

M E M O R A N D U M

California Assault Weapons Laws: Legal Issues Involving “Off-list” AR-type & AK-type Rifles

TO: California Public Defenders & Law Enforcement Personnel
FROM: William M. Wiese Jr., Calguns.Net (wmwiesejr@yahoo.com)
DATE: April 31, 2006

Background

There has been significant recent activity in the California firearms marketplace involving special variations of AR15-type rifles (and, to a much smaller extent, AK47-type rifle variants). This memo was written to clarify various aspects of assault weapon status in light of this activity.

Californians recently learned it's legal to purchase “off-list”¹ AR- and AK-pattern rifle receivers, as well as legally-configured rifles built from such receivers. The legal market for these items took off once prospective buyers discovered that Attorney General Bill Lockyer's Department of Justice (DOJ) failed to update the formal list of assault weapons banned in California² since October of 2000.

As of end of April 2006, some 35,000 of these frames have been legally sold in California by licensed firearms dealers since December 2005. Vigorous sales of these items in California will continue unless and until these are formally declared to be assault weapons by official DOJ action.³

Receivers not specifically listed by make and model cannot be regarded as assault weapons and are thus legal to possess, nor do they require special registration. Such receivers can be built into operational, legal rifles which also aren't legally considered to be PC 12276.1 (“generic”) assault weapons. Such off-list rifles, and their base receivers, have the legal status of ordinary long guns.

Attached letters from the California Department of Justice (DOJ) confirm legality of these items. While just a few models are specified here, any unlisted make and model combination not listed in the Penal Code or California Code of Regulations is legal to possess – as long as the combination of attached features is not described by PC 12276.1.

What Is An Assault Weapon in California?

Assault weapons are defined two ways in California law; there is no Federal definition of assault weapon. Some firearms are assault weapons if listed by exact make and model, regardless of presence or absence of any characteristic features. Others are considered assault weapons if they conform to a generic definition of assault weapon (defined by combinations of characteristic features.). Removal of such

¹ The term ‘off-list’ is used to indicate given firearms and their receivers are not specifically banned by make and model.

² The original banned list of ‘Roberti-Roos’ assault weapons is in PC 12276, echoed in Calif. Code of Regulations §979.10. Specifically banned AR/AK “series” weapons are listed in CCR §979.11, sometimes called the “Kasler list”, echoed in the DOJ publication, *Roster of AK and AR15 Series Assault Weapons*. (<http://ag.ca.gov/firearms/infobuls/kaslist.pdf>)

³ That is, when DOJ formally updates California Code of Regulations, the update is published by the Secretary of State, and when DOJ also opens the mandatory 90-day registration period.

features from a ‘named’ assault weapon does **not** remove its assault weapon status, nor does it remove registration requirement for legal possession.

The original banned list of assault weapons is in PC 12276 ². AR15 and AK47 “series” members must also be specifically listed by make and model in California Code of Regulation §979.11: the June 2001 *Harrott* ⁴ decision reshaped the earlier 2000 *Kasler* ⁵ decision, requiring specific listing by make and model to be considered a banned series member (aside from configured features, discussed below). *Harrott* ruled trial courts, police, DAs, etc. cannot make determination of AR or AK “series” membership, only the DOJ can, and models must be formally listed before being considered banned.

Note that items listed as assault weapons are considered assault weapons down to the bare receiver level, regardless of presence or absences of any attached features. ⁶

A firearm is also an assault weapon, even if not specifically named on the above lists, if it conforms to one of the several statutory generic definitions of assault weapon, as codified in PC 12276.1 (via certain combinations of “characteristic features”).

If a firearm or receiver has neither a 12276.1-specified combination of characteristic features, nor is listed by make and model in PC 12276/CCR §979.10 or CCR §979.11, it is not an assault weapon. ⁷

Our discussion here will be restricted to semiautomatic rifles. For rifles, ⁸ this generic definition of assault weapon is (key attributes underlined):

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

- (1) A semiautomatic, centerfire rifle that has the capacity to accept a detachable magazine and any one of the following:
 - (A) A pistol grip that protrudes conspicuously beneath the action of the weapon.
 - (B) A thumbhole stock.
 - (C) A folding or telescoping stock.
 - (D) A grenade launcher or flare launcher.
 - (E) A flash suppressor.
 - (F) A forward pistol grip.
- (2) A semiautomatic, centerfire rifle that has a fixed magazine with the capacity to accept more than 10 rounds.
- (3) A semiautomatic, centerfire rifle that has an overall length of less than 30 inches.

