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December 27, 2007

Ms. Vicki Lyman
CALIFORNIA DEPARTMENT OF JUSTICE
Firearms Licensing and Permits Unit
4949 Broadway, Rm. G321
Sacramento, CA 95820

VIA OVERNIGHT MAIL

Re: Eugene Hoffman, Jr. Dangerous Weapons License/Application Denial

Dear Ms. Lyman:

We write on behalf of Mr. Eugene Hoffman, Jr. (HOFFMAN) regarding your December 5, 2007 letter (EXHIBIT 1) denying HOFFMAN's application for a Dangerous Weapons License/Permit. Current regulations state that:

When an initial application is denied, the applicant may file, within 30 days, a written request for reconsideration by an Administrative Hearing officer. Such request may include any and all evidence and legal arguments which applicant feels is relevant to a reconsideration of the application. The Department shall provide the applicant with a written notice of its final decision within 60 days of the time the request for reconsideration is required.

(Cal. Code Regs., tit. 11 §4146, subd. (B).)

This letter constitutes HOFFMAN's written request for reconsideration by an Administrative Hearing officer. Specifically, as discussed below, the legal opinions stated as the basis for the denial are contrary to California law, and as such, HOFFMAN must be granted a permit.

FACTS

On November 21, 2007, HOFFMAN applied for a permit to "acquire and keep a small number of Assault weapons for collection, marksmanship, and hunting."

According to the Department of Justice ("DOJ"), the application was received on November 27, 2007.

On December 5, 2007, the DOJ sent a letter denying HOFFMAN's application, stating the following reasons for the denial:

1. [A] person seeking a permit to possess or acquire assault weapons pursuant to Section 12286 must apply for an assault weapon permit "in the same manner" as a person applying for a machinegun permit issued pursuant to Section 12230. Likewise, DOJ must evaluate such an application "in the same manner" as it would evaluate an application for a machine gun.
2. The criteria for issuance of licenses and permits to possess, transport, and sell "dangerous weapons," including both machine guns and assault weapons, are set forth in DOJ regulations. (Cal.Code Regs., tit. 11, §4125, et seq.) The regulations provide that "[n]o permit or license shall be issued to any applicant who fails to establish good cause for such permit or license and that such permit or license would not endanger the public safety." (Cal. Code Regs. Tit. 11, §4128, subd. (b).) Therefore, a person seeking a permit to possess or acquire assault weapons, or use registered assault weapons in a manner not authorized by statute must establish "good cause" for the issuance of an assault weapon permit.
3. [T]he regulations also specify that possession for the purpose of maintaining a collection does not establish good cause and "shall not be allowed for short-barreled shotguns, short-barreled rifles, machine guns or assault weapons." (Cal. Code Regs., tit. 11 §4128, subd. (c)(4).)

Based upon the three reasons above, the DOJ stated that they are "precluded by law from issuing an assault weapon permit for such a reason. Therefore, DOJ is compelled by law to reject your application."

ARGUMENT

A. A PERMIT MUST BE ISSUED TO HOFFMAN

1. THE PENAL CODE DOES NOT REQUIRE GOOD CAUSE FOR THE ISSUANCE OF A PERMIT TO ACQUIRE AND POSSESS ASSAULT WEAPONS FOR PERSONAL USE

a. Penal Code section 12286 Does Not Require Good Cause to Acquire An "Assault Weapon" After January 1, 1990:

As stated in your December 5, 2007 letter, Penal Code section 12286 states that "[a]ny person . . . who wishes to acquire an assault weapon after January 1, 1990 . . . shall first obtain a permit from the DOJ in the same manner as specified in Article 3 (commencing with Section 12230.) Completely absent from this section is the phrase "good cause."

b. Penal Code section 12287 Does Require Good Cause To Manufacturer or Sell “Assault Weapons”

Penal Code section 12287 does require “good cause” in order to obtain a permit to manufacture or sell “assault weapons.”

