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**DIVISION OF
CRIMINAL
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SERVICES**

**NEW YORK
STATE**

**Mario M. Cuomo
Governor**

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Office of Justice Systems Analysis

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ASSAULT WEAPONS AND HOMICIDE IN NEW YORK CITY

Around our nation there is growing concern with the increased use of rapid-fire firearms with large ammunition capacities by violent offenders. In this report we closely examine the use of assault weapons in homicides committed in New York City during 1993. Earlier studies have noted the number and type of firearms used in lethal violence. To our knowledge, none have assessed the link between assault weapons and homicide. For our analysis, assault weapons are defined in terms of proposed legislation in New York State. Our findings show that assault weapons as so defined were used in at least 16 percent, and perhaps as many as 25 percent, of the gun-related homicides that were studied. This number is much greater than originally thought. Clearly, legislation is needed to regulate assault weapons and to curtail their use in violent crime.

**Richard H. Girgenti
Director of Criminal Justice and Commissioner**

Violent crime is a growing public concern. Recognizing the need for a viable solution to this problem, criminal justice policy makers and practitioners are considering a wide variety of proposals. Among these are recommendations calling for the more stringent regulation of assault weapons.

The objective of assault weapons legislation is to restrict the possession of any gun with large ammunition capacity that fires rapidly and can kill or seriously injure numerous people at close-range without the necessity of reloading or taking careful aim. In the view of many, these military-style weapons lack a legitimate sporting purpose and are unnecessary for self-defense. In the hands of criminals, the tremendous killing power of these weapons has been used against both intended victims and innocent bystanders. Standard law enforcement firepower is inferior to many assault weapons, leaving police officers at a disadvantage in confrontations with criminals possessing these weapons.

Beyond Second Amendment considerations of the "right to bear arms," opponents of regulation claim that since criminals ignore the law and illegally acquire assault weapons, only the law-abiding would be affected. They also assert that

very few crimes are committed with assault weapons and banning them would not reduce acts of violence.

The debate over this issue has been complicated by the fact that we do not know to what extent assault weapons are used to commit violent crimes, especially homicides. The purpose of this report is to inquire into that question. To that end we use data derived from ballistic reports maintained by the New York City Police Department (NYPD) that contain information on weapons recovered by police in connection with homicides where a weapon was discharged.

What Is An Assault Weapon?

The determination of the extent to which assault weapons are involved in violent crime is made more difficult by the variety of ways in which assault weapons are defined. There are several definitions of assault weapons. The Department of Defense defines an assault rifle as a short and compact military-use weapon equipped with a switch to change from semiautomatic to full automatic rate of fire. From this original definition, the term assault weapon has taken on broader meaning and is sometimes used to refer generally to any gun capable of firing many bullets in rapid succession without reloading.

Varying legal interpretations have developed in recent years. For purposes of the national import ban in 1989, the Bureau of Alcohol, Tobacco and Firearms defines assault weapons based on the physical characteristics of the gun including military appearance, large magazine capacity, and being a semiautomatic version of a machine gun. A semiautomatic firearm shoots a single round with each trigger pull, ejecting the spent casing with the gas-operated forces of the fired cartridge, after which a fresh round is immediately chambered from the magazine. While machine guns are also gas-operated, they are fully automatic in action, in that they continuously fire for as long as the trigger is depressed. By virtue of federal statute, the U.S. Treasury Secretary is authorized to ban the import of weapons deemed unsuitable for sporting purposes, such as hunting and marksmanship. The United States Senate has passed a crime bill with provisions supported by President Clinton which will ban the sale, manufacture and possession of 19 specific makes and models of semiautomatic long guns, handguns, and other guns based upon shot capacity and at least two specified military-style features.

Other states have adopted definitions in statutes that restrict public possession of assault weapons. California and Connecticut outlaw specific makes and models of semiautomatic firearms not lawfully possessed and registered prior to a specified date. California's law applies to both long guns and handguns. Connecticut's statute applies only to long guns, though state legislation has been introduced to extend the ban to certain semiautomatic handguns. New Jersey bans specifically listed long guns and handguns, along with their copies, as well as weapons exceeding certain shot capacities and semiautomatic shotguns with pistol grips or folding stocks. People who owned assault weapons prior to the law's effective date were required to sell them to dealers or residents of other states, to surrender them to law enforcement agencies, or to render them inoperable. Hawaii bans possession of assault pistols -- semiautomatic handguns with large capacity or military characteristics. Semiautomatic Street Sweeper shotguns are banned in Virginia.

