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**OPEN LETTER RE: ORANGE COUNTY POSITION ON "BULLET BUTTON" MODIFIED
FIREARMS AS NON-ASSAULT WEAPONS"**

Last week the Orange County Sheriff's Department issued a Training Bulletin on the topic of "Assault Weapons" -- Bulleting Number 10-3. This bulletin, among other things, addresses the application of California's controversial "assault weapon" laws on firearms modified with a device known as the "bullet button." Specifically, it states:

There has been an increase of AR-15 and AK-47 type firearms sold in California that at first glance appear to be an assault weapon, but these firearms have a device installed called a "Bullet Button". [sic] This device prevents the shooter from depressing the magazine release button with a finger. The magazine can quickly be released by using a "tool", [sic] which can be the tip of a bullet or some other tool to depress the enclosed magazine release button. **Once a bullet button is installed and there is an attached magazine capable of holding only 10 rounds, the firearm no longer has a "detachable magazine" as required for a Category 3 type assault weapon as per Penal Code Section 12276.1(a)(1)....**

I wanted to take this opportunity to commend the Orange County Sheriff's Department for issuing this Training Bulletin, as many law enforcement departments opt for ambiguity in the law as it permits them to harass legitimate law abiding firearm owners. While there are some inaccuracies in this memo, such as the requirement that there be an "attached magazine capable of holding 10 only 10 rounds,"¹ this is a great leap forward in law enforcement education with regard to application of firearm laws.

Sincerely,

DAVIS & ASSOCIATES

s/ Jason Davis

JASON DAVIS

¹ There is no requirement in the law that mandates the magazine actually be attached, as the regulations address the *detachability* of the magazine, not the ability to attach or permanency of the magazine. 11 C.C.R. 5469(a). Furthermore, there is no requirement that the magazine hold only 10 rounds. Clearly, the intention was to state that magazine cannot hold more than 10 rounds because a semi-automatic rifle with a fixed magazine that has the capacity to hold more than 10 rounds is deemed an "assault weapon" pursuant to Penal Code section 12276.1(a)(2).



TRAINING BULLETIN

ORANGE COUNTY SHERIFF'S DEPARTMENT

BULLETIN NO. 10-3

ASSAULT WEAPONS

This training bulletin is intended to provide some helpful information when encountering firearms (rifles, pistols and shotguns) in the field and whether they are legal or not. This training bulletin will also help eliminate confusion as to what actually makes a rifle, pistol or shotgun legal or illegal to possess and what makes them an "assault weapon."

Whenever you take lawful possession of a firearm in the field, you should **always** run the firearm's serial number through the Automated Firearms System (AFS) to see if that firearm is legally registered or not. Here is an example of what a registered rifle's teletype print out will look like.

*** REGISTRATION**

**DO NOT ARREST BASED SOLELY ON THIS RESPONSE **

SER/902XXXXX MAK/STE STEYR CAL/223

TYP/RI RIFLE SEMI-AUTOMATIC MOD/AUG SA

DOT/1992XXXX BBL/20

NAM/SMITH,JOHN DOB/19XX11XX ADR/27XXX CAXXXX

CTY/USAXXXXXX ZIP/92XXX CCC/3000

CII/0851XXXX OLN/N743XXXX

REG/**REGISTRATION**

ORI/CA034XXX OCA/AW59XXX

FCN/1869221XXXXXX

Assault Weapons

The term "assault weapon" means any designated semiautomatic firearms as defined by Penal Code section 12276. Assault weapons are divided into three categories. These are:

- Category 1** Firearms specifically listed in Penal Code section 12276 subdivisions (a), (b), and (c) (Roberti-Roos Assault Weapons Control Act of 1989).
- Category 2** Additional firearms specifically listed by make and model expanding on the AR and AK "series" firearms in Penal Code section 12276 subdivisions (e) and (f) (Kasler v. Lockyer (2000) 23 Cal. 4th 472, AK and AR-15 series weapons).
- Category 3** Firearms that are defined by generic characteristic features of the firearm in Penal Code section 12276.1 (Senate Bill 23 or "SB 23 features").



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Under Category 3, PC 12276.1 (a) Notwithstanding Penal Code section 12276, "assault weapon" shall also mean the following:

Rifles

- (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.