The Department of Justice may, upon a finding of good cause, issue permits for the manufacture or sale of assault weapons” for a number of reasons specifically enumerated. Application for the permits, the keeping and inspection thereof, and the revocation of permits shall be undertaken in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2.

c. Hoffman Only Applied For A Permit To Acquire And Possess “Assault Weapons”

The application provides the only reason HOFFMAN seeks a permit – to acquire and keep a small number of “assault weapons” for collection, marksmanship, and hunting. Nothing in his application states that he seeks a permit to manufacture or sell “assault weapons.”

d. The Legislature Did Not Intend Good Cause To Apply

As discussed above, Penal Code section 12286 does not require “good cause” to obtain a permit to possess, while Penal Code section 12287 does require “good cause” to obtain a permit to manufacture or sell “assault weapons.”

Expressio unius est exclusio alterius: the expression of one thing signifies the exclusion of others. (See e.g. *Lukhard v. Reed* (1987) 481 U.S. 368 [95 L.Ed.2d 328], *Omni Capital Int’l v. Rudolf Wolff & Co. Ltd.*, (1987) 484 U.S. 97, 106 [108 S.Ct. 404, 98 L.Ed.2d 415].); see also *People v. Jose A.* (1992) 5 Cal.App.4th 697 noting *People v. Norwood* (1972) 26 Cal.App.3d 148, 156; *People v. Rowland* (1999) 75 Cal.App.4th 61 [88 Cal.Rptr.2d 900].) The *expresso unis* maxim is premised upon an assumption that legislative omissions are intentional. As discussed below, under this maxim, it is the intent of the Legislature to allow citizens to acquire “assault weapons” without the necessity of “good cause” unless the permit was being sought to manufacture and/or sell “assault weapons.”

As the court noted in *People v. Rowland* (1999) 75 Cal.App.4th 61 “[i]t would nullify the applicable rule of statutory construction to read into this legislative pronouncement an intent to extend the statutory definition . . . set forth in subdivisions (k) and (l) to all weapons statutes wherever found, even though only certain statutes were specified in those subdivisions. To hold otherwise would be to speculate the Legislature committed an oversight and then, by judicial opinion, to correct that oversight.” (Rowland, supra, 75 Cal.App.4th at 67.)

Since the legislature is obviously capable of stating a “good cause” requirement in other areas in of the “assault weapon” laws, the fact that it did not do so in Penal Code section 12286 but did include a “good cause” requirement in Penal Code section 12287 evidences the legislatures intent to not have a “good cause” element for personal acquisition and use. If the Legislature intended a “good

cause” requirement for personal acquisition and possession, it would have so stated under Penal Code section 12286. It didn’t. (See also *People v. Gailord* (1993) 13 Cal.App.4th 1643 finding that because the charged offenses were not included in Penal Code section 12001 (c), Penal Code section 12001(b) controlled.)

2. THE REGULATIONS ARE VOID AS CONTRARY TO EXISTING LAW

The criteria established by the DOJ to acquire and possess for personal use pursuant to Penal Code section 12286 are set forth in the Code of Regulations, beginning with Section 4125 of Title 11. Despite the fact that Penal Code section 12286 lacks a “good cause” clause, Section 4128(b) states that “no permit or license shall be issued to any applicant who fails to establish good cause for such permit or license and that such permit or license would not endanger public safety.” Therefore, under these regulations, a person seeking a permit to possess or acquire “assault weapons” must establish “good cause” for the issuance of an “assault weapons” permit.

