.

It was noted in our examination that the sample is not marked with the name of the importer as required by 27 CFR, Section 178.92(a)(1). Any firearms you import must be marked as required by the cited section.

The sample is being returned under separate cover.

We trust that the foregoing has been responsive to your inquiry. If we can be of any further assistance, please contact us.

Sincerely yours,

A handwritten signature in cursive script, reading "Edward M. Owen, Jr.", is written over the typed name.

Edward M. Owen, Jr.
Chief, Firearms Technology Branch

Pre Ban Galil

Features:

1. Pistol Grip that extends conspicuously beneath the action of the weapon
2. Folding stock
3. Bayonet Mount
4. Flash Suppressor

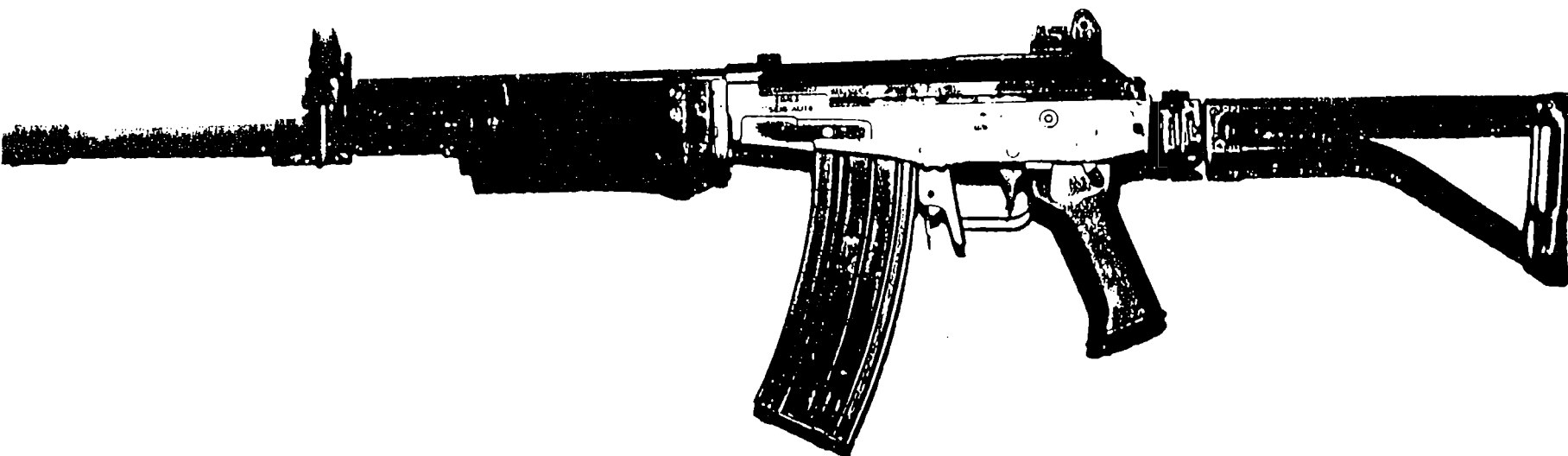
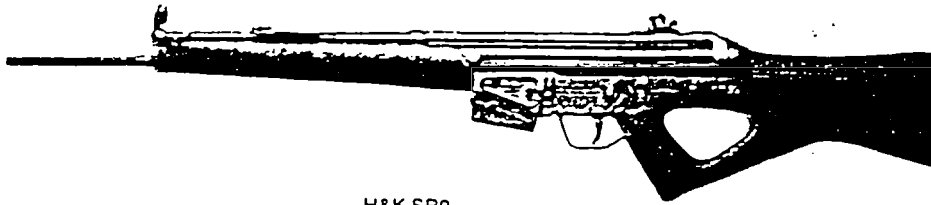


EXHIBIT B

Pre ban Galil

EXHIBIT C



H&K SR9

HECKLER & KOCH SR9 RIFLE

Caliber: 308 Win., 5-shot magazine.

Barrel: 19.7", bull.

Weight: 11 lbs. Length: 42.4" overall.

Stock: Kevlar reinforced fiberglass with thumbhole; wood grain finish.

Sights: Post front, aperture rear adjustable for windage and elevation.

Features: A redesigned version of the HK91 rifle. Comes standard with bull barrel with polygonal rifling. Uses HK clawlock scope mounts. Introduced 1990. Imported from Germany by Heckler & Koch, Inc.

Price: \$1,369.00



Galil Sporter

GALIL SPORTER RIFLE

Caliber: 223, 308 5-shot magazine.

Barrel: 20".

Weight: 8.7 lbs. Length: 40.5" overall (223).

Stock: Hardwood thumbhole.

Sights: Post front, flip-type adjustable rear.

Features: Black-finished wood and metal. Comes with 5-shot magazine. Introduced 1991. From Springfield Armory.

Price: \$1,423.00



Century FAL Sporter

CENTURY INTERNATIONAL FAL SPORTER RIFLE

Caliber: 308 Win

Barrel: 20.75"

Weight: 9 lbs., 13 oz. Length: 41" 125" overall.

Stock: Bell & Carlson thumbhole sporter.

Sights: Protected post front, adjustable aperture rear.

Features: Matte blue finish, rubber butt pad. From Century International Arms.