There are no longer any Federal definitions of assault weapons; the Federal assault weapon ban expired in September 2004. (Common terms such as ‘preban’ and ‘postban’ were only relevant to Federal law, which differed somewhat from California laws.) There are no restrictions in California, for example, against bayonet lugs; also, threaded barrels are allowed on rifles, and are only a concern on semiautomatic pistols.

⁴ *Harrott v. County of Kings*: (2001) 25 Cal. 4th 1138

⁵ *Kasler v. Lockyer*: (2000) 23 Cal. 4th 472

⁶ See middle of page 2 of DOJ letter by Asst. Director of Firearms Division Tim Rieger to attorney Chuck Michel.

⁷ Rifles chambered in .50BMG are treated quite similarly to assault weapons, but these won’t be discussed here. Note that assault weapons registered before 2005 can be chambered in cal. .50BMG without additional registration.

⁸ Other similarly detailed definitions in PC 12276.1 exist for semiautomatic pistols and semiautomatic shotguns.

What Are Legal Configurations of “Off-List” Semiauto AR/AK Rifles?

Since *Harrott* says a gun’s make and model combination must be listed to be considered banned, we need only concern ourselves whether or not various attached features conform to the generic definition in PC 12276.1 or not.

The key to California’s generic assault weapon law is that it doesn’t generally consider semiautomatic rifles with detachable magazines to be assault weapons unless there are other “evil features” (pistol grips, flash hiders, folding stocks, etc.) Thus, semiauto rifles such as the M1A, Ruger Mini-14, KelTec SU16CA, etc. are all legal to sell, possess and use in California.⁹

An operational AR-type rifle built on an “off-list” AR-type receiver is legal if:

- **it has a fixed (non-detachable, discussed later) magazine holding 10 rounds or less;**¹⁰
- **or it has a detachable magazine and has *no* other characteristic features (such as a pistol grip, telescoping stock, flash hider, forward pistol grip, etc.)**

For AR type rifles – since the serialized receiver is separate from the barrelled action (“barrelled upper”) – one should not attempt to use a .22 rimfire, pump-action, or bolt action upper assembly in combination with a pistol-gripped receiver with an open magazine well that can accept centerfire magazines. It isn’t clear if this would, or would not, be regarded as an assault weapon – especially since an off-list AR-type receiver with just a pistol grip attached could well be regarded as one. This is an issue that may have to wend its way through courts, so these configurations should be avoided.

To be legally safe in California, an off-list AR15-type lower receiver should **never** have a pistol grip or telestock, etc. attached **unless and until** a nondetachable (fixed) 10-rd magazine is **already** affixed. When repairing or dismantling such a rifle, features such as pistol grips, telestocks, etc. must **first** be removed **before** removing the fixed 10-rd magazine.

Since serialized AK-type receivers have their action type directly associated with the receiver, there’s some more flexibility in configuration:

Operational AK-pattern rifles can be legally built from an “off-list” AK-type receivers if they:

- **have fixed (non-detachable, discussed later) magazines holding 10 rounds or less;**¹⁰
- **Or, they use detachable magazines but have *no* other 12276.1 characteristic features (pistol grip, telescoping stock, flash hider, forward pistol grip, etc.)**
- **Or, they use a detachable magazine, but their gas systems are closed off and gas pistons are removed – making them non-semiautomatic.**
- **Or, they fire only .22 rimfire ammunition (i.e., are not centerfire).**

What Is A “Non-Detachable” Magazine?

Legally-configured rifles built from off-list receivers often (but not always) rely on a fixed magazine as a key element, so as to not to be described by the PC 12276.1 generic assault weapon definition. The DOJ

⁹ SKSes with detachable magazines (“SKS Sporters”, etc.) are an exception to this.

