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STATE OF NEW JERSEY
DEPARTMENT OF LAW AND PUBLIC SAFETY

ROBERT J. DEL TUFO
ATTORNEY GENERAL

November 30, 1990

The Honorable John A. Lynch
Senate President
New Jersey State Senate
State House Annex
Trenton, New Jersey 08625

Honorable Joseph V. Doria, Jr.
Speaker of the General Assembly
New Jersey State Assembly
State House Annex
Trenton, New Jersey 08625

Re: Report of the Attorney General
Regarding Assault Firearms Act

Dear Senator Lynch and Assemblyman Doria:

Enclosed please find my report regarding the Assault Firearms Act pursuant to the provisions of P.L. 1990, c. 32, and in particular, Section 13 of that Act (N.J.S.A. 2C:58-14). The report contains all of the available statistical data relating to the reporting requirements of the Act. Nevertheless, in the near future, I intend to file a supplemental report with the Legislature which will update the number and nature of crimes committed with assault firearms. Also, as observed in my report, I will shortly be providing to the appropriate legislative committee my serious reservations regarding the provisions of S3140.

Respectfully,

Robert J. Del Tufo
Attorney General

Enclosure

cc: Honorable James Florio, Governor

RDT:kma
5073



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Re: Report of Attorney General Regarding
Assault Firearms Act, P.L. 1990, c. 32

Dear Senator Lynch and Assemblyman Doria:

This report is being submitted to you pursuant to the provisions of P.L. 1990, c. 32, the Assault Firearms Act, which was signed into law by Governor James Florio on May 30, 1990. Specifically, Section 13 of that Act (N.J.S.A. 2C:58-14) provides that the Attorney General shall, within 180 days of enactment, provide a report to the Legislature which includes the types and quantities of assault firearms surrendered or rendered inoperable pursuant to Section 12 of the Act (N.J.S.A. 2C:58-13). The law also requires that the report shall also contain the number and types of criminal offenses involving assault firearms which may have occurred since the effective date of the legislation. As I will detail below, this statistic is intolerably high. Lastly, the statute authorizes the Attorney General to make recommendations with regard to any additions or deletions to the list of those weapons which are defined by the statute as assault firearms.

While not required by the statute, a brief overview of the steps that have been taken by my Department and local law enforcement agencies to implement the provisions of P.L. 1990, c. 32 is in order. On August 7, 1990, pursuant to the provisions of Section 11 of the statute (N.J.S.A. 2C:58-12), my office developed a list of assault firearms, identified by trade name, which are used for legitimate target shooting purposes in competitive shooting matches, including those sanctioned by the Director of Civilian Marksmanship (DCM) of the United States Department of the Army. The list encompasses the following types

of assault firearms: M-1A, M-1 carbine, M-14, and AR-15. The August 7, 1990 communication also indicated that to be considered a "type", the firearm must meet the DCM standards for use in DCM sanctioned competitions. Lastly, it was noted that the M-1 (Garand) is not an assault firearm as defined by N.J.S.A. 2C:39-1(w), and therefore, that rifle need not be registered as a legitimate target shooting assault firearm.

Shortly after P.L. 1990, c. 32 took effect, the Superintendent of the New Jersey State Police promulgated the necessary forms to implement the licensing, registration and inoperability provisions of the Act (N.J.S.A. 2C:58-5; N.J.S.A. 2C:58-11 and N.J.S.A. 2C:58-12). These forms were disseminated to all municipal police departments. The Uniform Crime Reporting Unit of the New Jersey State Police also implemented new procedures for the reporting of offenses committed with assault firearms.

Immediately upon passage of P.L. 1990, c. 32, representatives of the Department of Law and Public Safety, including staff from the Division of Criminal Justice, the Legal Affairs Section of the Office of the Attorney General and the New Jersey State Police Firearms Unit, were designated to provide coordinated responses to inquiries from all concerned parties, including law enforcement agencies, commercial entities and private citizens. Understandably, there were a number of inquiries pertaining to the provisions of the Act at the outset. However, it is apparent that with the diminishing number of requests for advice, there is a growing public awareness regarding the contents of the law.

In response to what was perceived by some in the law enforcement community to be an ambiguity regarding the ability of off-duty police officers to possess large capacity magazines, a legal opinion was prepared which confirmed that it was the Legislature's original intent to permit police officers to possess large capacity magazines provided that such possession has been authorized by the appropriate law enforcement agency.