Price: About \$625.00

THE WHITE HOUSE
WASHINGTON

September 14, 1997

MEETING WITH SENATOR FEINSTEIN

DATE: September 15, 1997
LOCATION: Oval Office
BRIEFING TIME: 1:40 pm - 1:45 pm
EVENT TIME: 1:45 pm - 2:00 pm
FROM: John Hilley/Rahm Emanuel/Bruce Reed

I. PURPOSE

To discuss Senator Feinstein's concerns with how the Administration is enforcing the assault weapons ban and other firearms issues.

II. BACKGROUND

Senator Feinstein wants to discuss 3 firearms issues with you that were recently featured in an LA Times series criticizing the California and federal laws banning assault weapons. These include: (1) the importation of large capacity ammunition feeding devices; (2) "copycat" or "sporterized" assault weapons; and (3) enforcing federal firearms laws at gun shows. An attached memorandum summarizes these issues and provides some suggested talking points for your meeting. Senator Feinstein believes that the Administration has the authority to address these issues. We are not so optimistic and believe additional legislation is necessary. Regardless, we are pleased to work with her and the Treasury Department to make sure that -- short of legislation -- we are doing everything we can to enforce the assault weapons ban and other firearms laws.

For your information, we have also attached a copy of the LA Times article that outlines her concerns.

III. PARTICIPANTS

Briefing Participants:

Rahm Emanuel
Bruce Reed
John Hilley

Event Participants:

Senator Feinstein

FILE W/ ASSAULT
WEAPONS BAN
+ CLIP IMPORTS.

Michelle Crisci

11/13/97 05:03:42 PM

Record Type: Record

To: Jose Cerda III/OPD/EOP

cc:

Subject:

----- Forwarded by Michelle Crisci/WHO/EOP on 11/13/97 04:48 PM -----



Laura Emmett

11/13/97 04:59:41 PM

Record Type: Record

To: Michelle Crisci/WHO/EOP

cc:

Subject:

Date: 11/13/97 Time: 16:36

WWhite House denies tale about irate aide

WASHINGTON (AP) It was an eyebrow-raising anecdote: A White House official was so irate about an agency's assault weapons policy that he reportedly put his hands around the neck of a law enforcement agent.

The White House said there's one problem with the story: It's not true.

"I saw that report and I checked with people who were present, and they indicate no such event occurred," press secretary Mike McCurry said.

The aide in question is Rahm Emanuel, the president's strong-willed adviser whose portfolio includes a bevy of anti-crime initiatives.

Emanuel has been working for weeks with the Bureau of Alcohol, Tobacco and Firearms to draft a presidential order to block the import of assault-style weapons that were modified to skirt a federal ban.

He recently learned that ATF had accelerated approval of import permits for 150,000 weapons, an act that Emanuel and other White House officials saw as directly contradicting Clinton's intentions.

ATF officials were summoned to a meeting where Emanuel berated them, angrily slammed shut a book and stormed out of the room, according to White House officials. They insisted that Emanuel did not lay a hand on the ATF agent.

McCurry confirmed that the White House was upset that some permits were approved before Clinton could approve the order, which is expected to be signed in the next few days.

``Apparently some weapons were admitted, and I think that was a source of concern here at the White House to staff and to the president,'' McCurry told reporters.

APNP-11-13-97 1640EST



Violence Policy Center

1350 Connecticut Avenue, NW
Suite 825
Washington, DC 20036

202.822.8200 voice
202.822.8205 fax
www.vpc.org web

That Was Then, This is Now

**The NRA and the Gun Industry Talk About
Assault Weapons—From Both Sides of Their Mouths**

**Tom Diaz
Senior Policy Analyst**

© November 1997

Introduction

Semi-automatic assault weapons are civilian versions of military assault rifles (like the AK-47, UZI, and M-16) and pistols (like the MAC-10). Military assault weapons were designed so that soldiers could "spray-fire" a large number of bullets over a broad killing zone, without having to aim at each individual target. Their increased firepower is the result of their ability to accept high-capacity ammunition magazines (also known as "clips") which can hold up to 100 rounds. When one clip is emptied, it can be ejected and replaced by the shooter with a fresh clip in seconds. Their ability to be spray-fired from the hip is the result of a set of features that allow a "point-and-shoot" grip and help control recoil so the shooter can "hose down" a wide area. Civilian assault guns maintain the key design features that make this deadly spray firing easy. These features include:

- pistol grips (including so-called "thumb-hole stocks" and magazines that function like pistol grips); and,
- barrel shrouds, vented tubes surrounding barrels (which can become too hot to hold during rapid fire), which remain cool enough to be directly grasped by the shooter.

Some assault guns also feature folding stocks, which make the gun more concealable and easier to hold in a from-the-hip firing position, grenade launchers, bayonet mounts, and threaded barrels for adding silencers and flash suppressors (to reduce flash from the muzzle at night).

The ability to quickly lay down a high volume of fire makes semi-automatic assault weapons particularly dangerous in civilian use, and explains why terrorists, mass killers, and violent criminals favor them. It also distinguishes them from true hunting or target weapons.

In its efforts to stop restrictions on the production and sale of semi-automatic assault rifles, pistols, and shotguns, the National Rifle Association (NRA) has worked with members of America's gun industry to deceive the American public as to the special threat posed by assault weapons. In this battle, four myths have been posited by the NRA and the industry:

- Gun experts say there is no such thing as a civilian assault weapon.
- Assault weapons merely "look different" than traditional semi-automatic rifles and shotguns and have been singled out for their cosmetic differences.

- A "true" assault weapon is a selective-fire military weapon, capable of full-auto fire.
- Assault weapons pose no threat to America's police.