¹⁰ Use of a 10rd or less fixed magazine avoids triggering the alternate 12276.1(a)(2) definition of assault weapon.

defined the term *detachable magazine*, relevant to the statutory definition of assault weapon, in the California Code of Regulations¹¹ as:

“[D]etachable magazine’ means any ammunition feeding device that can be removed readily from the firearm with neither disassembly of the firearm action nor use of a tool being required. A bullet or ammunition cartridge is considered a tool.

Ammunition feeding device includes any belted or linked ammunition, but does not include clips, *en bloc* clips, or stripper clips that load cartridges into the magazine.”

A *fixed magazine* - one that is screwed down and requires use of a tool and some period of time to remove, and which cannot be “readily removed” or replaced in normal course operation of the rifle – is not a detachable magazine. Such a magazine indeed fully honors, in letter and spirit, the converse of the above definition of *detachable magazine*.

Nut/bolt setups retaining fixed magazines should *never* be able to loosen on their own or be unloosened by hand, so lockwashers and some Loctite™ are useful – especially since the fixed magazine should never be removed while a pistol grip and/or telestock is attached! Placement of some adhesive inside the magazine well is also helpful.

What About Assault Weapons Status of Non-“series” (non-AR/non-AK) Firearms?

If a firearm is not listed by specific make and model and does not have any PC 12276.1 characteristic features combinations, it is not considered an assault weapon. *Harrott* clarified issues about determination of “series” membership for just AR- and AK-pattern models.

For example, FN-FAL rifles were banned by name in 1989. However, Imbel, DSA and several other brands of FAL-type receivers are entirely legal to acquire and possess. These receivers can be built into a California-compliant rifle that uses either a fixed (non-detachable) 10-round magazine, or one having a detachable magazine but which also has a closed gas port and removed gas piston. This latter configuration operates only in a manually-cycled, non-semiautomatic manner, and doesn’t fall under the 12276.1 generic definition of assault weapon, since the weapon must be a semiautomatic centerfire rifle before other aspects are considered.

Does “Constructive Possession” Apply to Separated Assault Weapon Parts?

If the receiver portion of a firearm is not specifically named by make *and* model on the various state lists of assault weapons, and does not have key PC 12276.1 characteristic features assembled, it is not an assault weapon.

A letter¹² from the DOJ to a firearms attorney indicates “constructive possession” concepts do not apply to 12276.1 assault weapon “characteristic features” components. Moreover, in a similar vein, text on a Q&A page on the DOJ Firearms Division website indicates removal of appropriate 12276.1 features from an *already registered* assault weapon not banned by specific make and model indeed allows such a

¹¹ CCR §978.20(a). Quoted passage has added spacing inserted and underlining added for clarity. Italics added.

¹² See middle of page 2 of attached DOJ letter (Asst. Director of Firearms Div Tim Rieger to attorney Chuck Michel)

firearm to be treated as a regular long arm, with their less-stringent transportation, storage and service/repair issues.¹³

Nevertheless, it'd be wise to keep parts widely separated and locked away from each other – for example, assume you possess an off-list AR-type rifle configured without a pistol grip and no other characteristic features, thus allowing it to legally be used with detachable magazines. It would not be wise to have a pistol grip in immediate vicinity of the rifle since that possibly might be “tempting bait” for a DA.

What Should I Look For As A Defense Attorney?