Section 4128(c) of Title 11 of the California Code of Regulations gives examples of good cause that are recognized by the department.¹ Each and every one of the established “good causes” are limited to business purposes. In fact, the regulations expressly exclude personal possession and acquisition from being a “good cause” as it relates to “assault weapons,” defining “good cause” as:

¹ “Good cause” is defined by the DOJ to include the following activities:

- (1) Sales to and/or manufacture for sales to law enforcement, military and/or dangerous weapon permittees/licensees.
- (2) Training, research and development; and/or manufacturing pursuant to government contract.
- (3) Use and/or manufacture of dangerous weapons as props in commercial motion picture, television production, or other commercial entertainment events.
- (4) Possession for the purpose of maintaining a collection of destructive devices as defined in Penal Code section 12301 *but such possession shall not be allowed for short-barreled shotguns, shortbarreled rifles, machine guns or assault weapons.*
- (5) Repair and maintenance of dangerous weapons lawfully possessed by others.
- (6) Use of dangerous weapons in activities sanctioned by government military agencies by members of those agencies.
- (7) The sale of assault weapons and/or the manufacture of assault weapons for the sale to, purchase by, or possession of assault weapons by: the agencies listed in subdivision (e), and the officers described in subdivision (f) of Section 12280; entities and persons who have been issued assault weapon permits; entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed herein; federal law enforcement and military agencies; law enforcement and military agencies of other states; and foreign governments and agencies approved by the United States State Department.
- (8) Use of dangerous weapons for the design, manufacture, demonstration, and sales of dangerous weapons accessories to law enforcement and military agencies, qualifying peace officers, and California dangerous weapons licensee/permittees.

Possession for the purpose of maintaining a collection of destructive devices² as defined in Penal Code section 12301 but such possession shall not be allowed for short-barreled shotguns, shortbarreled rifles, machine guns or assault weapons.

(Cal. Code Regs., tit. 11, §4128, subd.(c)(4).)

These regulations contradict Penal Code section 12286, which [again] states “[a]ny person . . . who wishes to acquire an assault weapon after January 1, 1990 shall obtain a permit.” Nothing herein requires “good cause.” Nothing requires a bona fide business purpose – or any business purpose for that matter. In fact, “any person” may obtain a permit. This is in stark contrast to Penal Code section 12287, which applies to the manufacture for and sale to certain entities, where “good cause” is required and the purpose for which a permit can be obtained therein is expressly limited by the statute.

The mere fact that the DOJ has interpreted a “good cause” requirement into Penal Code section 12286 does not mean a “good cause” requirement does exist. Courts must, in short, independently judge the text of the statute, taking into account and respecting the agency's interpretation of its meaning, of course, whether embodied in a formal rule or less formal representation. Where the meaning and legal effect of a statute is the issue, an agency's interpretation is one among several tools available to the court. Depending on the context, it may be helpful, enlightening, even convincing. It may sometimes be of little worth. Considered alone and apart from the context and circumstances that produce them, agency interpretations are not binding or necessarily even authoritative. (*Yamaha Corporation v. State Board of Equalization* (1998) 19 Cal.4th 1, 4.)

Instead of the deferential judicial review that is generally applicable to regulations, “[a]dministrative regulations that alter or amend the statute or enlarge or impair its scope *are void* and courts not only may, but it is their obligation to strike down such regulations.” (*Dyna-Med, Inc. v. Fair Employment & Housing Com.*, 43 Cal.3d at 1389 (*emphasis added*, citations omitted).) Because agencies have no discretion to ignore statutory meaning, there is no issue of agency discretion, and the court “need not proceed to review the [agency] action for abuse of discretion.” (*Association for Retarded Citizens v. Department of Developmental Services* (1985) 38 Cal.3d 384, 390-391)³

² To read a “good cause” requirement into Penal Code section 12286, as the DOJ does, creates the absurd and ludicrous result where “good cause” is required to obtain a permit to possess an “assault weapon” for legitimate uses, but “good cause” is not required to obtain a “destructive device” such as a bomb, grenade, explosive missile, or similar device for collecting purposes.