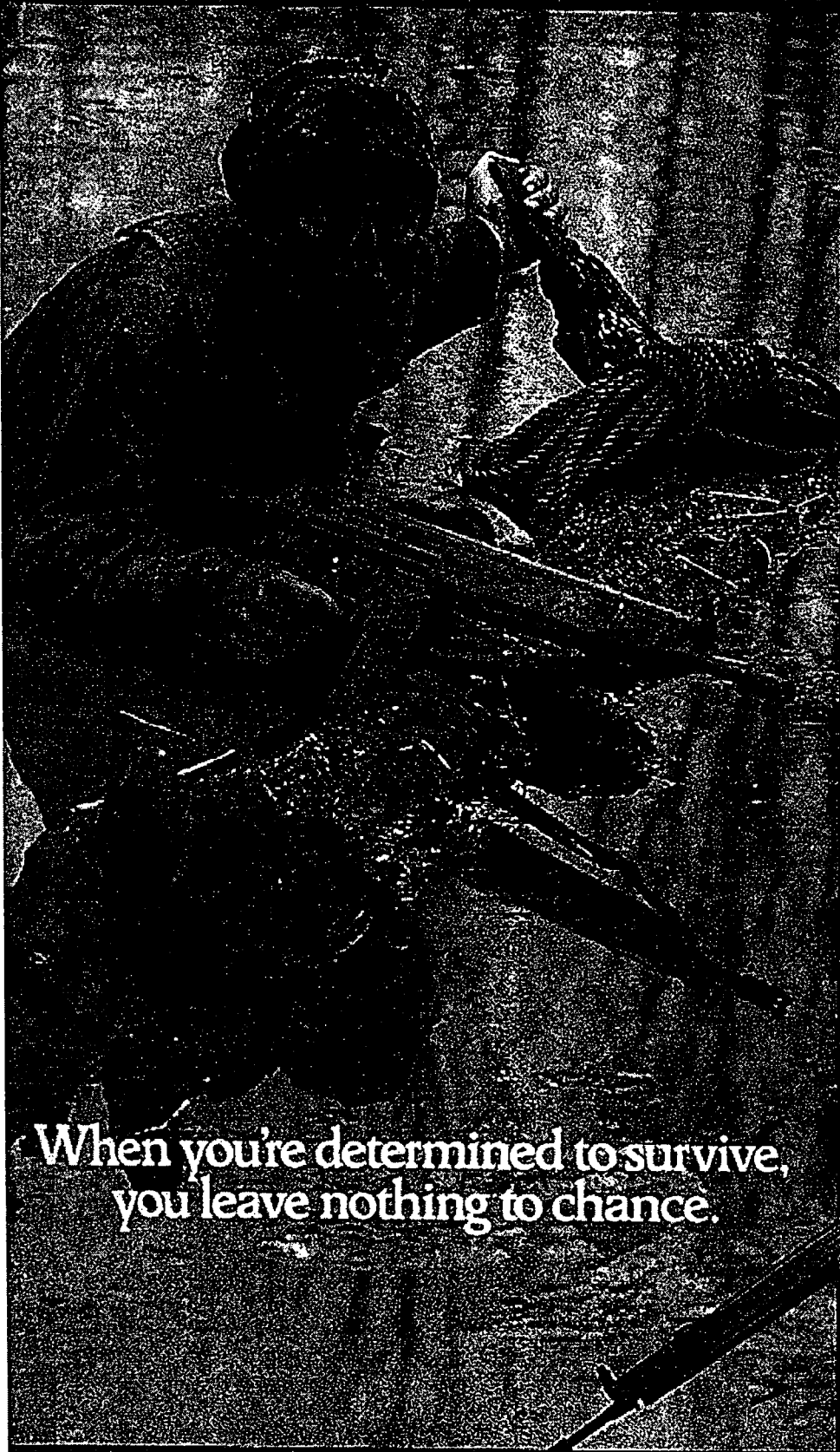
These four myths are easily refuted by the facts surrounding semi-automatic assault weapons and *much of the information debunking these false claims actually comes from the NRA and the gun industry*. Throughout the 1980s, the NRA, the firearms industry, and the gun press talked enthusiastically about "assault rifles" and "assault pistols" and openly acknowledged the guns' differences from traditional sporting weapons. This changed in 1989 when legislative efforts to restrict assault weapons began in the wake of Patrick Purdy's Stockton, California schoolyard massacre. Purdy, armed with a semi-automatic AK-47 assault rifle, killed five schoolchildren. Twenty-nine others, including a schoolteacher, were wounded. Writers and industry members who had proudly pointed to the guns' military heritage and applications now reversed themselves and began portraying these weapons of war as misunderstood ugly ducklings. The reality is that assault weapons are treated differently than other semi-automatic firearms for a simple reason: they are different.