If you have a client with a legal issues involving assault weapons, you should investigate a variety of issues, and perhaps consult with some gun experts. Some of these broad issues to examine are:

- **Was firearm correctly described as a banned assault weapon by exact make *and* model?** Colt AR-15s and Bushmaster XM-15s are banned by name. Similar Stag Arms Stag-15 receivers, nearly identical in appearance to other AR15-type receivers, are not – and only features content would determine assault weapons status. In fact, a receiver marked as “Bushmaster AR-15” would indeed be legal! Rock River Arms’ “Standard A4 Flattop” is banned, but Rock River Arms’ “LAR-15” model is not. Mere listed manufacturer alone isn’t enough to be considered banned: it must be specific make *and* model.
- **The list of banned guns says “(all)” for some submodels and variants of a given model: does this cover my clients’ firearm.** This likely flies in the face of *Harrott* listing requirement of exact make and model. Such imprecise listings have merely moved the *Harrott*-overruled ambiguity over “series” membership specificity down to another level – and may well not allow for the clarity that *Harrott* demands. Note that this DOJ list has not been updated for over 5 years and was not changed or updated even after *Harrott* was handed down.
- **Accusations of unregistered assault weapon or unregistered 50BMG rifle possession can conceivably be due to data entry errors or DOJ “forced naming” conventions.** The assault weapon registration database doesn’t always reflect the exact brand and/or model stamped/etched on the receiver. Some of this is apparently due to data entry formatting conventions forcing universal manufacturer codes; other times, confusion may exist in manufacturer vs. importer names, especially for AK-type rifles. Sometimes assault weapon registrants may have not completed their registration card quite correctly and, in good faith, omitted leading alphabetic characters in alphanumeric serial numbers. (For example, Colt *Sporter Target* and *Match Target* rifles may have a serial number in the form of **ST nnnnn** or **MT nnnnn**, and owners may have filled out only the latter 5-digit numeric portion during registration due to confusion over “serial number” terminology.)
- **Investigate discrepancies in inventoried evidence vs. arrest report or receipt for seized goods.** There’s a decent chance a disassembled or partially disassembled rifle, not banned by exact make & model nor in a 12276.1 configuration, was seized – yet reassembled for storage in the PD’s gun room or evidence locker. The crime of unregistered assault weapon possession, transport, etc. was thus “manufactured” after the fact. It is important to get as much information as possible about any arrest or seizure to determine actual rifle status.

¹³ See <http://aq.ca.gov/firearms/regaqunfags.htm> ; at time of writing, this is still on DOJ Firearms Division website FAQ, questions 8, 13. Note that many of the responses on this page are outdated, esp. with regard to AR/AK “series” weapons treatment due to *Harrott* listing requirement of make/model specificity. Information about this was also garnered during discussion with DOJ Firearms Division Asst. Dir. Tim Rieger & Director Randy Rossi at a Spring 2005 “Meet the DOJ” NRA Members’ Council Q&A meeting in San Jose, CA.

- **Was a fixed 10-rd magazine removed or disturbed?** This could occur if a semiautomatic rifle with pistol grip and fixed magazine was held in evidence. “Safe storage” practices of some PD storage facilities may conceivably mandate removal of fixed magazines, again leaving rifles’ owners associated with unregistered assault weapons. (Note that police employees/officers are not immune from PC 12280(a) “illegal assault weapon manufacturing” charges!) If fixed magazine capacity appears to be an issue, remember that the 10 round capacity must be measured using the ammunition caliber/size for which the rifle is chambered – as ammunition of many different calibers and sizes can readily be misapplied in any gun’s fixed or detachable magazines.
- **Is an off-list rifle which looks like an assault weapon really a semiautomatic rifle?** *(This is a doubtful issue in the case of AR15-class rifles, where the mode of operation is independent of the serialized lower receiver.)* If the serial-numbered receiver portion also contains the action of the firearm, from which the semiautomatic, pump, or bolt action, mode of operation is directly associated, find out if a gas system (piston, spring, etc.) is present, and whether or not the barrel’s gas port is closed. Lack of a gas piston and a closed gas port generally indicates the rifle does not operate in a semiautomatic mode and thus doesn’t match any statutory definition of assault weapon. In some rifles - like certain types of FALs - a grenade launcher control valve on the gas port can readily close off the gas port without modification, allowing the gas piston to not be present and to function as a manually-cycled non-semiautomatic rifle. (Do note other similar-appearing rifles – without gas systems, and which are generally carbines chambered in pistol calibers like 9mm, .40S&W, 10mm and .45ACP – do not require gas systems due to a ‘blowback’ mode of operation, and are still semiautomatic rifles.)