Several municipalities have enacted ordinances restricting the possession of various types of assault weapons. New York City bans centerfire and rimfire long guns (rifles and shotguns) with various military characteristics such as a bayonet mount, flash suppressor, barrel shroud, or grenade launcher. The list of military features may be expanded by the New York City Police Commissioner on the basis of what is

suitable for military and not for sporting purposes. In addition, shotguns with revolving cylinders are banned, as are parts designed to readily convert a long gun into an assault weapon.

Rochester bans semiautomatic long guns that hold over six rounds -- magazine and chamber combined. In addition, long guns with military characteristics, and specific makes and models of semiautomatic long guns are banned from public possession. The City of Albany bans high-capacity centerfire firearms (long guns and handguns) which have been determined by the City Council to be for non-sporting purposes. Also, the Albany ordinance bans specified makes and models of semiautomatic firearms and shotguns with revolving cylinders, and their copies.

Legislation proposed by Governor Cuomo and passed by the New York State Assembly (Bill 40001) in 1994, defines an assault weapon as any centerfire, semiautomatic rifle, shotgun, or pistol capable of having loaded in its magazine and chamber more than six cartridges for a long gun (rifle or shotgun) or ten cartridges for a pistol. Fifty-one specifically listed military-style weapons and their copies are also included in the bill as assault weapons (e.g., UZIs, Tec-9s, MAC-10s, AK-47s), as well as those with military characteristics of a

flash suppressor, grenade launcher, night sight, barrel jacket, or multiburst trigger activator. Under this bill, unlicensed possession of such weapons will be a class D felony. In addition, various felony-level penalties will apply to use of assault weapons in crimes. Individuals could obtain a license to possess and use assault weapons at

organized marksmanship competitions and at authorized ranges, with provisions for transportation of the weapons to and from these functions. A State license would also allow federally licensed collectors to possess assault weapons.

Legislation introduced in the New York State Senate (Senate Bill 6406) would ban 22 specifically listed makes and models of semiautomatic handguns and long guns, (e.g., Tec-9s, MAC-10s and Striker 12s). With few exceptions, the firearms covered by the Senate Bill are a subset of the weapons regulated by the Assembly Bill. Under the Senate Bill, possession of such weapons and their copies would be a class C felony. Felony-level penalties would attach to use of assault weapons in crimes and the death penalty would be authorized for first degree murder.

...the term assault weapon has taken on broader meaning and is sometimes used to refer generally to any gun capable of firing many bullets in rapid succession without reloading.

The Limits of Available Data

The Uniform Crime Reports (UCR), the most comprehensive source of crime statistics in the United States, indicate annually the number of firearms used in homicides, based upon reports submitted by law enforcement agencies statewide. Table 1 shows the number of firearms by type used in homicides in New York City from 1987 to 1992. For policy purposes, the problem with the UCR data is that the categories used to classify firearms do not permit a determination of those that are assault weapons. For example, 2,007 homicides were recorded in New York City in 1992. Of the 1,551 firearms homicides, only 44 cases involved a long gun (rifle or shot gun) of any type. These classifications are determined from police investigations and Medical Examiner records. If all assault weapons were long guns, then the number of assault weapons used in homicides in New York City in 1992 would be no more than 44. However, such an approach would be inappropriate because it excludes the wide variety of semiautomatic handguns that meet the definition of assault weapon. The focus of this analysis is to determine how often assault weapons were used in homicides. For that purpose, detailed data are needed that identify the weapons used in homicide incidents.

