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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY

ROBERT J. DEL TUFO
ATTORNEY GENERAL

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January 19, 1993

Honorable Donald T. DiFrancesco
Senate President
New Jersey State Senate
State House
Trenton, N.J. 08625

Honorable Garabed "Chuck" Haytaian
Speaker of the General Assembly
New Jersey State Assembly
State House
Trenton, N.J. 08625

Re: Annual Report Concerning Assault Firearms

Dear Senate President DiFrancesco and Speaker Haytaian:

Pursuant to N.J.S.A. 2C:58-14, I submit this Annual Report Concerning Assault Firearms. It supplements reports submitted on November 30, 1990, and December 2, 1991. Information detailing "the types and quantities of firearms surrendered or rendered inoperable," N.J.S.A. 2C:58-14, is provided in Section 1. Section 2 describes "the number and types of criminal offenses involving assault firearms," id. And, as N.J.S.A. 2C:58-14 calls for my "recommendations, including additions or deletions to the inventory of assault firearms . . . , [that] should be considered by the Legislature," Section 3 includes brief comments on pending legislation.

Although this Annual Report includes all data requested by the Legislature, it would be an error to assume that it can serve as a total measure of the benefits derived from the enactment of the assault firearms law. The law is designed to protect the people of this State from the dangers presented by the ready availability of firearms that are designed to rapidly discharge ammunition capable of killing human beings and that are ill-suited and infrequently used for legitimate civilian purposes. The approach taken is two-pronged:

- 1) to prevent proliferation of these firearms by limiting future sales to qualified persons who can demonstrate that the "public safety and welfare" require that they possess such a weapon, N.J.S.A. 2C:39-5f., 2C:58-5; and,

2) to reduce the population of these firearms in circulation prior to the effective date of the law by requiring owners to either sell them (to dealers or residents of other states) or to surrender or render them inoperable, 2C:39-5f., 2C:58-13.¹

While both components of the law are important, there can be little question that the greatest benefit is derived from the fact that assault weapons are no longer available for sale on the same basis as ordinary sporting and hunting guns. The number of persons in lawful possession of weapons that can so quickly and efficiently take human life is not increasing. Unfortunately, while the statistics provided in Section 1 give some indication of progress in reducing the number of assault weapons, there are no hard statistics to demonstrate success in preventing proliferation. There is simply no way to determine how many persons would have purchased assault firearms after May 30, 1990, but for the assault firearms law.

What is known is that 73% of the residents of this State, according to a Star-Ledger/Eagleton poll conducted in June of 1991, favor current restrictions on the sale of assault weapons. Thus, there is evidence of well-founded, broad-based support for efforts to limit firearms that are designed to take human life quickly and efficiently.

1.

Any person lawfully owning an assault firearm on May 30, 1990, who was unable to or chose not to register the weapon, was given one year in which to transfer it to a person or entity lawfully entitled to possess it, to render it inoperable, or to voluntarily surrender it to law enforcement officials. N.J.S.A. 2C:58-13. This section provides data on "the types and quantities of firearms surrendered or rendered inoperable" pursuant to the assault firearms law. N.J.S.A. 2C:58-14.

At this time last year, 903 assault firearms had been rendered inoperable and 26 had been surrendered. Since then, the Division of State Police has received reports of an additional 17 assault firearms that were certified inoperable by their

1. A narrow exception to the reduction efforts allowed a person who lawfully acquired an assault firearm prior to May 1, 1990, to register the assault firearm if it was one approved as "used for legitimate target-shooting purposes" and if the person was a member of a rifle or pistol club that filed its charter with the Superintendent of the Division of State Police. N.J.S.A. 2C:58-12.

owners.² No additional firearms were surrendered. This brings the total number of weapons surrendered and rendered inoperable to 946. In addition, reports filed to date indicate that 987 assault firearms have been registered by eligible owners pursuant to N.J.S.A. 2C:58-12.

In addition to these 1,933 weapons accounted for in reports filed pursuant to the law, by May 30, 1992, a minimum of 115 assault firearms had been seized by police during arrests, bringing the total to at least 2,048.³ Even this figure does not, however, give a complete picture of the success of efforts to reduce the number of assault weapons in circulation on the effective date of the law. As noted above, persons in lawful possession of assault weapons also were permitted to dispose of the firearms through sales to dealers or out-of-state residents. N.J.S.A. 2C:58-13. Owners who chose this option -- arguably the most attractive -- were not required to report the sales. There is no way to determine how many assault firearms were eliminated through such lawful sales.

2.