What Should I Look For As A Police Officer?

If you’re examining a firearm to determine if it’s a legal assault weapon or not, these are some issues you might wish to consider before taking further action:

- **Is the gun registered as an assault weapon?** You have access to assault weapon registry information. There may be some discrepancies due to variations in how makes and models (especially with AK-pattern rifles) are recorded by the DOJ. There may even be missing prefix characters in the recorded serial number. If the owner has his registration papers from DOJ available, this can be helpful - though owners of legal registered assault weapons are not obligated to carry their paperwork with them. If the exact make/model isn’t listed in CCR §979.10/PC 12276.1 or §979.11, and doesn’t have specific combinations of 12276.1-defined characteristic features (for example, has a fixed 10-round magazine), it is *not* an assault weapon requiring registration: such guns are ordinary long guns.
- **If a rifle in question isn’t listed as an assault weapon by make/model, does it have a fixed magazine?** If there is a fixed magazine - one that can’t be removed by hand in normal course of firearm operation, and it takes "tools and time" to remove & replace - the firearm is not a by-features assault weapon. (The fixed magazine must hold 10 rounds or less, or an alternate 12276.1 generic assault weapon definition is triggered.)
- **If the rifle isn’t listed as a banned make/model, is the rifle semiautomatic?** For non-AR15 pattern rifles, if there’s no gas system (no gas piston, closed gas port, etc.), and the firearm is a rifle caliber, it isn’t an assault weapon despite outward appearances: there is no triggering of the 12276.1 assault weapon definition since the rifle is not semiautomatic. (Do note that carbines in pistol calibers like 9mm and 45ACP may not have gas systems due to different ‘blowback’ mode of operation, but do still operate in semiautomatic mode.)
- **Are you encountering a collection of separate parts and/or a disassembled firearm?** If the receiver is not listed by specific make and model, DOJ has stated that "constructive possession" does not apply: the firearm proper must be assembled with various PC 12276.1 features to be considered an assault weapon. Separate storage of components, including various 12276.1-described “features”, does not comprise an assault weapon when these items are separated. It’s common for such components,

accompanying legal, disassembled off-list rifles, to be transported out of state by car/air to where these can be temporarily assembled and used legally – after which the rifle again has various 12276.1 characteristic features removed prior to it, and its owner, returning to California.

- **Does an "off-list" semiautomatic rifle have a fixed magazine holding more than 10 rounds?** If so, it's an illegal assault weapon; fixed mag setups must hold 10 rounds or less. Do note some configurations may have extended-length magazines to preserve original appearance, but there are internal permanent blocks in these magazines to prevent the follower from traversing the full length of the magazine. Nevertheless, these magazines still hold 10 rounds or less. The magazine capacity of the fixed magazine must be evaluated with the appropriate ammunition size/caliber and not a misapplied one.
- **I've found an off-list semiautomatic centerfire rifle that has no pistol grip, folding stock or flash hider. There's several high-capacity magazines stored with it, with an empty magazine in the rifle itself. Is this legal?** Yes, because this grip-free rifle isn't defined by any PC 12276.1 generic definition of assault weapon, and is not also banned by make/model. There are no restrictions on using detachable magazines with this configuration, and magazine capacity is thus irrelevant. Possession of such large capacity magazines is indeed legal; many Californians stocked up on quantities of "hicap" magazines in 1999, before the 2000 ban on their further acquisition/sale came into force.
- **If it's a legal, registered assault weapon, is it stored locked and unloaded?** Assault weapons must be transported locked & unloaded to/from specific destinations. Most car trunks are considered locked containers.

Attachments

1. Example DOJ letter describing receiver legality (*Wilson Tactical*)
2. Another example DOJ letter of receiver legality (*Stag Arms*).
3. Letter from DOJ Deputy AG Tim Rieger to attorney Chuck Michel, regarding various assault weapons legal issues.
4. List of original "Roberti-Roos" banned-by-name assault weapons from Penal Code & regulatory code.
5. List of additional specific banned-by-name AR and AK "series" members.

Attachment 1: A letter from the DOJ Firearms Division regarding off-list receiver/firearm legality.