Myth One

Gun Experts Say There is No Such Thing as a Civilian Assault Weapon

The NRA, the gun industry, the gun press, and other pro-gun "experts" today claim that there is no such thing as a civilian assault weapon. But before the guns came under fire, these same experts enthusiastically described these civilian versions of military weapons as "assault rifles," "assault pistols," and "military assault" weapons. For example:

- In 1982, *Guns & Ammo* published a book titled *Assault Rifles*, advertising "Complete Data On The Best Semi-Automatics."¹ In 1988 *Guns & Ammo* handgun expert Jan Libourel defined an "assault pistol" simply as, "A high-capacity semi-automatic firearm styled like a submachine gun but having a pistol-length barrel and lacking a buttstock."²
- Gun magazines also specifically praised the spray fire features of civilian assault weapons. For example, a 1989 *Guns & Ammo* review of the "Partisan Avenger .45 Assault Pistol" noted that when the gun "is fired rapidly from the hip, its swivelling front grip makes for easy and comfortable control of the recoil," and that the "forward pistol grip extension of this powerful assault pistol not only helps point it instinctively at the target but goes a long way to controlling the effects of recoil...."³ *Guns & Ammo* also found point shooting from the hip to be "surprisingly easy" with the HK 94 9mm Carbine.⁴ A 1990 review in the NRA's *American Rifleman* of the Sites Spectre HC Pistol said, "A gun like the Spectre is primarily intended for hip-firing...."⁵ The same magazine's 1993 review of the Steyr Mannlicher SPP Pistol reported, "Where the SPP really shines is in firing from the hip...."⁶
- A cottage industry of accessory suppliers sprang up, all of which targeted ads soliciting owners of civilian "assault weapons."⁷
- The gun industry deliberately used the military character of semi-automatic "assault weapons" and the lethality-enhancing utility of their distinctive characteristics as selling points. The German company Heckler & Koch, for example, published ads in 1984 calling their civilian guns "assault rifles" and stressing their military lineage. "The HK 91 Semi-Automatic Assault Rifle from Heckler & Koch...was derived directly from the G3," a German army weapon, said one ad.⁸ Another ad that year described the HK 94 Carbine as "a direct offspring of HK's renowned family of MP5 submachine guns."⁹ A 1989 Intratec ad said the company's TEC-9 "clearly stands out among high capacity assault-type pistols."¹⁰ And in 1982 Magnum Research advertised that the Galil rifle system to which it had import rights "outperformed every other assault rifle."¹¹



When you're determined to survive,
you leave nothing to chance.

In a survival situation, you want the most uncompromising weapon that money can buy. The HK 91 Semi-Automatic Assault Rifle from Heckler & Koch.

The HK 91 was derived directly from the G3. Its delayed roller-locked bolt system reduces recoil to keep the gun on target. It exceeds the most stringent NATO accuracy requirements—right out of the box. And HK's revolutionary scope mounting system guarantees that you're still zeroed-in every time you mount your scope.

Easy to maintain and take apart, the HK 91 in cal. 308 and the HK 93 in cal. 223 were both designed as parts of an integrated gun system. The HK system of interchangeable parts and accessories enables these precision firearms to adapt quickly to changing tactical situations.

Leading military operations and law enforcement agencies around the world rely on firearms that bear the H&K name. Your choice is equally clear. You can carry an ordinary weapon. Or own the most uncompromising firearm in the world.

For our 24-page
color brochure,
send \$3 to:
Heckler & Koch, Inc.
14601 Lee Road
Chantilly, Virginia 22021
Tel. 703-631-2800

In a world of compromise, some men don't.

Myth Two

Assault Weapons Merely "Look Different"

While it is true that the "actions" or internal mechanisms of all semi-automatic guns are similar, the actions of assault weapons are part of a total design package that promotes "spray fire"—unlike true sporting guns. Assault weapons look different because they are different—*their looks reflect the fact that they are designed to kill people efficiently.*

And while the NRA and the gun industry today put themselves through tortured gyrations in their attempts to justify the "sporting use" of assault guns, early reviews of these weapons noted their limited sporting value:

- In 1987 the NRA's *American Rifleman* magazine reviewed the Calico M-100 rifle and concluded, "The M-100 is certainly not a competition gun, hardly a hunting gun, and is difficult to visualize as a personal defense gun."¹²
- In 1983, *Guns & Ammo* reviewed the Heckler & Koch HK 94 rifle and reported, "You certainly aren't going to enter any serious, formal matches with it...."¹³

During this period, the gun industry also actively promoted the intimidating looks of assault weapons as a sales booster:

- A 1989 *Guns & Ammo* review of the A.A. Arms AP9 praised the appeal of the gun's "wicked looks" to *teenagers*, noting "it is one mean-looking dude, considered cool and Ramboish by the teenage crowd.... Take a look at one. And let your teen-age son tag along. Ask him what *he* thinks. And be sure to carry your checkbook."¹⁴ [emphasis in original]
- In 1985 *Guns & Ammo* expert Garry James noted in his review of Colt's 9mm AR-15 rifle that "the intimidation factor of a black, martial-looking carbine pointing in one's direction cannot be underestimated."¹⁵
- In 1983 *Guns & Ammo* writer Howard French said of the HK 94 9 mm Para Carbine that "you would not get much static from an intruder eyeballing its rather lethal appearance."¹⁶
- 1981 C.A. Inc. advertisements for the Mark 45 and Mark 9 "Tommy-Gun" style carbines explicitly made the point that a "show of force can be stopping power worth having."¹⁷

Notice the big barrel on this carbine. Forty-five caliber to be exact, a size considered ideal for sheer stopping power. Or blowing a can away.

As a sporting rifle, the CA Mark 45 semi-automatic carbine makes a lot of sense. It's light handling, fires with great accuracy, little recoil and little noise. But without the danger

of long range ammo. For plinking, it's a blast.

The Mark 45 was engineered with military practicality for toughness and reliability at low cost. So its appearance is somewhat formidable, an advantageous deterrent if you also need a gun for protection. A show of force can be stopping power worth having.

Write for free brochure CA with details on 45 cal. or 9mm models, grips, cases, clips, sights and slings.

Stopping power

\$195⁰⁰

Horizontal or vertical front grip models.

Legal for private ownership.