The Legislature has also asked for data on "the number and types of criminal offenses involving assault firearms." At this

2. The 17 firearms certified as inoperable are as follows:

AK-47	1
Colt AR-15	3
FN-FAL	1
Heckler & Koch H&K 91	1
M1 Carbine	3
Ruger K-Mini 14	1
Springfield Armory SAR-48	1
Uzi	2
Valmet M-62	1
Other	3

(The term "other" is used to indicate firearms that were not adequately identified in certifications filed by their owners to permit grouping according to brand name).

3. We recently asked law enforcement agencies to provide information in addition to that required for inclusion in this Annual Report. (See section 2 below). From the data supplied by agencies complying with the request, we know that at least 115 assault firearms were seized between May 30, 1990 and May 30, 1992. The firearms seized include: 39 Intratec Tec 9s; 16 MAC 11s, 12 M1 Carbines; 8 AR-15s, 7 Uzis; 3 Ruger Minis; 3 Calicos, 2 MAC 10s; 2 Armalites; 1 AK-47; 1 Encom America MP-45; 2 unnamed assault firearms reported as "substantially identical" by the local agencies; and 19 semi-automatic firearms that were either rifles or handguns equipped with large capacity ammunition magazines or semi-automatic shotguns with prohibited pistol grips.

time last year, 146 offenses involving assault weapons had been reported during the one year, four and one-half month period covered by the report. Between October 31, 1991, the cut-off date for last year's report, and November 30, 1992, an additional 110 offenses were reported. The total number of offenses reported is now 256.

The 110 offenses reported during the last 13 months are as follows: 3 murders; 12 armed robberies; 16 aggravated assaults; 77 unlawful possessions, 1 criminal mischief and 1 conspiracy to commit murder. When these offenses are added to those reported last year, the totals are as follows: 8 murders; 1 aggravated sexual assault; 57 armed robberies; 39 aggravated assaults; 147 unlawful possessions of weapons; 2 criminal mischiefs, 1 unlawful sale and 1 conspiracy to commit murder for a total of 256 offenses. A chart prepared by the Uniform Crime Reporting Unit of the Division of State Police, which summarizes these crime statistics by county, is appended.

These figures do not give a complete picture. Consistent with methods used to prepare the State's Uniform Crime Report (UCR), each criminal incident is reported as a single occurrence according to the most serious of the crimes reported for the UCR.

Each criminal episode is reflected once, although many involve numerous victims, several defendants and separate crimes. For example, a case involving three defendants and the seizure of numerous assault firearms is reflected as one incident of unlawful possession. So too, armed robberies committed with accomplices and involving multiple victims are reported as one armed robbery.

Further, when an episode is reported as an unlawful possession of an assault weapon that only means that unlawful possession is the most serious UCR-tracked crime committed. For example, incidents involving both drug-crimes and possession of assault weapons are reported as unlawful possession.

In order to provide a fuller understanding of the criminality, the Divisions of Criminal Justice and State Police cooperated to analyze investigation reports prepared on 143 criminal episodes involving assault firearms reported to the Division of State Police for the two-year period immediately following the effective date of the Assault Firearms Law -- May 30, 1990 to May 30, 1992. The analysis (hereinafter DCJA) revealed that the 143 incidents involved 254 actors or suspects and 160 assault weapons. Twenty-two (15%) of the incidents

4. Law enforcement agencies reported 178 assault weapons episodes to the Division of State Police for the two-year period. In order to analyze the episodes, local law enforcement agencies were asked to supply available investigation and arrest reports prepared in these cases. Reports on a total of 167 episodes were supplied. The reports supplied were sufficient to identify the

involved drug-offenses.

A description of the facts of a few of the crimes that contribute to the statistics involving assault firearms and large capacity ammunition magazines gives a truer picture of the nature of the problem.

In one of the reported incidents the offender was apprehended by officers responding to a complaint that a person standing on a balcony of an apartment building in one of our cities was discharging a firearm;

In another incident assault weapons, and other firearms, were found with large quantities of illegal crack-cocaine and burglary tools during a search conducted by a narcotics task force pursuant to valid search warrant -- several of the firearms found had been stolen from lawful owners;

In another incident an assault firearm was used in a drive-by shooting -- the firearm was given to the shooter by a person who had purchased it lawfully; and

In another incident officers responding to information received prevented the sale of an assault weapon on the streets of one of our cities.

The statistics and the facts speak for themselves. The presence of assault weapons threatens the safety of our citizens and law enforcement officers.

