REPORT OF THE ATTORNEY GENERAL'S
TASK FORCE FOR THE EXPIRATION OF THE
FEDERAL ASSAULT FIREARMS BAN

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ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY

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TRENTON, NEW JERSEY
INTRODUCTION

In 1990, the State of New Jersey adopted one of the most stringent bans against assault firearms. The federal government followed suit four years later, enacting an assault weapons ban in 1994 which prohibited almost 20 types of assault weapons. The federal ban was put into effect for 10 years, at which time it would sunset, requiring reinstatement by Congress in order to continue in effect. Consequently, the federal prohibition expired in September 2004, and Congress did not reinstate the ban. On September 13, 2004, former Governor James E. McGreevey signed Executive Order No. 130 ("E.O. 130") to address the impact of the expiration of the federal assault weapons ban within the State of New Jersey. Specifically, the Executive Order directed the Attorney General to create a task force, comprised of relevant segments of the law enforcement community, to identify and develop a plan to respond to issues raised by the expiration of the federal ban.

E.O. 130 further directed the Attorney General to determine whether any changes are necessary to current New Jersey laws, specifically to deal with any potential problems associated with assault weapons being purchased out of state and brought into New Jersey. Any recommendations associated with enhanced criminal penalties or other measures were to be forwarded to the Governor.
**TASK FORCE MEMBERS**

In accordance with E.O. 130, the Prosecutors Supervision and Coordination Bureau within the Division of Criminal Justice convened a task force as directed by E.O. 130. The following individuals participated in the Task Force on the Expiration of the Federal Assault Firearms Ban:

- Honorable Jeffrey S. Blitz  
  Atlantic County Prosecutor

- AAG B. Stephan Finkel  
  Director, Legislative Affairs  
  Office of the Attorney General

- Dianne Garyantes  
  Project Coordinator, Camden Safer Cities Institute  
  Rand Institute  
  Rutgers University

- Charles W. Humphrey  
  Resident Agent in Charge  
  Bureau of Alcohol, Tobacco & Firearms

- Sean Kelly  
  Police Institute at Rutgers

- AAG Vaughn L. McKoy  
  Director, Division of Criminal Justice

- Joseph Napurano  
  Special Assistant  
  Office of the Attorney General

- AAG Jessica Oppenheim  
  Chief, Prosecutors Supervision & Coordination Bureau  
  Division of Criminal Justice
Monmouth County Sheriff Joseph W. Oxley  
President, Sheriff’s Association of New Jersey

Mitchell C. Sklar, Esq., CAE  
Executive Director  
New Jersey State Association of Chiefs of Police

Detective Sergeant John Soulias  
New Jersey State Police

**TASK FORCE MEETING**

The Task Force met in December, 2004 to discuss E.O. 130 and the development of a plan of action, as well as whether or not any law enforcement agency or interested law enforcement group had information concerning an increase in gun crimes within New Jersey due to formerly banned weapons being brought into this State. In addition to the Task Force members who were present, Edward J. McBride, Jr., from the Governor's Office attended the meeting as did DAG Lori Linskey of the Prosecutors Supervision and Coordination Bureau of the Division of Criminal Justice.

Although the consensus of the Task Force was that it is possible that, over time, formerly banned weapons may be brought into this State, no one reported any information indicating the occurrence of such increased activity or identified any known cases that involved weapons formerly banned under federal law. In general, the Task Force praised the effectiveness of the very strict ban that the State of New Jersey has with regard to assault firearms.
ACTION PLAN

The Task Force determined that New Jersey's current laws, with regard to New Jersey's Assault Firearm Ban, are strong and effective. However, some concerns were raised regarding any confusion that may exist for New Jersey gun dealers now that the Federal Ban has expired and the possibility that New Jersey residents could attempt to obtain such firearms from outside the State and transport them into New Jersey. As a result, the Task Force proposed that the Attorney General, as Chief Law Enforcement Officer of New Jersey, issue an official communication to all gun dealers in New Jersey to reinforce the fact that our State's assault firearm ban remains in full force notwithstanding the expiration of the federal ban.