Method of Study

The New York City Police Department (NYPD) identifies every criminal incident known to the Department by assigning an exclusive complaint number to each respective act. Any ballistic evidence gathered from a crime scene is forwarded to the NYPD Ballistics Unit for analysis and codification. Firearms, bullets, bullet fragments, or casings recovered from shooting scenes are itemized on Ballistics Unit

Case Worksheets. Each Worksheet contains information including:

- ① case identifiers (e.g., case number, police precinct, complaint number);
- ② the number and type (caliber, make, model, action, serial number) of firearms recovered;
- ③ the level of injury (deceased, injured, no one injured); and
- ④ for each firearm recovered, whether or not it was positively identified with the injury.

All worksheets are given an exclusive Ballistics Unit case number which serves as an identifier between the criminal incident or complaint number and evidence analyzed and subsequently recorded by the Ballistics Unit.

A review of all Ballistics Unit Case Worksheets generated in 1993 revealed 1,588 cases that identified, at minimum, one firearm that was recovered from a shooting incident. NYPD Member of Service weapons (i.e., police guns) were analyzed if involved in a shooting incident. Of these 1,588 cases, 407 or 25.6 percent indicated at least one victim died.

Each of the 407 cases was identified by its respective complaint number and corresponding police precinct where the incident occurred. This list was cross-referenced with all 1,508 cases being investigated as firearms-related homicides by the NYPD Chief of Detective's Office to ascertain which cases were indeed homicides rather than suicides, accidents, or justifiable homicides. Of the 407 cases where at least one person died, 259 cases (63.6 percent) matched and hence were deemed homicides. In matched cases where there were multiple victims ($n=28$), 12 cases involved an additional victim that was being investigated as a separate homicide. These 12

FIREARM USE IN NEW YORK CITY HOMICIDES
1987-1993
TABLE 1

	1987	1988	1989	1990	1991	1992	1993
Total - All Homicides	1668	1913	1918	2263	2164	2007	1946
Handgun	1026	1240	1308	1503	1582	1510	N/A
Shotgun	34	31	31	40	21	29	N/A
Rifle	12	9	4	14	3	8	N/A
Machine Gun	3	4	1	10	6	4	N/A

cases and their respective weapons were scored as single victim homicide incidents. This process resulted in a total of 271 cases for this analysis identified as homicides. The remaining 148 cases were not considered.

The intent of this analysis is to determine the proportion of gun-related homicides in New York City during 1993 that involved assault weapons as defined by legislation pending in the New York State Legislature. To achieve this goal, every weapon listed on the Ballistic Case Worksheet for all 271 cases was identified according to caliber, action, manufacturer (and if noted, model), and type (i.e., semiautomatic pistol, revolver, derringer, long gun). This information was derived directly from Ballistics Case Worksheets. For each weapon that was not a revolver, the shot capacity was determined based upon the detailed information specified by Ballistics personnel in conjunction with current gun catalogues. When the shot capacity could not be determined by this methodology, the specific weapon in question was referred to Ballistics personnel for further identifying features. Weapons for which shot capacity could not be determined were coded as missing. Specifically listed military-style weapons and their copies and weapons in which the shot capacity exceeded limits specified in the Governor's Program Bill (Assembly Bill 40001) were declared assault weapons.

The Weapons and the Homicide Incidents

A particular firearm recovered from a homicide incident was not necessarily used in the killing or fired. Recovered weapons are positively identified with a killing only when they are matched by ballistic evidence to bullets, bullet fragments, or casings obtained from the scene or the victim.

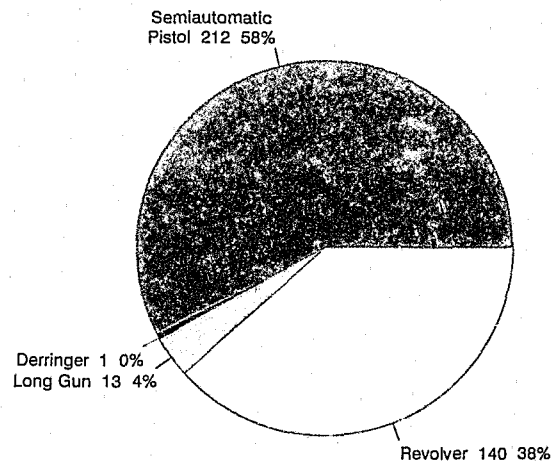
NUMBER OF WEAPONS RECOVERED IN HOMICIDE INCIDENTS TABLE 2				
	Incidents		Weapons	
	N	%	N	%
One Weapon	203	74.9	203	55.5
Two Weapons	43	17.7	96	26.2
Three Weapons	15	5.5	45	12.3
Four Weapons	3	1.1	12	3.3
Five Weapons	2	0.7	10	2.7
TOTALS	271	100.0	366	100.0