The episodes described above also indicate how New Jersey law enforcement officers are confronted with assault weapons in the regular performance of their duties.

Nature of the Criminal and Law Enforcement Activity Involved in Assault Weapons Episodes. Some have complained that the Assault Firearms Law impacts only the law-abiding and that officers have been diverted from more important, traditional enforcement activities in order to ferret out assault weapons. This is not the case.

There is ample evidence demonstrating that our police officers are enforcing New Jersey's assault firearms law in the course of performing their difficult and dangerous duties during the investigation of other crimes and upon observation of or in

(Footnote 4 continued from previous page)
weapons involved in 143 incidents as weapons restricted by the assault firearms law.

response to citizen complaints of unlawful activity.⁵

Of the 143 episodes reviewed in the DCJA discussed above, 109 involved investigations of crimes or incidents other than unlawful possession of a firearm. Those 109 episodes were as follows:

Robbery	40
Assault	29
Controlled Dangerous Substance Violations	22
Homicide/Attempted Homicide	4
Theft	5
Discharging a Firearm	3
Terroristic Threats	2
Official Misconduct	1
Promoting Prostitution	1
Attempted Suicides	2

None of the remaining 32 episodes in which unlawful possession of weapons was the only known indictable crime came to light as a result of investigation of an assault weapons offense alone.⁶

In 1 episode the weapon was recovered by officers executing a warrant for contempt issued by a court.

In 1 episode the assault weapon was discovered by officers who stopped a vehicle after receiving information that one of the occupants had been involved in a domestic dispute and was armed.

In 1 episode an officer on patrol observed the offender concealing the firearm under his coat.

In 6 episodes the assault weapons were discovered by officers investigating citizen complaints concerning persons carrying firearms in public.

In 20 episodes the assault weapons were discovered when police officers stopped motor vehicles for violations such as speeding, failure to stay to the right, cracked windshield, no

5. This enforcement policy was clearly established when the assault firearms law took full effect. At that time, this office directed law enforcement agencies throughout the State to consult with the appropriate county prosecutor "prior to the initiation of any investigation which involves an Assault Firearms violation as its only focus." There is no evidence that this directive has been ignored.

6. In two of the 143 episodes, reports and case materials supplied by local agencies provided no information concerning the circumstances under which the investigation was initiated or the nature of other criminal activity involved.

rear lights and driving without headlights.⁷

In only 3 of the episodes the police were investigating only weapons offenses -- one involved the investigation of a complaint filed by UPS concerning an attempt to ship the weapon; another involved an investigation of numerous illegal weapons including explosive devices, the search was conducted pursuant to warrant; the third involved a search of a pizza parlor conducted by federal agents of the BATF pursuant to warrant.

Officers clearly are not targeting persons otherwise abiding by the laws of this State who are in unlawful possession of assault weapons. They are bringing charges when they observe violations of the assault firearms law in the course of investigating or making arrests for other serious crimes, enforcing the motor vehicle laws, and responding to complaints and requests for assistance in instances involving threats to the public safety.

The Offenders: Criminal History and Firearms Purchaser Identification Card Data. As the description of criminal and enforcement activity provided above indicates, the impact of the assault firearms law is largely on persons who are committing other crimes -- not on persons who are otherwise abiding by the law. The DCJA study of the criminal records and firearms purchaser identification card status of the offenders involved in the assault weapons episodes further confirms that the impact of enforcement is not on the "law-abiding."

Criminal Records. Using the Computerized Criminal History record system (CCH), the criminal histories of 153 adults arrested⁸ or charged in the 143 assault weapons episodes were checked. These record checks confirm that the law is being

7. Motor vehicle stops were the basis for the initial encounter in a total of 24 of the 143 cases. In 3 of these 24 motor vehicle stops, an occupant of the vehicle was charged with an additional criminal offense -- 2 controlled dangerous substance violations and 1 firearms discharge.

Response to complaints related to domestic violence were the basis for the initial encounter in a total of 9 of the 143 cases.

8. Data on offenders is limited to the 153 adult offenders for whom identifying information supplied by the local law enforcement agencies was adequate to permit a CCH record check. A total of 254 suspects were involved in the 143 episodes, and 178 persons were arrested or charged (176 arrested and 2 charged by way of complaint). Twelve (12) individuals arrested or charged were known to be juveniles, and because CCH does not contain juvenile records, the 12 juveniles were excluded from the record check. Of the remaining 166 offenders, 13 others were excluded because identifying information supplied by the local law enforcement agencies was inadequate to permit a check through

applied to take guns from the hands of persons who have and are committing other crimes.