MARK 9

9 MM SEMI-AUTOMATIC CARBINE

MARK 45

45 CAL. SEMI-AUTOMATIC CARBINE

Manufactured in U.S.A.
Nickel plate optional, add \$30.00 to above price.

CA Inc.
Distributed by:
C.A. Inc.
P.O. Box 10214
Knoxville, TN 37919
615/523-3393

Myth Three

A "True" Assault Weapon is a Selective-Fire Military Weapon

The full-auto "issue" is a red herring that was raised by the NRA and the gun industry only *after* public attention began to focus on the increasing death and violence associated with semi-automatic versions of these weapons.

The NRA and the gun industry are correct that military assault weapons often have a "selective fire" feature. This allows the shooter to switch between full-auto fire (fires repeatedly as long as the trigger is held back) or semi-automatic fire (the trigger must be pulled for each round fired). It is also true that civilian assault weapons do *not* have automatic fire capability (federal law severely restricts the sale and possession of machineguns by civilians). But semi-automatic assault weapons are *still* unacceptably dangerous because:

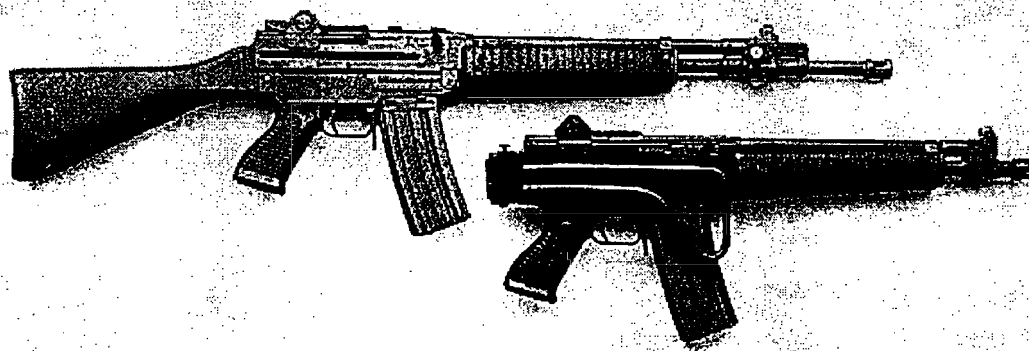
- *They keep the generic features that make them ideal for rapidly laying down a withering field of fire. As the leading pro-assault weapons expert Duncan Long wrote in his 1986 book, **Assault Pistols, Rifles and Submachine Guns**:*

The next problem arises if you make a semiauto-only model of one of these selective-fire rifles. According to the purists, an assault rifle has to be selective fire. Yet, if you think about it, it's a little hard to accept the idea that firearms with extended magazines, pistol grip stock, etc., cease to be assault rifles by changing a bit of metal.¹⁸

- *Military and civilian experts agree that semi-automatic fire is actually more—not less—likely to hit the target than is automatic fire, and is thus more deadly.¹⁹ Regardless, a person of moderate skill can fire a semi-automatic assault weapon at an extremely fast rate of fire.²⁰*
- *Many semi-automatic assault weapons can easily be converted to automatic fire with home tools and modest skill.*

DUNCAN LONG

ASSAULT PISTOLS, RIFLES AND SUBMACHINE GUNS



CHADWICK

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

Myth Four

Assault Weapons Pose No Threat to America's Police

A favorite argument made by the NRA and the gun industry in attempting to overturn the federal ban on assault weapons is that such weapons pose little or no threat to our nation's police officers.

In fact, in 1995, one in 10 law enforcement officers killed in the line of duty was felled by an assault weapon as defined in the "Public Safety and Recreational Firearms Use Protection Act of 1994."²¹ This grim statistic is consistent with the real-world experience of cops on the beat. As Baltimore City Drug Enforcement Officer Gerald Hensley testified in 1995 before the House Judiciary Committee's Crime Subcommittee:

Since joining the Police Department, I have seen the firepower of criminals, particularly drug dealers, grow from small caliber revolvers to military-style weapons which can shoot 30 bullets in less than ten seconds. In my years of service I have personally encountered assault weapons on several occasions....I participated in the service of a search and seizure warrant at a drug house where we found and confiscated a semi-automatic TEC-9. The weapon, which was fully loaded with 30 rounds, was on the bottom shelf of a closet in a bedroom occupied by children. In May of 1991, I myself was threatened by a semi-automatic TEC-9. While on a routine patrol of a suspected drug area, my two partners and I noticed suspicious activity. While my two partners went in the back way, I went in the front. As I entered the house I noticed a gunman lying in wait for my partners with the TEC-9. I shouted to him and he turned and prepared to shoot me. Before he could, I shot and killed him.²²

Furthermore, The Urban Institute's 1997 evaluation of the federal assault weapons ban found that the number of murders of police officers perpetrated with assault weapons is higher than that for civilian gun murders.²³ When they are available, assault weapons are the preferred weapons of cop killers.

Conclusion

In conclusion, assault weapons constitute a specific class of firearm incorporating design characteristics intended to enhance their utility as killing machines. The veil of obstinance and false argument the NRA and the gun industry attempt to hide behind today is pierced not only by the real-world testimony of law-enforcement personnel, but by their own enthusiastic words as recorded in pro-gun publications since the early 1980s. Nothing about the weapons has changed, only the politics.