³ In fact, the same holds true in federal courts too. “[C]ertainly judges do not defer to the Attorney General's interpretation of Title 18.” (*Evans v. U.S. Parole Com'n* (7th Cir. 1996) 78 F.3d 262, 265.) “We have never thought that the interpretation of those charged with prosecuting criminal statutes is entitled to deference.” (*Crandon v. United States* (1990) 494 US 152, 177-78 (Scalia, J., concurring).)

The classification of types of firearms according to the law is not a subject on which the courts defer to the Bureau of Alcohol, Tobacco, and Firearms (BATF). (*United States v. Thompson/Center Arms* (1992) 504 U.S. 505, 513 holding a pistol and carbine kit not be short-barreled rifle, rejected

The DOJ's regulation requiring "good cause" for a permit solely to acquire and possess an "assault weapon" in the same manner as a registered "assault weapon" is void as it is in direct conflict with the established statutory scheme of Penal Code section 12286. Thus, regardless of the DOJ's regulation, "good cause" is not required for HOFFMAN's permit.

3. PENAL CODE SECTION 12230 DOES NOT REQUIRE "GOOD CAUSE" FOR AN "ASSAULT WEAPON" PERMIT.

Penal Code section 12286 states that a person seeking an assault weapon permit "shall obtain a permit from the DOJ in the same manner as specified in Article 3 (commencing with 12230) of Chapter 2." Based on this, the letter denying HOFFMAN's permit application states that the DOJ must evaluate an application in the same manner as a "machine gun" permit:

[A] person seeking a permit to possess or acquire assault weapons pursuant to Section 12286 must apply for an assault weapon permit "in the same manner" as a person applying for a machinegun permit issued pursuant to Section 12230. Likewise, DOJ must evaluate such an application "in the same manner" as it would evaluate an application for a machine gun.

The DOJ's argument, however, is baseless for two reasons discussed in detail below. First, the reference to Article 3 Chapter 2 incorporates the process by which an application is made, not the standard for issuance. Second, any implication that "good cause" is incorporated into Penal Code section 12286 is contradicted by the express inclusion of the term "good cause" in Penal Code section 12287, which also incorporates the application procedures of Article 3, Chapter 2.

First, Article 3 of Chapter 2 begins with Penal Code 12230,⁴ The DOJ may issue permits for the possession, manufacture, and transportation or possession, manufacture, or transportation of machineguns, upon a satisfactory showing that good cause exists for the issuance thereof to the applicant for the permit, but no permit shall be issued to a person who is under 18 years of age which sets forth the standard for obtaining a "machine gun" permit. It does not set forth the standard for obtaining an "assault weapon" permit. Rather, as discussed above, those are set forth in Penal Code section 12286 and 12287. The reference to Penal Code section Article 3, Chapter 2 within Penal Code

BATF's interpretation even though "neither the statute's language nor its structure provides any definitive guidance.") (See *F.J. Vollmer Co., Inc. v. Higgins* (D.C.Cir. 1994) 23 F.3d 448, 452 [rejecting BATF's position that a machinegun receiver remanufactured as a semiautomatic remains a machinegun], later proceeding (D.C.Cir. 1996) 102 F.3d 591, 593 ["the Bureau's action was inconsistent with the governing statute and would have produced an 'incredible' result"].) Far from deferring to BATF, *Vollmer II* noted: "Although . . . the Bureau had followed its interpretation of the Firearms Act since at least the early 1980s, we do not see how merely applying an unreasonable statutory interpretation for several years can transform it into a reasonable interpretation." (*Id.* at 598.)

⁴ The DOJ may issue permits for the possession, manufacture, and transportation or possession, manufacture, or transportation of machineguns, upon a satisfactory showing that good cause exists for the issuance thereof to the applicant for the permit, but no permit shall be issued to a person who is under 18 years of age.

section 12286 refers to the procedure by which an “assault weapon” must be obtained. The manner in which the permits are processed is Penal Code sections 12231 through 12234.⁵ These procedures include, the requirement that the applications be uniform, that applications be in writing, that the uses be identified, that the permit be kept with the firearm, that permits may be revoked, etc. Nothing within the express language of the law implies that the “good cause” standard is applicable to Penal Code section 12286 permits.