Nearly one-half, 74 of the 153 persons, had prior arrest records, and 70% of these had prior criminal convictions. Moreover, 28% of these individuals (21) have been arrested for additional offenses since the incident involving the assault weapon.

Equally significant to an understanding of the impact of the assault firearms law is the nature of the crimes and offenses committed by the 52% of the adults charged who had no adult arrest record. Of these 79 "first-offenders," 53 were charged with the following crimes or offenses committed at the time of the assault weapons episode:

Homicide	2
Controlled Dangerous Substance Violations	29
Robbery	12
Assault	6
Theft	2
Official Misconduct	1
Unlawful Discharge	1

Only 26 of the "first-offenders" were charged with unlawful possession of an assault weapon alone. The investigations which led to the arrest of these 26 offenders were as follows: assault (1); prostitution (1); controlled dangerous substance offenses (2); police observation of person concealing weapon under coat (1); terroristic threats (1); theft of services (2); complaint concerning person involved in domestic dispute carrying weapon (1); citizen report of man carrying gun (1); report of attempt to ship weapon via UPS (1); attempted suicide (1); motor vehicle stops (11); search conducted by federal agents of the BATF (1); investigation of weapons offenses including explosive devices (1); investigation of stolen property complaint filed by the owner of the weapon (1)¹⁰.

(Footnote 8 continued from previous page)
the CCH.

9. The term "first-offender" is used here to mean only that the person has no record of arrests as an adult. Some of these "first-offenders" may have earned juvenile records.

10. In this case, the wife of the gun owner revealed the location of the assault firearm and other guns when the police investigated her husband's report that the firearms had been stolen. The wife reported that she removed the firearms from the home out of fear that her husband would use them against her.

We have often advised the Legislature that the assault firearms law is necessary to keep these weapons out of the hands of those who would use them to commit crimes -- i.e., that New Jersey's firearms permit and identification card laws will not alone suffice because every criminal has a first conviction. The DCJA demonstrates the point. Of the 79 "first-offenders," 52 were charged with other serious crimes arising from the same incident, and 1 was charged with unlawful discharge of the firearm.

Moreover, as in the case of offenders with prior records, the criminality of this group did not end with the assault weapons episodes reported. Of the 79 "first-offenders," 17 have been charged with additional crimes subsequent to the charges reported above. The subsequent charges include robbery, assault, controlled dangerous substance violations, kidnapping, burglary, obstructing justice, sexual assault, terroristic threats and weapons offenses.

Firearms Purchaser Identification Card Data. The gun lobby has frequently argued that the assault firearms law will not keep guns from criminals because criminals do not purchase guns legally. The DCJA also proves that the gun lobby is dead wrong on this point. Fifteen (15) of those arrested and charged with assault weapons offenses were holders of valid New Jersey firearms identification cards or purchase permits at the time of the assault weapons offense. Ten (10) of the 15 were charged with additional offenses:

Controlled Dangerous Substance Violations	5
Assault	1
Discharging a Firearm	2
Official Misconduct	1
Theft	1

Three of the remaining five firearms card holders were engaged in other unlawful activity. They were charged as a result of the following investigations: a complaint from UPS concerning an attempt to ship the firearm; a weapons investigation involving a large number of firearms and other weapons, including explosive devices; and, a domestic violence investigation triggered by an officer's observation of a domestic violence incident on the street outside the owner's home.

Only two of the card holders were not engaged in unlawful activity in addition to possession of an assault weapon. In one of these cases, the unlawful possession was discovered during the course of an investigation of an attempted suicide. In the other, the investigation was of the owner's complaint that firearms had been unlawfully taken from his home.

We have frequently advised the Legislature that if assault weapons were available for sale on the same basis as ordinary rifles and shotguns, then they would fall into the hands of those who would use them to commit crimes and to threaten the safety of

the residents of this State and the officers who protect them. The DCJA analysis leads me to reiterate the advice.

Every assault weapon removed from circulation through enforcement efforts is one assault weapon that cannot be used against the residents of this State and the law enforcement officers who protect them. It is a good thing that since the assault firearms law was enacted, more than two thousand assault weapons were registered, rendered inoperable, surrendered or seized and that an untold number were transferred to dealers or sold out-of-state. These are assault weapons that cannot be used in the commission of crime or to endanger others.

It is a good thing that the number of assault weapons has not been permitted to grow through lawful sales. As the narrative and statistical data provided above reveal, guns once owned by "law-abiding citizens" find their way into the hands of those who should not have them and every person who commits a crime has a "first" conviction -- including persons who have acquired firearms purchaser identification cards.