DEC-07-2005 02:33 PM TALKFREE

415 346 [REDACTED]

P. 01

BILL LOCKYER
Attorney General

State of California
DEPARTMENT OF JUSTICE

FIREARMS DIVISION
P.O. Box 160487
Sacramento, CA 95816-0487

Direct: 916-263-4887
Facsimile: 916-274-5992

December 5, 2005

Danny [REDACTED]

Redwood City, CA 9406

Dear Mr. [REDACTED],

You are asking about the legality of purchasing and possessing a Stag-15 lower receiver in California.

The Stag-15 is not listed as a Category I assault rifle in California Penal Code section 12276. Although technically the receiver is legal to purchase and possess in California at this time (assuming it does not have the characteristics listed in Penal Code section 12276.1(a)(1), (a)(2), or (a)(3)), you should be aware that the Stag-15 lower receiver is virtually identical to rifles that are now listed as assault weapons by the Department, and is likely to be considered an assault weapon in the near future.

If you have any further questions, please do not hesitate to contact me at 916-263-4887.

Sincerely,



LISA STRANGE, Analyst
Firearms Division

For **BILL LOCKYER**
Attorney General

Attachment 2: A letter from the DOJ Firearms Division Deputy Attorney General discussing off-list receiver/firearm legality.

BILL LOCKYER
Attorney General

State of California
DEPARTMENT OF JUSTICE



FIREARMS DIVISION
P.O. BOX 160487
SACRAMENTO, CA 95816-0487
Facsimile: (916) 263-0676
(916) 263-0699

March 13, 2006

Mr. [REDACTED]

RE: Wilson Tactical, LLC-WT-15

Dear [REDACTED]

I am writing in response to your letter dated January 26, 2006, inquiring about the legal status of the above-referenced lower receiver.

There are several definitions of assault weapons under existing California law. A firearm is an assault weapon if it is listed in California Penal Code section 12276, or identified by the Department in response to *Kasler v. Lockyer* (2000) 23 Cal. 4th 472. The California Supreme Court held in *Harrott v. County of Kings* (2001) 25 Cal. 4th 1138, that this assault weapons identification scheme provides the public with due process notice whether or not a firearm is an assault weapon. A firearm can also be an assault weapon when it meets the generic definition of an assault weapon set forth in Penal Code 12276.1.

You should be aware that the lower receiver about which you inquired is virtually identical to receivers that are considered assault weapons under current California law. It has the capacity to accept a detachable magazine, and the capacity to accept other features listed in Penal Code section 12276.1, such as a pistol grip, thumbhole stock, and a folding or telescoping stock. The receiver cannot be assembled with other parts in a manner that would make it an assault weapon under the definition set forth in Penal Code section 12276.1.

I hope this information is helpful.

Sincerely,

ALISON Y. MERRILEES
Deputy Attorney General

For **BILL LOCKYER**
Attorney General

Attachment 3: A letter from (former) DOJ Deputy AG and DOJ Firearms Div. Assistant Director Tim Rieger discussing various subjects constructive possession.

May 01 06 04:31p

p. 1

BILL LOCKYER
Attorney General

State of California
DEPARTMENT OF JUSTICE



P.O. BOX 160487
SACRAMENTO, CA 95816-0487

Facsimile: (916) 263-0676
(916) 263-0802

May 1, 2003

Mr. Chuck Michel
Trutanich Michel
407 North Harbor Boulevard
San Pedro, California 90731-3358

COPY

RE: DOJ Position on Firearms

Dear Mr. Michel:

This letter is in response to your request dated February 10, 2003, regarding DOJ's position on firearm issues:

1. Does that "capacity to accept" provision apply to both the detachable magazine and the characteristics enumerated in 12276.1(a)(1)(A)-(F)? Or does the "capacity to accept" provision of this section apply solely to the detachable magazine feature and thereby requires the characteristics enumerated in 12276.1(a)(1)(A)-(F) actually be installed on the firearm to be deemed a Category 3 "assault weapon"?

◆ The "capacity to accept" provision only applies to the detachable magazine.

