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## REVIVING AN ILLUSION

### *Reinstating the (original) Federal assault weapons ban is a poor idea*

By Julius (Jay) Wachtel. It didn't take long for the new man on the block to ruffle the gun lobby's feathers. Less than three weeks after his confirmation, rookie A.G. Eric Holder was holding a news conference to announce a major victory against the violent Sinaloa drug cartel when a reporter's question took him in a dangerous direction. Asked what he would do about the gun smuggling that's been propelling Mexican drug violence, [Holder let slip his intention](#) to once again make assault weapons illegal under Federal law:

As President Obama indicated during the campaign, there are just a few gun-related changes that we would like to make, and among them would be to reinstitute the ban on the sale of assault weapons.

Those few words touched off a firestorm from the "pry it from my cold dead fingers" crowd and sent House Speaker Nancy Pelosi scurrying for cover. "I think we need to enforce the laws we have right now," she said, carefully sidestepping the quarrel. "I think it's clear the Bush administration didn't do that."

Setting aside the obvious political obstacles, let's consider what reinstating the Federal ban would really accomplish. Enacted in September 1994, the law, codified as [Title 18, USC](#), Sections 921(a)(30) and (31) and 922 (v), accomplished three things. First, it prohibited the manufacture, transfer and possession of certain enumerated firearms:

- (i) Norinco, Mitchell, and Poly Technologies Avtomat Kalashnikovs (all models);
- (ii) Action Arms Israeli Military Industries UZI and Galil;
- (iii) Beretta Ar70 (SC-70);
- (iv) Colt AR-15;
- (v) Fabrique National FN/FAL, FN/LAR, and FNC;
- (vi) SWD M-10, M-11, M-11/9, and M-12;
- (vii) Steyr AUG;
- (viii) INTRATEC TEC-9, TEC-DC9 and TEC-22; and
- (ix) revolving cylinder shotguns, such as (or similar to) the Street Sweeper and Striker 12.

More broadly, the law banned any semi-automatic weapon that could accept a detachable magazine and possessed *two* or more of certain external characteristics, such as a folding stock, pistol grip, flash suppressor or barrel shroud. Ammunition magazines that could hold more than ten rounds were also outlawed. In a concession that greatly complicated enforcement, existing guns and magazines could continue to be possessed and transferred without restriction.



Manufacturers and importers shrugged. Colt renamed the AR-15 the "Sporter", removed its flash suppressor and bayonet lug and reworked the magazine so that it could hold only ten rounds. Soon everyone was stripping weapons of meaningless baubles and producing essentially the same guns as before. When the ban, which carried a ten-year sunset clause, came up for re-approval in 2004 it died quietly. Even the vociferously anti-gun [Violence Policy Center](#) saw little reason to support it:



The 1994 law in theory banned AK-47s, MAC-10s, UZIs, AR-15s and other assault weapons. Yet the gun industry easily found ways around the law and most of these weapons are now sold in post-ban models virtually identical to the guns Congress sought to ban in 1994... Reenacting this eviscerated ban without improving it will do little to protect the lives of law enforcement officers and other innocent Americans.

Tired of deferring to the spineless Feds, a handful of States, including Connecticut, New York, New Jersey, Massachusetts and California enacted their own assault weapons laws. California's actually dates back to 1989, when a deranged man [opened fire in a Stockton school yard](#) with a Chinese AK-47 knockoff, killing five children and wounding 29 and a teacher. Although court challenges slowed enforcement, by 2000 [the Golden State's laws](#) banned a long list of semiautomatic pistols and rifles. What's more, any semiautomatic gun with *even one* special characteristic such as a handgrip or folding stock must have a permanently fixed rather than detachable magazine, thus making it far more cumbersome to reload. And in all cases maximum ammunition capacity is set at ten rounds.

But do any of these laws really make a difference? As we've argued elsewhere, not one takes on the most important determinant of a gun's lethality: ballistics. There's a reason for the lapse. Since ordinary hunting cartridges such as the .30-06 are every bit as deadly as any so-called "military" round, setting limits on penetration and killing power -- say, by outlawing rounds that can defeat protective garments commonly worn by police -- would make most semi-auto rifles illegal. Don't believe

it? According to the [National Institute of Justice](#), the most protective (hence, cumbersome) ballistic vest normally worn by street cops, designated level III-A, is effective only against ordinary handgun ammunition:

As of the publication of this standard, ballistic resistant body armor suitable for full-time wear throughout an entire shift of duty is available in classification Types II-A, II, and III-A, which provide increasing levels of protection from handgun threats.

Type II-A body armor will provide minimal protection against smaller caliber handgun threats.

Type II body armor will provide protection against many handgun threats, including many common, smaller caliber pistols with standard pressure ammunition, and against many revolvers.

Type III-A body armor provides a higher level of protection, and will generally protect against most pistol calibers, including many law enforcement ammunitions, and against many higher powered revolvers.

Types III [hard and heavy] and IV [harder and heavier] armor, which protect against rifle rounds, are generally used only in tactical situations or when the threat warrants such protection.

Reducing the threat posed by semiautomatic weapons could be addressed with a [point system](#) that incorporates factors such as ballistics, cyclic rate and accuracy at range. Only problem is, most rifle bullets cut through a cop's vest like a knife through butter. To afford meaningful protection we might have to ban semi-auto rifles that chamber anything beyond a .22, a round useful only for plinking. That, in a nutshell, is the dilemma that's kept meaningful restrictions from being implemented.

So why not simply reinstate the Federal ban? Isn't doing something better than nothing? Not always. Enacting laws that bypass the hard issues promotes the illusion that we're doing something about violence, letting legislators take credit while leaving the gun industry free to peddle increasingly lethal hardware. As our country's current troubles amply demonstrate, pretending to regulate is even worse than not regulating at all. Alas, that seems to be a lesson that we've yet to learn.