Second, any interpretation that Penal Code section 12286 incorporates the “good cause” requirement for “machine guns” is undermined by the fact that Penal Code 12287 has a “good cause” requirement (where Penal Code section 12286 does not) despite the fact that it too includes the “same manner as” language:

... applications for permits, and keeping and inspection thereof, and the revocation of permits shall be undertaken in the same manner as specified in Article 3, (commencing with Section 12230) of Chapter 2.

⁵ **Pen. Code §12231:** Applications for permits shall be filed in writing, signed by the applicant if an individual, or by a member or officer qualified to sign if the applicant is a firm or corporation, and shall state the name, business in which engaged, business address and a full description of the use to which the firearms are to be put. Applications and permits shall be uniform throughout the state on forms prescribed by the Department of Justice. Each applicant for a permit shall pay at the time of filing his or her application a fee determined by the Department of Justice not to exceed the application processing costs of the Department of Justice. A permit granted pursuant to this article may be renewed one year from the date of issuance, and annually thereafter, upon the filing of a renewal application and the payment of a permit renewal fee not to exceed the application processing costs of the Department of Justice. After the department establishes fees sufficient to reimburse the department for processing costs, fees charged shall increase at a rate not to exceed the legislatively approved annual cost-of-living adjustments for the department's budget.

Pen. Code §12232: Every person, firm or corporation to whom a permit is issued shall keep it on his person or at the place where the firearms are kept. The permit shall be open to inspection by any peace officer or any other person designated by the authority issuing the permit.

Pen. Code §12233: Permits issued in accordance with this chapter may be revoked by the issuing authority at any time when it appears that the need for the firearms has ceased or that the holder of the permit has used the firearms for purposes other than those allowed by the permit or that the holder of the permit has not exercised great care in retaining custody of any weapons possessed under the permit.

Pen. Code §12234: (a) Except as provided in subdivision (b), the Department of Justice shall, for every person, firm, or corporation to whom a permit is issued pursuant to this article, annually conduct an inspection for security and safe storage purposes, and to reconcile the inventory of machine guns. (b) A person, firm, or corporation with an inventory of fewer than five devices that require any Department of Justice permit shall be subject to an inspection for security and safe storage purposes, and to reconcile inventory, once every five years, or more frequently if determined by the department.

To imply that the “same manner as” language incorporates the “good cause” requirement that applies to “machineguns” herein would be redundant. “In accordance with this principle of construction, a court will adopt a restrictive meaning of a listed item if acceptance of a more expansive meaning would make other items in the list unnecessary or redundant, or would otherwise make the item markedly dissimilar to the other items in the list. [Citations.]” (*Commission on Peace Officer Standards & Training v. Superior Court of Sacramento County, et al.* (2007) 42 Cal. 4th 278, 294.) Thus, the only non-redundant interpretation would be that the “good cause” is only necessary for a permit to manufacture and sell “assault weapons” pursuant to Penal Code section 12287 and not for permits to acquire and possess “assault weapons” pursuant to Penal Code section 12286.

4. A PERMIT TO ACQUIRE AND USE IN ACCORDANCE WITH PENAL CODE SECTION 12285 IS GOOD CAUSE

Even if “good cause” is required for a permit to possess and acquire “assault weapons” pursuant to Penal Code section 12286, “good cause” is established herein. Penal Code section 12275.5 provides the legislative intent for regulating “assault weapons:

It is the intent of the Legislature in enacting this chapter to place restrictions on the use of assault weapons and to establish a registration and permit procedure for their lawful sale and possession. It is not, however, the intent of the Legislature by this chapter to place restrictions on the use of those weapons which are primarily designed and intended for hunting , target practice, or other legitimate sports or recreational activities.