Accordingly, on February 3, 2005, Attorney General Peter C. Harvey signed a letter to all licensed gun dealers concerning the sale of assault weapons to New Jersey residents. This letter was disseminated to all licensed gun dealers in New Jersey and clarifies that despite the expiration of the federal ban, the prohibition on possessing assault firearms remains the law in New Jersey. The letter also noted that violators would be swiftly prosecuted and could face a 3-5 year term of imprisonment as well as a $15,000 fine. The Attorney General will send another letter to all New Jersey gun dealers in January 2005 reiterating the assault weapons ban and he will also communicate with officials in New York, Delaware and Pennsylvania to ensure that they remain aware of New Jersey's prohibition.
In discussing the current State laws of relevance to the expiration of the federal assault weapons ban, Atlantic County Prosecutor Jeffrey S. Blitz proposed that New Jersey's statutes be amended to provide enhanced penalties for gun trafficking, specifically, to penalize transporting firearms into New Jersey for purposes of an unlawful sale or transfer. Prosecutor Blitz opined that such a crime should at least be a second degree offense, in contrast to the current law which establishes a fourth degree crime for such conduct. A second degree crime is punishable by a term of incarceration of five to 10 years, a fine of up to $150,000 or both. A fourth degree crime is punishable by imprisonment for a maximum term of 18 months, a fine of up to $10,000 or both.

In response to Prosecutor Blitz's concerns, AAG Finkel and Edward McBride of the Governor's Office discussed the possibility of enhancing the criminal penalties for gun trafficking, and AAG Finkel recommended consideration of a legislative initiative for that purpose. Further research revealed a pending bill, Assembly Bill No. 2331, which would establish the same enhanced penalty proposed by Prosecutor Blitz. The Department of Law and Public Safety offered its support for this bill, which passed the full Assembly on May 16, 2005 and was received in the Senate and referred to the Law and Public Safety Veterans' Affairs Committee on May 19, 2005.

In addition, since the inception of the Task Force, in order to monitor the extent of any issues related to the expiration of the federal assault weapons ban, representatives from the Prosecutors Supervision and Coordination Bureau within the Division of Criminal Justice have requested, at the regularly scheduled monthly meetings of the
New Jersey County Prosecutors Association, that prosecutors should contact them with any information concerning any prosecutions attributed to previously banned assault weapons being brought into New Jersey or used in the commission of a crime. The last such reminder was given on July 12, 2005. To date, no such crimes have been reported to the Division.

**RECOMMENDED STRATEGIES**

Although the expiration of the federal assault firearms ban creates a potential risk that dangerous weapons, banned under New Jersey law, will make their way into our State, it appears as though our existing ban has prevented that scenario. In an effort to continue to monitor the impact of the expired federal ban, the Attorney General will continue to do the following:

- The Attorney General will work in tandem with the County Prosecutors to monitor whether banned assault weapons begin appearing in New Jersey.
- If an increase in crimes involving banned assault weapons begins to surface, New Jersey gun laws will be reviewed to ensure their effectiveness.
- Pending legislation that will increase penalties for gun trafficking in New Jersey will be closely watched and supported in the next legislative session.
- The Attorney General will contact neighboring states to inform them that New Jersey’s Assault Firearms Ban remains in full force.
- The Task Force will reconvene should any of the above issues or new matters arise that require further action.

Attorney General Report - Assault Firearms Ban
December 20, 2005

Lt. Suzann M. Rowley
Firearms Investigation Unit
New Jersey State Police
Division Headquarters
P.O. Box 7068
West Trenton, New Jersey 08628-0068

Re: Distribution of AG Letter to New Jersey Gun Dealers

Dear Lt. Rowley:

Enclosed please find a signed letter from Attorney General Peter C. Harvey to all of New Jersey's licensed gun dealers. The purpose of the letter is to remind our State's gun dealers that New Jersey's ban on assault firearms remains intact.

We would greatly appreciate it if you could send a copy of this letter to all of our state's licensed gun dealers. For your reference, I have also enclosed a copy of the Attorney General's Report on the Expiration of the Federal Assault Firearms Ban. Please do not hesitate to contact me at (609) 984-4491 should you have any questions or wish to discuss this further.

Many thanks in advance for your assistance.

Very truly yours,

Lori D. Linskey
Deputy Attorney General
Prosecutors Supervision & Coordination Bureau

enclosures
c: Attorney General Peter C. Harvey
AAG Jessica Oppenheim
TO: All Licensed Gun Dealers

As you are aware, on September 13, 2004 the federal ban on assault weapons expired. However, New Jersey gun laws continue to prohibit the sale or possession of assault weapons in this state. Any person who possesses assault weapons in the State of New Jersey will be prosecuted and faces at least a third degree crime carrying a 3-5 year term of imprisonment and a $15,000 fine.

If your customers have questions about the expiration of the federal ban and its impact on their ability to possess or purchase assault weapons in this state, please advise them that New Jersey law still prohibits the possession of assault weapons and that violators will be immediately prosecuted.

If you or your customers have any further questions or need guidance, please contact the appropriate local police department or the New Jersey State Police Firearms Unit at (609) 882-2000.

Thank you for your continued cooperation.

Sincerely,

Peter C. Harvey
Attorney General