Of 271 homicides under investigation by NYPD detectives in 1993 for which a firearm was discharged and at least one firearm was recovered, a total of 366 firearms were acquired by the NYPD Ballistics Unit for examination. The number of weapons recovered as part of these homicide investigations is listed in Table 2. Of the 271 incidents, 203 (75 percent) involved only one firearm.

Using the NYPD data, we determined the type of weapon or weapons found. More than half (212 or 58 percent) of the 366 firearms recovered in relation to homicides were semiautomatic pistols. (See Figure 1.) Another 140 (38 percent) were revolvers and only 13 (4 percent) were long guns of any type.

All 366 weapons in this analysis were recovered from incidents at which a death occurred and a gun was discharged.

WEAPON TYPE
TOTAL WEAPONS = 366
FIGURE 1



Each weapon was then tested by NYPD Ballistics Unit detectives. Positive identification of a particular firearm with a shooting was determined through microscopic comparison of a test bullet fired from the same gun to a bullet or bullet fragment extracted from the deceased or found at the scene.

Recovered weapons are positively identified with a killing only when they are matched by ballistic evidence to bullets, bullet fragments, or casings obtained from the scene or the victim.

Thus, it can be said that firearms that have been *positively identified* were used or involved in homicides.

Not all weapons recovered from the 271 homicide incidents are positively identified with the killings. A firearm involved in a shooting may not be matched to ballistic evidence if the condition of the bullet is substantially altered upon impact. The NYPD Ballistics Unit maintains a record of those weapons that have been positively identified with shooting incidents. For each incident it was determined whether or not the weapons recovered were positively identified with the homicides. Neither are all firearms recovered from homicide incidents assault weapons. For purposes of analysis, all 366 firearms were classified in terms of whether or not they would be considered assault weapons under the Governor's Program Bill (Assembly Bill 40001).

Table 3 shows that of the total 271 homicides under study, at least one weapon was positively identified with the killing in 169 (62 percent) cases. Similarly, Table 3 shows that for the 271 homicide incidents, at least one assault weapon was recovered in 68 (25 percent) cases.

It is possible to combine information about the positive identification of the weapons with the extent to which the identified firearms can be classified as assault weapons. Table 3 considers this association in two ways. Of the total 271 incidents in which a weapon was recovered, 43 (15.9 percent) of the incidents included assault weapons that were positively identified with the homicides. This percentage does not include other weapons used in the homicides that may or may not have been positively identified. It is also possible to consider the 43 incidents as a proportion of those incidents in which a weapon was positively identified with the homicide. Using that method, the 43 incidents represent 25.4 percent of the 169 homicides in which a weapon was recovered and positively identified with the homicide.

Further examination of the Ballistics Unit records for the 43 cases showed that a specific bullet extracted from the deceased was directly linked to the assault weapon in 20 cases. Our limited analysis of just those 169 murders in New York City during 1993 where a firearm recovered was positively identified with the killing shows that certainly no fewer than 20 and probably at least 43 homicide victims were killed by an assault weapon. Thus, assault weapons appear to have been responsible for 25 percent of the homicide cases where the firearm which likely caused the death could be identified.

Table 4 (see page 6) lists 52 weapons positively identified with 43 homicide incidents involving assault weapons. Of the 52 firearms, virtually all can be considered handguns and 42 (81 percent) were 9mm caliber weapons. The weapon involved most often was the 9mm Ruger with a 16-shot capacity, used eight times, followed by the 9mm Glock with an 18-shot capacity, used seven times. Ten of the firearms, the Intratec 21-shot capacity 9mm, the SWD 38-shot capacity 380 auto, and the IMI UZI 31-shot capacity 9mm would be specifically prohibited by both the Assembly and Senate bills. With respect to the more narrowly crafted Senate bill, this sum represents the total number of assault weapons linked to homicides. The list also includes two member of service or police officer weapons: an S&W 16-shot capacity 9mm and a Glock 18-shot capacity 9mm.