2. Would the following configurations violate any California law:

- BRP Corps. XMG semi-automatic upper receiver if placed on a registered AR15 lower receiver?
- Any otherwise legally possessed "upper receiver" if placed on a registered AR15 lower receiver?

◆ No to part 1 and no to part 2.

3. Would possession of a completely disassembled Category 3 "assault weapon" constitute an unlawful possession of an "assault weapon"? In practical terms, if someone has removed any SB 23 offending feature(s) from their rifle so that it is no longer an "assault weapon", are they in violation of the law if they continue to possess the removed feature along with the rifle?

◆ No.

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p. 2

Chuck Michel
May 1, 2003
Page 2

4. Does the possession of all of the necessary component parts of a firearm, that could be used to assemble a Category 1 "assault weapon", possessed in a disassembled state, constitute an unlawful possession of an "assault weapon"?

◆ Yes.

5. Does the possession of all of the necessary component parts that could be used to assemble a Category 2 "assault weapon", if possessed in a disassembled state, constitute an unlawful possession of an "assault weapon"?

◆ Yes.

6. Does the possession of all of the necessary components that could be used to assemble a Category 3 "assault weapon", if possessed in a disassembled state, constitute an unlawful possession of an "assault weapon"?

◆ Same question as question #3 - answer is no.

7. Does the possession of some, but not all, of the components which could be used to assemble an "assault weapon" constitute an unlawful possession of an "assault weapon"? If so:

• Which components, if possessed individually in a disassembled state, would be deemed to be an "assault weapon"?

• Which combination of components possessed in a disassembled state would be deemed an "assault weapon"?

◆ Answer to both part 1 and part 2: category 1 and 2 the receiver.

8. Is it lawful to possess a magazine adapter that would permit the use of a magazine designed for another type of firearm. For example, a magazine adapter that would permit the use of an AR15 magazine in a Steyr-Aug.

◆ No.

9. Would the handrest identified in the attached photograph be deemed a "conspicuously protruding pistol grip"?

◆ Please send us an exemplar to examine.

10. Is an SKS rifle with the "capacity to accept a detachable magazine", but without an offending SB23 feature and without a compatible detachable magazine in the receiver, a

May 01 06 04:32p

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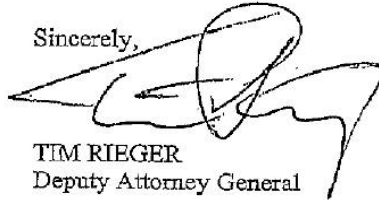
Chuck Michel
May 1, 2003
Page 3

category one an "assault weapon"?

- ◆ The law states in 12276(a)(11) an SKS with detachable magazine is an assault weapon. We believe an SKS rifle with the capacity to accept a detachable magazine is an assault weapon within the meaning of 12276(a)(11). However, during the preliminary hearing in the case of *People (County of Monterey) vs. Reynolds*, the trial court held that 12276(a)(11) is violated with the detachable magazine in the same gun case, but not installed, with the original fixed 10 round magazine removed, an interesting interpretation. Also, as you recall, this was the subject of the *Dingman* litigation.

I hope this information is helpful to you. If you have any further questions, please do not hesitate to contact me.

Sincerely,



TIM RIEGER
Deputy Attorney General

For BILL LOCKYER
Attorney General

TR/lcm

cc: James Ching

Attachment 4. California Code of Regulations §979.10 / PC 12276 “Roberti-Roos” list.**(a) Rifles**

Armalite AR-180
 Beretta AR-70
 Bushmaster Assault Rifle
 Calico M-900
 Colt AR-15 (all)
 Daewoo AR100, AR110C
 Daewoo K-1, K-2
 Daewoo Max 1, Max 2
 Fabrique Nationale 308 Match, Sporter
 Fabrique Nationale FAL, LAR, FNC
 HK 91, 94, PSG-1
 HK 93
 IMI Galil
 IMI Uzi
 J&R ENG M-68
 MAADI CO AK 47
 MAADI CO ARM
 Made in China 56
 Made in China 56S
 Made in China 84S
 Made in China 86S
 Made in China AK
 Made in China AK47
 Made in China AKM
 Made in China AKS
 Made in Spain CETME Sporter
 MAS 223
 Norinco 56
 Norinco 56 S
 Norinco 84 S
 Franchi SPAS 12, LAW 12