This is why we have a law designed to prevent the proliferation of weapons like assault firearms that have such great potential for human destruction and such negligible legitimate utility.

3.

Section 2C:58-14 calls for "recommendations, including additions or deletions to the inventory of assault firearms delineated in 2C:39-1, which the Attorney General believes should be considered by the Legislature." In fulfilling this obligation, I cannot ignore that pending before you is Governor Florio's conditional veto of legislation that would legalize the possession of all large capacity ammunition magazines and all but two of the assault firearms restricted under current law. Were the Legislature to override the veto, all but two of the firearms presently prohibited as assault firearms would be readily available for sale on the same basis as ordinary guns.

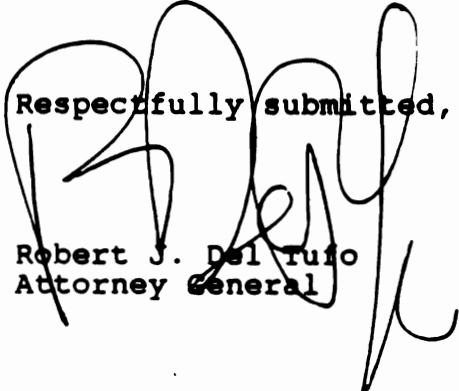
11. We have previously speculated that, absent a means of prohibiting the sale of assault firearms identified by "type" -- e.g., "Uzi type" -- or of prohibiting the sale of firearms "substantially identical" to assault firearms identified by manufacturers name, firearms manufacturers would attempt to circumvent assault firearms laws by marketing firearms, with insignificant modifications, under new names.

Colt is marketing a version of the Colt AR-15, under the name "Colt Sporter," and Springfield Armory is marketing a SAR-4800 as a "sporterized" version of the SAR-48. According to a recent report, a federal District Court Judge in Ohio, in an action initiated by Colt, has found both weapons to be covered by a

Because the question of repeal of the assault firearms law was not submitted to the voters, the Legislature must balance the interests of persons who are unwilling to accept nearly any limitation on their choice of firearms against the threat to the safety of the public and law enforcement officers posed by assault weapons. In weighing these interests, I recommend that the Legislature consider both the crime statistics and the increased risk of additional criminal episodes of the sort described in Section 2. above.

In the event the Legislature entertains other proposals concerning assault weapons, we will continue to review them and offer further comment.

Respectfully submitted,


Robert J. Del Tufo
Attorney General

Attachment

c: Honorable Jim Florio, Governor

(Footnote 11 continued from previous page)

Columbus ordinance which banned the Colt AR-15, the SAR-48 and models made by the same manufacturers "with the same action design that have slight modifications or enhancements." Center to Prevent Handgun Violence, Legal Action Report (November 1992), at 1, 3.

These firearms are clearly covered under current New Jersey law by provisions identifying the "Colt AR-15 and CAR-15 series" and the "SAR-48 type" as prohibited weapons and prohibiting any firearm "manufactured under any designation which is substantially identical" to those firearms.

The Columbus, Ohio experience is relevant to A-7, the bill before you on the Governor's conditional veto. Even with respect to the two firearms that would be prohibited under A-7, the "Uzi" and "AK-47," the bill does not include language to cover firearms of the same "type" or "substantially identical to" those firearms.

NUMBER AND TYPE OF OFFENSES COMMITTED WITH ASSAULT FIREARMS

MAY 30, 1990 TO NOVEMBER 30, 1992

COUNTY AND STATE TOTALS

COUNTY	MURDER	SEXUAL ASSAULT	ROBBERY	AGGRAVATED ASSAULT	UNLAWFUL POSSESSION OF WEAPONS	OTHER	COUNTY TOTALS
Atlantic				4	17		21
Bergen	2			1	9		12
Burlington			2		7		9
Camden			9	7	20	2	38
Cape May					2		2
Cumberland				1	1		2
Essex	2		34	18	30	1	85
Gloucester			1	1	5		7
Hudson	1		4	1	7		13
Hunterdon					3		3
Mercer			1	2	1		4
Middlesex	2		1	1	15		19
Monmouth			1		4		5
Morris	1			1	3		5
Ocean			1	1	6	1	9
Passaic		1			1		2
Salem					6		6
Somerset			1		2		3
Sussex							
Union			2	1	5		9
Warren					2		2
State Total	8	1	57	39	147	4	256

Prepared By:

New Jersey State Police-
Uniform Crime Reporting Unit

January, 1993