

ARMOR-PIERCING AND EXPLODING BULLETS

ENCLOSURES

JUL 3 1984

HEARINGS

ACQUISITIONS

BEFORE THE
SUBCOMMITTEE ON CRIME

OF THE

**COMMITTEE ON THE JUDICIARY
HOUSE OF REPRESENTATIVES**

NINETY-SEVENTH CONGRESS

SECOND SESSION

ON

H.R. 2280, H.R. 5392, AND H.R. 5437

ARMOR-PIERCING AND EXPLODING BULLETS

MARCH 30 AND MAY 12, 1982

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ARMOR-PIERCING AND EXPLODING BULLETS

TUESDAY, MARCH 30, 1982

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME
OF THE COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to notice, at 1:15 p.m. in room 2237 Rayburn House Office Building, Hon. William J. Hughes (chairman of the subcommittee) presiding.

Present: Representatives Hughes, Kastenmeier, Hall, and Sawyer.

Also present: Hayden W. Gregory, counsel; Eric E. Sterling, assistant counsel; and Deborah K. Owen, associate counsel.

Mr. HUGHES. The Subcommittee on Crime of the House Judiciary Committee will come to order.

The Chair has received a request to cover this hearing in whole or in part by television broadcast, radio broadcast, still photography, or by other similar methods.

In accordance with committee rule 5(a), permission will be granted unless there is objection. Is there objection? Hearing none, such coverage is permitted.

One need only recall the horrid memory of the day exactly 1 year ago when we first heard the bulletins of the attack upon President Reagan to be reminded that the problem of the criminal misuse of firearms is one of the most serious problems confronting each of us in our daily lives.

The shooting of the President, White House Press Secretary Jim Brady, Metropolitan Police Officer Thomas Delahanty, and Special Agent Thomas McCarthy by suspected exploding bullets is evidence that there is currently no control on the design or manufacture of fixed ammunition that is available to the public.

An exploding bullet, which is suspected of inflicting the grievous wound on Jim Brady, is designed to explode on impact and then to disperse, which increases the disabling effect of the ammunition and its stopping power. Other types of bullets are designed to penetrate metal, such as target silhouettes. Depending upon the design, this ammunition can penetrate great thicknesses of metal, armor plate, masonry, or stone, or bulletproof vests.

The Subcommittee on Crime is extremely concerned with the danger to the Nation's police officers posed by the potential for uncontrolled distribution of exploding and armor-piercing ammunition. Three bills, H.R. 2280, H.R. 5392, and H.R. 5347, have been introduced and referred to the Subcommittee on Crime that pro-

pose various approaches to take in considering armor-piercing ammunition.

[Copies of H.R. 2280, H.R. 5392, and H.R. 5437 follow:]

97TH CONGRESS
1ST SESSION

H. R. 2280

To authorize the Secretary of the Treasury to conduct a study of handgun bullets manufactured in or imported into the United States, to determine which bullets have the capacity to penetrate bulletproof vests commonly used by law enforcement officers.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 1981

Mr. BIAGGI introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To authorize the Secretary of the Treasury to conduct a study of handgun bullets manufactured in or imported into the United States, to determine which bullets have the capacity to penetrate bulletproof vests commonly used by law enforcement officers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SHORT TITLE

4 SECTION 1. This Act may be cited as the "Law
5 Enforcement Officers' Protection Act of 1981".

FINDINGS AND POLICY

SEC. 2. (a) The Congress finds that—

(1) the protection of our Nation's law enforcement officers is essential if we are to continue to have a highly qualified crime prevention force,

(2) three hundred and seventy-nine law enforcement officers were killed with handguns between 1974 and 1978, which represents 68 per centum of all the law enforcement officers killed in that period,

(3) the law enforcement community is increasingly dependent on bulletproof vests for protection against handgun bullets,

(4) law enforcement officers are seriously threatened by the use of certain handgun bullets which are available to the public and capable of penetrating bulletproof vests,

(5) available information regarding both the capacity of various handgun bullets to penetrate bulletproof vests and the risk that the availability and use of such bullets pose to law enforcement officers is not adequate to assist law enforcement officers, States, and the Federal Government to take appropriate action to reduce such risk,

(6) the law enforcement community has expressed deep concern about such risk, and

(7) a study to determine the capacity of handgun bullets to penetrate bulletproof vests will provide information which may lead to saving the lives of law enforcement officers.

(b) It is the policy of the United States to determine the risk posed to law enforcement officers by the availability and use of handgun bullets which have the capacity to penetrate bulletproof vests, so that the Congress can take appropriate action to reduce such risk.