CHARACTERISTICS OF HOMICIDE INCIDENTS UNDER STUDY					
N=271 HOMICIDES					
TABLE 3					
At Least One Assault Weapon Recovered		At Least One Positively Identified Weapon		At Least One Positively Identified Assault Weapon	
No	Yes	No	Yes	No	Yes
203 (74.9%)	68 (25.1%)	102 (37.6%)	169 (62.4%)	228 (84.1%)	43 (15.9%)
		At Least One Assault Weapon Recovered (of all positively identified cases)			
		No	Yes		
		126 (74.6%)	43 (25.4%)		

**ASSAULT WEAPONS POSITIVELY IDENTIFIED TO
HOMICIDE INCIDENTS UNDER STUDY
TABLE 4**

MAKE	CALIBER	SHOT CAPACITY	NUMBER
RUGER	9MM	16	8
♦ GLOCK	9MM	18	7
♣* INTRATEC	9MM	21	5
♣* SWD	380 AUTO	38	4
SMITH & WESSON	9MM	14	3
SIG SAUER	9MM	14	3
BERETTA	9MM	16	3
GLOCK	45 AUTO	14	2
TANFOGLIO	9MM	16	2
HECKLER & KOCH	9MM	18	2
FEG	9MM	16	2
BERSA	380 AUTO	14	1
STAR	9MM	16	1
♠ SMITH & WESSON	9MM	16	1
BROWNING	9MM	13	1
HECKLER & KOCH	9MM	MISSING	1
GLOCK	40 SMITH & WESSON	14	1
TANFOGLIO	380 AUTO	12	1
ASTRA	9MM	16	1
AMERICAN ARMS	9MM	31	1
BERETTA	380 AUTO	14	1
♣* IMI UZI	9MM	31	1
TOTAL			52

*Assault weapons specifically listed by make and model in the Assembly Bill.

♣Assault weapons specifically listed by make and model in the Senate Bill.

♠This weapon is an NYPD officer service weapon.

♦One of these weapons is an NYPD officer service weapon.

Summary and Conclusion

Our analysis focused upon the 271 homicides being investigated by the NYPD in 1993 where a firearm was discharged and recovered. Of the 271 homicides, an assault weapon, as defined in the Governor's Program Bill passed by the New York State Assembly, was recovered for 68 homicide incidents (25 percent). Of the 271 homicide cases, a particular firearm was positively identified with the killing 169 times (62 percent). This involvement was established through a match between ballistic evidence found in the deceased or at the homicide scene and an assault weapon recovered. It was determined in this manner that assault weapons were used in at least 43 homicide cases. Thus, assault weapons were involved in 16 percent of the 271 homicides where discharged firearms were recovered and 25 percent of the 169 homicides where a recovered firearm was positively linked with ballistic evidence from the crime.

Of course, we only examined cases where the police recovered and tested an actual firearm. The 271 homicides we studied were only 18 percent of the 1,508 firearm homicides being investigated by NYPD detectives in 1993. Since these cases do not constitute a random sample, the results cannot be generalized to all firearm-related homicides. However, if the 43 victims of the assault weapons homicides identified by this analysis represent the same proportion of all firearms homicide victims, then the number of possible homicide victims against whom assault weapons were used in New York City in 1993 could range from 240 (15.9 percent) to 383 (25.4 percent).

This report was prepared by Kelly Haskin-Tenenini, Philip Jones, and James Blake of the Bureau of Statistical Services, and Steven Roth of the Bureau of Program and Policy Analysis. The project team worked under the direction of Henry H. Brownstein, Chief of the Bureau of Statistical Services and Richard J. Dehais, Director of the Office of Justice Systems Analysis. We would like to thank Commissioner William Bratton and the New York City Police Department for their cooperation without which this analysis would not have been possible. Special thanks go to Capt. Thomas Dale of the Homicide Analysis Unit of the Chief of Detectives Office and Lt. James Moran of the Ballistics Unit.

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