It is important to note that “assault weapons” are regulated, not banned. Further, it was the intent to regulate the “use” of “assault weapons.” To further that cause, the DOJ established a registration and permit procedure for their lawful sale and possession. With that in mind, the DOJ has expressly identified permitted ”uses” of “assault weapons.”

Specifically, Penal Code section 12285(c) states that “a person who has registered an assault weapon or registered a .50 BMG rifle under this section may possess it only under any of the following conditions unless a permit allowing additional uses is first obtained under Section 12286:

- At that person's residence, place of business, or other property owned by that person, or on property owned by another with the owner's express permission.
- While on the premises of a target range of a public or private club or organization organized for the purpose of practicing shooting at targets.
- While on a target range that holds a regulatory or business license for the purpose of practicing shooting at that target range.
- While on the premises of a shooting club which is licensed pursuant to the Fish and Game Code.
- While attending any exhibition, display, or educational project which is about firearms and which is sponsored by, conducted under the auspices of, or approved by a law enforcement agency or a nationally or state recognized entity that fosters proficiency in, or promotes education about, firearms.
- While on publicly owned land if the possession and use of a firearm described in

Section 12276, 12276.1, or 12278, is specifically permitted by the managing agency of the land.

- While transporting the assault weapon . . . between any of the places mentioned in this subdivision, or to any licensed gun dealer

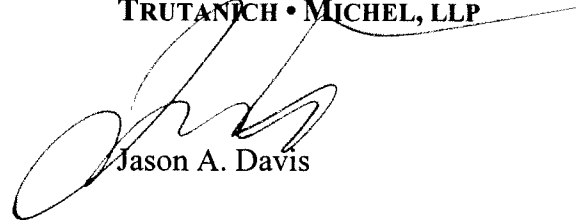
Thus, the legislature has identified uses that are expressly permitted for registered “assault weapons” without the need for a permit. Those uses are, by their very nature, legitimate and act as defacto “good cause.”

The DOJ, via its regulations, however, have expressly stated that possession for the purpose of maintaining a collection does not establish “good cause” and “shall not be allowed for . . . assault weapons.” (11 C.F.R. §4128 subd. (C)(4).) If the collection was intended for the uses defined in Penal Code section 12285, as it is for HOFFMAN, than this limitation on “good cause” exceeds the authority of the DOJ. In other words, any regulation prohibiting an otherwise law abiding person from obtaining a permit for the uses identified in Penal Code section 12285 via Penal Code section 12286 violates the intent of the legislature – and the equal protection clause of the United States constitution.

CONCLUSION

The penal code does not require “good cause” for the issuance of a permit to acquire and possess assault weapons for personal use. The regulations are void as contrary to existing law. Further, Penal code section 12230 does not require “good cause” for an “assault weapon” permit. And, to the extent that “good cause” is required, a permit to acquire and use in accordance with Penal Code section 12285 is defacto “good cause” for the purposes of obtaining a permit to acquire and possess “assault weapons.”

Sincerely,
TRUTANICH • MICHEL, LLP



Jason A. Davis

JAD/ca

EXHIBIT 1



BUREAU OF FIREARMS
P.O. BOX 981118
WEST SACRAMENTO, CA 95798-1118
Facsimile: (916) 263-0790
(916) 263-8100

December 5, 2007

Mr. Eugene Hoffman, Jr.
751 Sylvan Way
Emerald Hills, CA 94062

Re: Dangerous Weapons License/Permit(s) Application

Dear Mr. Hoffman:

This letter is in regards to your Dangerous Weapons License/Permit application received by the Bureau of Firearms within the California Department of Justice (DOJ) on November 27, 2007. After reviewing your application, we have determined that the Bureau of Firearms is compelled to reject your application.