STUDY OF HANDGUN BULLETS

SEC. 3. The Secretary or his designee shall conduct a study to determine the capacity of handgun bullets to penetrate bulletproof vests and the risk posed to law enforcement officers by the availability and use of handgun bullets. Such study shall include a determination of—

(1) which handgun bullets currently available to the public through importation, manufacture, sale, or other transfer are capable of penetrating bulletproof vests commonly used by law enforcement officers,

(2) the capacity of such bulletproof vests to withstand handgun bullets, and

(3) the effectiveness of any provision of law which restricts the availability to the public of handgun bullets which have the capacity to penetrate bulletproof vests commonly used by law enforcement officers.

REPORT OF STUDY

1
2 SEC. 4. The Secretary shall submit a report to the
3 President and to each House of the Congress, not later than
4 one year after the date on which funds are first made availa-
5 ble to carry out this Act, containing a detailed statement of
6 the findings and conclusions of the study required in section
7 3, and the recommendations of the Secretary regarding ap-
8 propriate Federal and State legislation based on such findings
9 and conclusions.

DEFINITIONS

10
11 SEC. 5. For purposes of this Act—
12 (1) the term "bullet" means a round or elongated
13 missile designed to be fired from a firearm,
14 (2) the term "bulletproof vest" means any com-
15 mercially available, soft, lightweight body armor,
16 (3) the term "handgun" means any firearm which
17 has a short stock and which is designed to be fired by
18 the use of a single hand, and
19 (4) the term "Secretary" means the Secretary of
20 the Treasury.

AUTHORIZATION OF APPROPRIATIONS

21
22 SEC. 6. There is authorized to be appropriated
23 \$500,000 to carry out the provisions of this Act.

97TH CONGRESS
2D SESSION**H. R. 5392**

To authorize the Secretary of the Treasury to conduct a study of handgun bullets manufactured in or imported into the United States, to determine which bullets have the capacity to penetrate bulletproof vests commonly used by law enforcement officers.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 28, 1982

Mr. MINISH introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To authorize the Secretary of the Treasury to conduct a study of handgun bullets manufactured in or imported into the United States, to determine which bullets have the capacity to penetrate bulletproof vests commonly used by law enforcement officers.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

SHORT TITLE

3
4 SECTION 1. This Act may be cited as the "Law
5 Enforcement Officers' Protection Act of 1981".

FINDINGS AND POLICY

6
7 SEC. 2. (a) The Congress finds that—

1 (1) the protection of our Nation's law enforcement
2 officers is essential if we are to continue to have a
3 highly qualified crime prevention force,

4 (2) three hundred and seventy-nine law enforce-
5 ment officers were killed with handguns between 1974
6 and 1978, which represents 68 per centum of all the
7 law enforcement officers killed in that period,

8 (3) the law enforcement community is increasingly
9 dependent on bulletproof vests for protection against
10 handgun bullets,

11 (4) law enforcement officers are seriously threat-
12 ened by the use of certain handgun bullets which are
13 available to the public and capable of penetrating bul-
14 letproof vests,

15 (5) available information regarding both the ca-
16 pacity of various handgun bullets to penetrate bullet-
17 proof vests and the risk that the availability and use of
18 such bullets pose to law enforcement officers is not
19 adequate to assist law enforcement officers, States, and
20 the Federal Government to take appropriate action to
21 reduce such risk,

22 (6) the law enforcement community has expressed
23 deep concern about such risk, and

24 (7) a study to determine the capacity of handgun
25 bullets to penetrate bulletproof vests will provide infor-

1 mation which may lead to saving the lives of law en-
2 forcement officers.

3 (b) It is the policy of the United States to determine the
4 risk posed to law enforcement officers by the availability and
5 use of handgun bullets which have the capacity to penetrate
6 bulletproof vests, so that the Congress can take appropriate
7 action to reduce such risk.

8 STUDY OF HANDGUN BULLETS

9 SEC. 3. The Secretary or his designee shall conduct a
10 study to determine the capacity of handgun bullets to pene-
11 trate bulletproof vests and the risk posed to law enforcement
12 officers by the availability and use of handgun bullets. Such
13 study shall include a determination of—

14 (1) which handgun bullets currently available to
15 the public through importation, manufacture, sale, or
16 other transfer are capable of penetrating bulletproof
17 vests commonly used by law enforcement officers,

18 (2) the capacity of such bulletproof vests to with-
19 stand handgun bullets, and

20 (3) the effectiveness of any provision of law which
21 restricts the availability to the public of handgun bul-
22 lets which have the capacity to penetrate bulletproof
23 vests commonly used by law enforcement officers.