Endnotes

1. Advertisement, *Guns & Ammo* (July 1982), p. 20.
2. "Handgunner's Glossary," *Guns & Ammo* (August 1988), p. 42.
3. "Partisan Avenger .45 Assault Pistol," *Guns & Ammo Handgun Annual* (1989), pp. 26-30.
4. "H&K's 9 mm Para Carbine," *Guns & Ammo* (November 1983), p. 44.
5. "Sites Spectre HC Pistol," *American Rifleman* (December 1990), p. 58.
6. "Steyr Mannlicher SPP Pistol," *American Rifleman* (August 1993), p. 72; see also, "Colt's 9mm AR-15," *Guns & Ammo* (July 1985), p. 76 ("fired from the hip.... about as natural a pointer as you can get.").
7. See, e.g., Assault Systems advertisements in *Guns & Ammo* (July 1981), p. 90 ("assault rifle case"), 92 ("lightweight assault bipod"); (November 1983), p. 101 ("assault rifle cases" and "padded assault rifle sling"); Beeman advertisement in *Guns & Ammo* (December 1982), p. 14 ("Beeman Short Scopes...New for Assault Rifles to Airguns...Use on assault rifles...."); Ventech Inc. advertisement for "Assault Weapon Accessories" in *Guns & Ammo* (February 1991), p. 96 ("Mini-14...10/22...AR-7....").
8. Heckler & Koch advertisement, *Guns & Ammo* (July 1984), p. 9.
9. Heckler & Koch advertisement, *Guns & Ammo* (June 1984), back cover.
10. Intratec advertisement, *Guns & Ammo* (January 1989), p. 77.
11. Magnum Research advertisement, *Guns & Ammo* (November 1982), p. 59. See also, e.g., advertisement by Paragon S&S Inc. for AR 10, *Guns & Ammo* (July 1981), p. 90 ("Used world wide by military and LAW ENFORCEMENT officers. This famous assault rifle is now available in a semi-auto form!").
12. "Calico M-100 rifle," *American Rifleman* (January 1987), p. 61.
13. "H&K's 9 mm Para Carbine," *Guns & Ammo* (November 1983), p. 44.
14. "A.A. Arms AP9 Assault Pistol," *Guns & Ammo Handgun Annual* (1989), p. 51.
15. "Colt's 9mm AR-15," *Guns & Ammo* (July 1985), p. 76.
16. "H&K's 9 mm Para Carbine," *Guns & Ammo* (November 1983), p. 42.
17. CA Inc. advertisement, *Guns & Ammo* (March 1981), p. 92.

18. Duncan Long, *Assault Pistols, Rifles and Submachine Guns* (Secaucus, NJ: Citadel Press 1986), p. 1.
19. See, "How Effective is Automatic Fire?," *American Rifleman* (May 1980), pp. 30-31, 80.
20. See, e.g., "Calico M-100 rifle," *American Rifleman* (January 1987), p. 61 ("the full 100 rounds were sent downrange in 14 seconds by one flicker-fingered tester.")
21. Jeffrey A. Roth and Christopher S. Koper, et al., *Impact Evaluation of the Public Safety and Recreational Firearms Use Protection Act of 1994: Final Report* (Washington, DC: The Urban Institute 1997), p. 107.
22. Kristen Rand, *Cop Killers: Assault Weapon Attacks on America's Police* (Washington, DC: Violence Policy Center 1995), p. 7-8.
23. Jeffrey A. Roth and Christopher S. Koper, et al., *Impact Evaluation of the Public Safety and Recreational Firearms Use Protection Act of 1994: Final Report* (Washington, DC: The Urban Institute 1997), p. 108.



Los Angeles Times

POLITICS & GOVERNMENT

HELP?

Now whenever
your schedule is open

Sunday, December 14, 1997

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, JEFF BRAZIL, Times Staff Writers

[PREV STORY](#)

[NEXT STORY](#)

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 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."

† Search the archives of the Los Angeles Times for similar stories. You will not be charged to look for stories, only to retrieve one.

Copyright Los Angeles Times

[PREV STORY](#)

[NEXT STORY](#)



FACSIMILE COVER SHEET
DEPARTMENT OF THE TREASURY
OFFICE OF POLICY DEVELOPMENT
(ENFORCEMENT)

Phone: (202) 622-0300

Fax: (202) 622-7301

Date: 10/16/97

Page 1 of 4

TO: Jose Cordero

FAX: 456-7028

FROM: David Medina

SUBJECT:

MESSAGE: As we discussed

**BUREAU OF ALCOHOL, TOBACCO AND FIREARMS
OFFICE OF CHIEF COUNSEL
WASHINGTON, DC 20226
PHONE: (202) 927-8530
FAX: (202) 927-8673**



DATE: October 16, 1997

FAX NUMBER:

TO: David Medina

FROM: Steve Rubenstein

NUMBER OF PAGES TO FOLLOW: 2

COMMENTS: Per your request. The first page is a list of firearms which were "sporterized" after the 1989 ban. Some of these weapons may have been modified after the 94 ban on assault weapons. For example the Swiss Brugger (next to last entry) was first proposed for import about 1 and 1/2 years ago and was modified from its original configuration to meet the test. Apparently, none of these weapons have been imported. Further, the list may not be all-inclusive. The second page reflects the number of the weapons reflected on page 1 which were actually imported in 1995 and 1996. It does not include any Forms 6A where the number of firearms imported was 5 or less.

There is also a pending import application to import 10,000 Galil rifles.