Penal Code Section 12286 allows "[a]ny person who lawfully acquired an assault weapon before June 1, 1989, or a .50 BMG rifle before January 1, 2005, and wishes to use it in a manner different than specified in subdivision (c) of Section 12285, who lawfully acquired an assault weapon between June 1, 1989, and January 1, 1990, and wishes to keep it after January 1, 1990, or who wishes to acquire an assault weapon after January 1, 1990, or a .50 BMG rifle after January 1, 2005, shall first obtain a permit from the Department of Justice *in the same manner as specified in Article 3 (commencing with Section 12230) of Chapter 2.*" Therefore, a person seeking a permit to possess or acquire assault weapons pursuant to Section 12286 must apply for an assault weapons permit "in the same manner" as a person applying for a machinegun permit issued pursuant to Section 12230. Likewise, DOJ must evaluate such an application "in the same manner" as it would evaluate an application for a machinegun permit.

The criteria for the issuance of licenses and permits to possess, transport, and sell "dangerous weapons," including both machine guns and assault weapons, are set forth in DOJ regulations. (Cal. Code Regs., tit. 11, § 4125, et seq.) The regulations provide that "[n]o permit or license shall be issued to any applicant who fails to establish good cause for such permit or license and that such permit or license would not endanger the public safety." (Cal. Code Regs., tit. 11, § 4128, subd. (b).) Therefore, a person seeking a permit to possess or acquire assault weapons, or use registered assault weapons in a manner not authorized by statute must establish "good cause" for the issuance of an assault weapon permit.

DOJ regulations provide that "[t]o establish good cause, an applicant must provide the Department with clear and convincing evidence that there is a bona fide market or public necessity for the issuance of a dangerous weapons permit or license and that the applicant can satisfy that need without endangering public safety." (Cal. Code Regs., tit. 11, § 4128, subd. (c).) The regulations give examples of "good cause" that are recognized by the department:

- (1) Sales to and/or manufacture for sales to law enforcement, military and/or dangerous weapon permittees/licensees.

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(2) Training, research and development; and/or manufacturing pursuant to government contract.

(3) Use and/or manufacture of dangerous weapons as props in commercial motion picture, television production, or other commercial entertainment events.

(5) Repair and maintenance of dangerous weapons lawfully possessed by others.

(6) Use of dangerous weapons in activities sanctioned by government military agencies by members of those agencies.

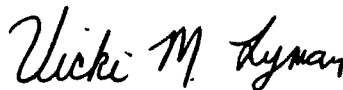
(7) The sale of assault weapons and/or the manufacture of assault weapons for the sale to, purchase by, or possession of assault weapons by: the agencies listed in subdivision (e), and the officers described in subdivision (f) of Section 12280; entities and persons who have been issued assault weapon permits; entities outside the state who have, in effect, a federal firearms dealer's license solely for the purpose of distribution to an entity listed herein; federal law enforcement and military agencies; law enforcement and military agencies of other states; and foreign governments and agencies approved by the United States State Department.

(8) Use of dangerous weapons for the design, manufacture, demonstration, and sales of dangerous weapons accessories to law enforcement and military agencies, qualifying peace officers, and California dangerous weapons licensees/permittees. (Cal. Code Regs., tit. 11, § 4128, subd. (c).)

Significantly, the regulations also specify that possession for the purpose of maintaining a collection does not establish good cause and "shall not be allowed for short-barreled shotguns, short-barreled rifles, machine guns or assault weapons." (Cal. Code Regs., tit. 11, § 4128, subd. (c)(4).)

Your application states that "I wish to acquire and keep a small number of Assault Weapons for collection, marksmanship, and hunting." DOJ is precluded by law from issuing an assault weapons permit for such a reason. Therefore, DOJ is compelled by law to reject your application. Because your application must be denied, a background investigation by DOJ is not necessary. Accordingly, your personal check in the amount of \$321.00 is being returned to you. If you have any questions regarding this information, please feel free to contact me at (916) 263-0297.

Sincerely,



VICKI M. LYMAN, Manager
Firearms Licensing and Permits Unit

For EDMUND G. BROWN JR.
Attorney General

enclosure