Norinco 86 S
 Norinco SKS w/detachable magazine
 Poly technologies AK47
 Poly technologies AKS
 RPB Industries, Inc. sM10, sM11
 SIG AMT, PE-57
 SIG SG 550, SG 551
 Sterling MK-6
 Steyr AUG
 SWD Incorporated M11
 Valmet M62S, M71S, M78S
 Weaver Arms Nighthawk

(b) Pistols

Advance Armament Inc. M11
 Bushmaster Pistol
 Calico M-950
 Encom MP-9, MP-45
 IMI UZI
 Intratec TEC-9
 Military Armament Corp. M-11
 RPB Industries Inc. sM10, sM11
 Sites Spectre
 Sterling MK-7
 SWD Incorporated M11

(c) Shotguns

Cobray Streetsweeper - S/S Inc., SS/12
 Cobray Striker 12

Attachment 5. Calif. Code of Regulations §979.11 list of specific banned AR/AK “series” makes/models.**(a) Rifles**

American Arms AK-C 47
 American Arms AK-F 39
 American Arms AK-F 47
 American Arms AK-Y 39
 American Spirit USA Model
 Armalite AR 10 (all)
 Armalite Golden Eagle
 Armalite M15 (all)
 Arsenal SLG (all)
 Arsenal SLR (all)
 B-West AK-47 (all)
 Bushmaster XM15 (all)
 Colt Law Enforcement (6920)
 Colt Match Target (all)
 Colt Sporter (all)
 Dalphon B.F.D.
 DPMS Panther (all)
 Eagle Arms EA-15 A2 H-BAR
 Eagle Arms EA-15 E1
 Eagle Arms M15 (all)
 Frankford Arsenal AR-15 (all)
 Hesse Arms HAR 15A2 (all)
 Hesse Arms Model 47 (all)
 Hesse Arms Wieger STG 940 Rifle
 Inter Ordnance - Monroe, NC AK-47 (all)
 Inter Ordnance - Monroe, NC M-97
 Inter Ordnance - Monroe, NC RPK
 Kalashnikov USA Hunter Rifle/Saiga
 Knights RAS (all)
 Knights SR-15 (all)
 Knights SR-25 (all)
 Les Baer Ultimate AR (all)
 MAADI CO MISR (all)
 MAADI CO MISTR (all)
 Mitchell Arms, Inc. AK-47 (all)
 Mitchell Arms, Inc. AK-47 Cal .308 (all)
 Mitchell Arms, Inc. M-76
 Mitchell Arms, Inc. M-90
 Mitchell Arms, Inc. RPK
 Norinco 81 S (all)
 Norinco 86 (all)

Norinco AK-47 (all)
 Norinco Hunter Rifle
 Norinco MAK 90
 Norinco NHM 90, 90-2, 91 Sport
 Norinco RPK Rifle
 Ohio Ordnance Works (o.o.w.) AK-74
 Ohio Ordnance Works (o.o.w.) ROMAK 991
 Olympic Arms AR-15
 Olympic Arms Car-97
 Olympic Arms PCR (all)
 Ordnance, Inc. AR-15
 Palmetto SGA (all)
 Professional Ordnance, Inc. Carbon 15 Rifle
 PWA All Models
 Rock River Arms, Inc. Car A2
 Rock River Arms, Inc. Car A4 Flattop
 Rock River Arms, Inc. LE Tactical Carbine
 Rock River Arms, Inc. NM A2 - DCM Legal
 Rock River Arms, Inc. Standard A-2
 Rock River Arms, Inc. Standard A-4 Flattop
 Valmet 76 S
 Valmet Hunter Rifle
 Wilson Combat AR-15
 WUM WUM (all)

(b) Pistols

MARS Pistol
 Professional Ordnance, Inc. Carbon 15 pistol