In accordance with Section 13 of the Act (N.J.S.A. 2C:58-14), the Attorney General is to report the number and types of criminal offenses involving assault firearms. It is unfortunate that I must report to the Legislature that there were 36 offenses committed with assault firearms between the dates of May 30, 1990 and October 15, 1990. These offenses are broken down as follows: 17 armed robberies, one aggravated sexual assault, two aggravated assaults, 15 offenses involving unlawful possession of weapons and one offense involving criminal mischief. The assault weapons utilized to commit these offenses were of many varieties, ranging from the all too familiar UZI to firearms with magazines which had been designed or altered to hold more than 15 rounds of ammunition. For your convenience, I have attached a chart prepared by the Uniform Crime Reporting Unit of the State Police setting forth the number and type of offenses, as well as the counties in which they were committed. It should be emphasized

that pursuant to standard Uniform Crime Reporting procedures, the number of offenses committed between October 15, 1990 and the date of this report will not be available for compilation by the New Jersey State Police until mid-December 1990. However, from the foregoing numbers it can be anticipated that the number of offenses committed with assault firearms as of 180 days from the effective date of the Act will be even greater than as of October 15, 1990.

An additional statutory reporting responsibility of the Attorney General pertains to the types and quantities of firearms surrendered or rendered inoperable pursuant to Section 12 of the Act (N.J.S.A. 2C:58-13). This section of the statute provides that any person who lawfully owned an assault firearm on the Act's effective date (May 30, 1990), and who is unable to, or chooses not to, register the firearm pursuant to Section 11 (N.J.S.A. 2C:58-12), may retain possession of the firearm for a period not to exceed one year from the effective date of the Act. During that time period the owner of the assault firearm has various options, including transferring it to any person or entity lawfully entitled to possess the firearm, rendering the assault firearm inoperable as that term is defined by the statute, or voluntarily surrendering the firearm pursuant to the provisions of N.J.S.A. 2C:39-12. In view of the fact that legitimate owners of assault firearms have been afforded one year from May 30, 1990 to avail themselves of the aforementioned options, thereby leaving another six months before they must be in full compliance with the law, the number of firearms that have been rendered inoperable to date only totals 7. These firearms are the Heckler and Koch HK91, Ruger-Mini 14, Calico M-900, Springfield Armory-SAR 8, and three assault firearms as defined by the omnibus provision of N.J.S.A. 2C:39-1w(2). As of this date, no assault firearms have been surrendered pursuant to the provisions of N.J.S.A. 2C:39-12.

While not required to be reported by the Act, the provisions of Section 11 (N.J.S.A. 2C:58-12) permit owners of assault firearms purchased on or before May 1, 1990 to register such weapons provided that they are on the list of assault firearms determined by the Attorney General to be legitimate for target shooting purposes. Since that list was created, 88 individuals have registered their assault firearms. The Act also requires that individuals who register assault firearms for purposes of target shooting shall be members of a rifle or pistol club in existence prior to the effective date of the Act. For membership to be considered valid, the rifle or pistol club's charter must be filed with the Superintendent of the State Police no later than 180 days following the effective date, i.e., November 26, 1990. As of this date, 64 rifle or pistol clubs have filed their charters with the Superintendent.

Recently, legislation was introduced which would repeal or modify many of the most salient provisions of P.L. 1990, c. 32. S3140 would delete a number of assault firearms or assault-type

firearms from the list of proscribed weapons. Moreover, the definition of large-capacity magazine would be altered to increase the number of rounds of ammunition from 15 to 20. The penalty for the illegal possession of assault firearms would be downgraded so as to de-criminalize the offense. The provision which permits the Attorney General to determine which assault firearms are legitimately used for purposes of target shooting would be deleted. These are some of the more significant modifications of P.L. 1990, c. 32, contained in the aforementioned proposed legislation. Suffice it to say here that the proposal should categorically and emphatically be rejected since, as stated, it would vitiate the very laudable objectives of the current law, objectives which are being met without undue disruption of legitimate firearm owner interests. My office is preparing comprehensive comments regarding the proposed legislation which will be submitted to the Legislature in the near future.

* Lastly, I make no recommendations at this time with regard to additions or deletions to the inventory of assault firearms delineated by N.J.S.A. 2C:39-1w. Any such recommendations will have to await further experience with the implementation of P.L. 1990, c. 32.

Respectfully submitted,

Robert J. Del Tufo
Attorney General

cc: Honorable James Florio, Governor

RDT:kma
5008

NUMBER AND TYPE OFFENSES COMMITTED WITH ASSAULT FIREARMS

May 30, 1990 to October 15, 1990*

COUNTY AND STATE TOTALS

COUNTY	RAPE	ROBBERY	AGGRAVATED ASSAULT	UNLAWFUL POSSESSION OF WEAPONS	OTHER	COUNTY TOTALS
ATLANTIC				4		4
Bergen				1		1
Burlington		2		1		3
Camden		1		1**	Criminal Mischief 1***	3
Campe May						
Carland						
CASEX		11		4		15
Chester						
son		2	1	2		5
Wardon						
rcer			1	1		2
Walesex		1		1		2
Wouth						
RIA						
AN						
saic	1					1
m						
Werset						
sex						
ion						
EN						
	1	17	2	15	1	36

Charts Reflect Partial Reporting Months

Actor in possession of three assault firearms

Actor fired assault weapon in the air during a celebration