COUNTRY	MANUFACTURER	MODEL
Argentina	F.M.A.P.	FAL Sporter
Austria	Steyr	USR rifle
Brazil	IMBEL	FZSA, L1A1 Sporter, SAR4800
Bulgaria	Arsenal Co.	SA93, SA95, SLR95, SLR96, SLR97 LUX
Egypt	MAADI Co.	ARM, MISTR
Germany	Heckler & Koch	PSG1 rifle
Greece	Hellenic Arms	G3S, SAR8
Hungary	FEG	SA85M
Israel	IMI	Uzi American, Galil Sporter
Poland	Zaklady Metalowe Lucznik	Radom Hunter
Portugal	FMP	XG3S, SLG95
Romania	Ratmil	CUR, ROMAK1, WUM1, SLG97, PSL
Romania	Cugir	as above
Russia	Izhevsk	Saiga rifle
South Korea	Daewoo	DR200
Switzerland	Brugger & Thomet	BT96
Switzerland	SIG	510-4, SG550-1SP

Hughes, Mary Jo

From: White, Larry G. (HQPPA)
 Sent: Tuesday, October 14, 1997 2:13PM
 To: Hughes, Mary Jo
 Subject: Search of F& E Imports Branch files

Branch personnel conducted a search of importer files for calendar years 1995 and 1996 to identify Forms 6A filed to reflect the importation of a select group of semiautomatic rifles identified by the Firearms Technology Branch. Below are results of that search:

1995

<u>DATE</u>	<u>MODEL</u>	<u>COUNTRY</u>	<u>QUANTITY</u>	<u>TOTAL</u>
4/20/95	SA-93	BULGARIA	1	
11/21/95	"	"	1,000	1,001
1/23/96	SAR4800	BRAZIL	50	
2/25/96	"	"	25	
7/19/96	"	"	25	
7/30/96	"	"	25	
9/19/96	"	"	25	150

1995 TOTAL:

1,151

1996

<u>DATE</u>	<u>MODEL</u>	<u>COUNTRY</u>	<u>QUANTITY</u>	<u>TOTAL</u>
VARIOUS	MISR	EGYPT	2,201	
"	L1A1	BRAZIL	9,492	
7/25/96	SAR8	GREECE	1	11,694
VARIOUS	SLR95	BULGARIA	16,592	
"	SLR96	"	1,001	17,593
5/28/96	ARM	EGYPT	1,100	1,100
VARIOUS	SA85M	HUNGARY	4,650	4,650

1996 TOTAL:

35,037

1995 AND 1996 COMBINED TOTAL:

36,188

COUNTRY	MANUFACTURER	MODEL
Argentina	F.M.A.P.	FAL Sporter
Austria	Steyr	USR rifle
* Brazil	IMBEL	FZSA, L1A1 Sporter, SAR4800
* Bulgaria	Arsenal Co.	SA93, SA95, SLR95, SLR96, SLR97 LUX
* Egypt	MAADI Co.	ARM, MISTR
Germany	Heckler & Koch	PSG1 rifle
Greece	Hellenic Arms	G3S, SAR8
* Hungary	FEG	SA85M
Israel	IMI	Uzi American, Galil Sporter
Poland	Zaklady Metalowe Lucznik	Radom Hunter
Portugal	FMP	XG3S, SLG95
Romania	Ratmil	CUR, ROMAK1, WUM1, SLG97, PSL
Romania	Cugir	as above
Russia	Izhevsk	Saiga rifle
South Korea	Daewoo	DR200
Switzerland	Brugger & Thomet	BT96
Switzerland	SIG	510-4, SG550-1SP

* LARGEST IMPORTERS

WALTER CAPPS
22D DISTRICT, CALIFORNIA

1118 LONGWORTH BUILDING
WASHINGTON, DC 20515-0522
(202) 225-3601

COMMITTEE ON
INTERNATIONAL RELATIONS

COMMITTEE ON SCIENCE



Congress of the United States
House of Representatives

September 30, 1997

6784
DISTRICT OFFICES:

- ☐ 1411 MARSH STREET, STE. 205
SAN LUIS OBISPO, CA 93401
(805) 548-8348
- ☐ 1428 CHAPALA STREET
SANTA BARBARA, CA 93101
(805) 730-1710
- ☐ 801 S. BROADWAY
SANTA MARIA, CA 93454
(805) 349-9313

President William J. Clinton
The White House
Washington, D.C. 20500

OCT 2 PM2:09

Dear Mr. President:

I am writing to bring to your personal attention the enclosed letter to Israeli Prime Minister Binyamin Netanyahu signed by 34 Members of the House of Representatives.

This letter represents our strong opposition to the pending sale between Israel Military Industries Ltd. and the U.S. gun maker O.F. Mossberg & Sons, Inc. As you know, the sale would put tens of thousands of Uzi and Galil guns on American streets. These weapons have been modified to avoid the ban instituted in the 1994 Assault Weapons legislation. I know that you believe, as I do, that we cannot continue to expose our citizens to the deadly dangers posed by assault weapons.

I respectfully urge you to intervene in this sale and to do all that you can to heighten the Bureau of Tobacco, Alcohol, and Firearms' role and responsibility in transactions such as this. While we cannot stop the worldwide marketing of these guns, we certainly can make efforts to stop their importation.

I thank you for your attention to this matter and I look forward to your response.

Sincerely,

WALTER CAPPS
Member of Congress

WHC:ej

Congress of the United States
House of Representatives
Washington, DC 20515

September 30, 1997

His Excellency Binyamin Netanyahu
Prime Minister
Jerusalem, Israel

Dear Mr. Prime Minister:

We are writing to respectfully ask for your intervention in a pending gun sale between a state-owned company, Israel Military Industries Ltd. and the United States gun maker O.F. Mossberg & Sons, Inc. This sale has been approved by the U.S. Bureau of Alcohol, Tobacco, and Firearms because importing these weapons does not technically violate United States law. However, we firmly believe that the commercial sale of powerful assault weapons in the United States must be restricted.