Notes

- Bayonets and bayonet lugs are not considered characteristics of assault weapons under California law.
- There has been an increase of AR-15 and AK-47 type firearms sold in California that at first glance appear to be an assault weapon, but these firearms have a device installed called a "Bullet Button". This device prevents the shooter from depressing the magazine release button with a finger. The magazine can quickly be released by using a "tool", which can be the tip of a bullet or some other tool to depress the enclosed magazine release button. Once a bullet button is installed and there is an attached magazine capable of holding only 10 rounds, the firearm no longer has a "detachable magazine" as required for a Category 3 type of assault weapon as per Penal Code Section 12276.1(a)(1). This is an example of a bullet button.





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- Companies have become creative and have a "10/30 round magazine". These magazines look just like a 30 round magazine, but have been permanently altered to only hold 10 rounds. If you are basing an assault weapon charge on the fact that a rifle has a fixed magazine with the capacity to accept more than 10 rounds, make sure you can in fact load more than 10 rounds into the magazine, Penal Code 12276.1(a)(2). **Note in your report that you were able to load more than 10 rounds into the magazine.**

Pistols

- (4) A semiautomatic pistol that has the capacity to accept a detachable magazine **and** any **one** of the following:
 - (A) A threaded barrel, capable of accepting a flash suppressor, forward handgrip, or silencer.
 - (B) A second handgrip.
 - (C) A shroud that is attached to, or partially or completely encircles, the barrel that allows the bearer to fire the weapon without burning his or her hand, except a slide that encloses the barrel.
 - (D) The capacity to accept a detachable magazine at some location outside of the pistol grip.
- (5) A semiautomatic pistol with a fixed magazine that has the capacity to accept more than 10 rounds.

Shotguns

- (6) A semiautomatic shotgun that has **both** of the following:
 - (A) A folding or telescoping stock.
 - (B) A pistol grip that protrudes conspicuously beneath the action of the weapon, thumbhole stock, or vertical handgrip.
- (7) A semiautomatic shotgun that has the ability to accept a detachable magazine.
- (8) Any shotgun with a revolving cylinder.

.50 caliber BMG (Browning Machinegun) Semi-automatic and Single-shot Rifles

It is a felony for any person to manufacture, distribute, transport, import into California, or keep or offer for sale, or give or lend, an assault weapon or .50 BMG rifle (Penal Code § 12280).

Any person who lawfully possesses an assault weapon or .50 BMG rifle must have registered it as such with the Department of Justice (Penal Code § 12285).

If a firearm or receiver has neither a 12276.1- specified combination of characteristic features, nor is listed by make and model in PC 12276/11 CCR § 979.10 or 11 CCR § 979.11, it is **not** an assault weapon.



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Do **not** just book the firearm into Property for Safekeeping, especially if you are unsure of its assault weapon characteristics. Book the weapon as Evidence. Booking the weapon as Evidence will allow for follow-up investigation, if needed. When booking a firearm into property, you **shall** obtain a FCN from Teletype for each firearm booked.

Included are links to "California Firearms Laws-2007", "Assault Weapons Identification Guide" and "California Centerfire, Semi-Auto Rifle Identification Flowchart." These resources should help personnel determine if an assault weapon is lawful to possess.

Clicking on the link below will take you to the Department of Justice (DOJ) Bureau of Firearms website "California Firearms Laws-2007". This publication includes the firearms sections as well as that of dangerous weapons:

<http://ag.ca.gov/firearms/forms/pdf/Cfl2007.pdf>

For comprehensive assault weapon information, click on the following link that will take you to the California Attorney General's "Assault Weapons Identification Guide-3rd Edition, Nov. 2001":

<http://ag.ca.gov/firearms/forms/pdf/awguide.pdf>

The "California Centerfire, Semi-Auto Rifle Identification Flowchart" is an easy to follow flowchart listing yes/no questions showing the characteristics and related penal code sections of assault weapons and .50 BMG rifles. The second page of the flowchart lists all of the banned assault rifles by make and model (Class I and II) and lists the characteristics (Class III) of assault weapons. This is a resource only, much like a "quick code" and not to be used for official citation. Click on the following link:

<http://www.calguns.net/caawid/flowchart.pdf>

For further information or clarification as to whether a firearm is unlawful to possess or is an assault weapon, contact Property/Evidence Sergeant Greg Schuch at (714) 834-6485, the Katella Armory at (714) 538-2612 or Range Sergeant Paul Gilmore at (714) 538-2464.