We understand how critical the Uzi and Galil weapons have been to the Israel Defense Forces in the IDF's efforts to maintain the security of the nation. However, these weapons have no place on American streets. As you know, the illegal use of semiautomatic assault weapons continues to rise in our country. Military-style weapons are the guns of choice of criminals from our urban streets to our rural communities.

In the spirit of U.S. - Israel friendship, we urge you to stop this sale and to do all that you can to prevent future sales. Thank you for your attention to this important matter.

Sincerely,

Walter Capps

Tom Lantos

Sam Jish

Edith L. Engel

Robert Weyh

Concyn Mc Carthy

Don Barrett

Carol B. Maly

Eddie Bernice Johnson

Phyllis Jackson

David Shoo

Elizabeth Durr

Zee Lippin

Jim McGowan

Ann V. Antierney

Gerold Radler

Lucille Bayal-allard

Lan Linn

Jim M. Bennett

Barney Frank

Tom Minton

Edward J. Mackey

John W. Olver

Sam Fan

George L. Brown

Sandra Levin

Lonnie Moulla

Darlene Horley

Neil Abernethy

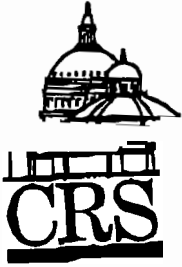
John Spratt

Tom Campbell

Martin O. Pabo

James H. Millender - M. J. Donald

Patry T. Thirk



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 *C Doyle*
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 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]

CRS-2

Jose Centa

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 constitute 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.*

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 there were 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, 638-33 (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").

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 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 Einstein, 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 AT'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 Einstein and others, but may hold up best over time.



FAX from ...

Senator Dianne Feinstein

of California

331 Hart Senate Office Building
Washington, DC 20510
(202) 224-3841

DATE: 10/29

TIME: _____

TO: RATHM EMANUEL

FROM: SUSAN KENNEDY

COMMENTS:

TOTAL NUMBER OF PAGES (INCLUDING COVER SHEET): 2

NOTE: The information contained in this facsimile is confidential. If you receive this transmission in error, please notify the sender immediately.

SACRAMENTO BEE

10 / 29 / 97

Page

of

Jam the semiautomatics

Clinton must act more boldly to slow their spread

Last month, Sen. Dianne Feinstein and 29 other senators called on President Clinton to stop the import of semiautomatic weapons that have been modified to circumvent a Feinstein-sponsored 1994 law banning their manufacture, sale or possession in this country. Clinton says he will ban such imports, but so far has given no details. He also has asked the Bureau of Alcohol, Tobacco and Firearms to do a study on how some 30 models of modified semiautomatics — so-called “assault” weapons — are now being used.

Perhaps such a study would help, and perhaps the president sincerely means to stanch the flow of such guns into this country. He could prove that by acting more boldly in response to another Feinstein request: Slap a moratorium in the meantime on the import of all such weapons, including those

that meet the too-loose standard of the 1994 law, which has been circumvented by manufacturers both at home and abroad, as well as those for which import licenses have been issued but which have not yet been shipped.

That includes tens of thousands of Israeli-made Uzi and Galil modified weapons that Feinstein has asked Clinton to block if the Israeli government ignores her plea to stop the shipment.

Clinton has legal authority to block imports under a 1968 gun control law that bars from this country any gun that is not suitable for, or easily adaptable to, sporting purposes. None of the guns in question clears that bar.

Legislation to close up loopholes may take years; in the meantime, Clinton can act to slow the proliferation of rapid-fire, large-magazine weapons in response to widespread public support for their prohibition.

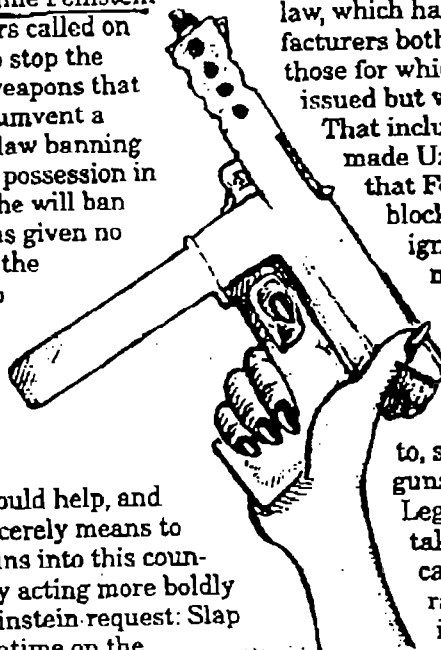


Illustration by Maguire + Newsart

FAX TRANSMISSION

To: Jose Certa **Date:** October 29, 1997
Fax #: 456-7028 **Pages:** 3, including this cover sheet.
From: Wilke Green (224-1226) Office
of Senator Feinstein
Subject: Assault weapons

COMMENTS:

Jose,

The second page of this two page memo is very compelling. Please call me if this fax isn't clean. As I mentioned you may want to speak to the CRS expert on this. His name is Charles Doyle and his number is 707-6009.

Thanks for all of your help Jose,

A handwritten signature in cursive script, appearing to read "Wilke", is positioned below the typed name "Wilke Green" in the original document.

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.*

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").