REPORT OF STUDY

1 SEC. 4. The Secretary shall submit a report to the
2 President and to each House of the Congress, not later than
3 one year after the date on which funds are first made availa-
4 ble to carry out this Act, containing a detailed statement of
5 the findings and conclusions of the study required in section
6 3, and the recommendations of the Secretary regarding ap-
7 propriate Federal and State legislation based on such findings
8 and conclusions.

DEFINITIONS

11 SEC. 5. For purposes of this Act—

12 (1) the term "bullet" means a round or elongated
13 missile designed to be fired from a firearm,

14 (2) the term "bulletproof vest" means any com-
15 mercially available, soft, lightweight body armor,

16 (3) the term "handgun" means any firearm which
17 has a short stock and which is designed to be fired by
18 the use of a single hand, and

19 (4) the term "Secretary" means the Secretary of
20 the Treasury.

AUTHORIZATION OF APPROPRIATIONS

22 SEC. 6. There is authorized to be appropriated
23 \$500,000 to carry out the provisions of this Act.

97TH CONGRESS
2D SESSION

H. R. 5437

To limit availability and use of handgun bullets that are capable of penetrating
certain body armor.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 1982

Mr. BIAGGI (for himself, Mr. PEPPER, Mr. MINISH, Mr. WORTLEY, Mr. RICH-
MOND, Mr. ADDABBO, Mr. STARK, Mr. EDGAR, Mr. SCHEUER, Mr. WEISS,
Mr. STRATTON, Mr. ANNUNZIO, and Mr. DOWNEY) introduced the following
bill; which was referred to the Committee on the Judiciary

A BILL

To limit availability and use of handgun bullets that are capable
of penetrating certain body armor.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Law Enforcement Offi-
4 cers Protection Act of 1982".

5 SEC. 2. (a) Whoever, being a licensed importer, manu-
6 facturer, or dealer under chapter 44 of title 18, United States
7 Code, imports, manufactures, or sells a restricted handgun
8 bullet, except as specifically authorized by the Secretary of
9 the Treasury for purposes of public safety or national secu-

1 rity, shall be fined not more than \$10,000 or imprisoned not
2 more than ten years, or both, and the license of such person
3 shall be subject to revocation under such chapter.

4 (b) Whoever—

5 (1) uses a restricted handgun bullet to commit any
6 felony for which he may be prosecuted in a court of
7 the United States; or

8 (2) carries a restricted handgun bullet unlawfully
9 during the commission of any felony for which he may
10 be prosecuted in a court of the United States;

11 shall, in addition to the punishment provided for the commis-
12 sion of such felony, be sentenced to a term of imprisonment
13 for not less than one year nor more than ten years. In the
14 case of his second or subsequent conviction under this subsec-
15 tion, such person shall be sentenced to a term of imprison-
16 ment for not less than two nor more than twenty-five years.
17 Notwithstanding any other provision of law, the court shall
18 not suspend the sentence in the case of a conviction of such
19 person under this subsection or give him a probationary sen-
20 tence, nor shall the term of imprisonment imposed under this
21 subsection run concurrently with any term of imprisonment
22 imposed for the commission of such felony.

23 SEC. 3. (a) The Secretary of the Treasury may prescribe
24 such regulations as may be necessary to carry out this Act,

1 including regulations requiring appropriate persons to provide
2 samples of bullets for testing under this Act.

3 (b) Any regulation identifying a bullet as a restricted
4 handgun bullet shall take effect sixty days after the date on
5 which such regulation is promulgated in accordance with ap-
6 plicable law.

7 SEC. 4. As used in this Act, the term—

8 (1) "body armor" means a commercially available,
9 soft, lightweight material with penetration resistance
10 equal to or greater than that of eighteen layers of
11 kevlar;

12 (2) "handgun" means a firearm originally de-
13 signed to be fired by the use of a single hand; and

14 (3) "restricted handgun bullet" means a bullet
15 that, as determined by the Secretary of the Treasury,
16 when fired from a handgun with a barrel five inches or
17 less in length, is capable of penetrating body armor.

○

Mr. HUGHES. Our hearing this afternoon is intended to gather information concerning the use and distribution of exploding and armor-piercing bullets and to hear the views of the public and the administration on the proposed legislation.

We will be hearing from Representative Mario Biaggi who has sponsored two of the bills before the subcommittee, and is the leading advocate in alerting the Nation to the potential problem posed by armor-piercing bullets.

We will also hear from the Department of Treasury and its experts in the Bureau of Alcohol, Tobacco and Firearms on the various issues raised by the proposed legislation.

We are very pleased that a panel representing the law enforcement community, both uniformed police officers and law enforcement management, will be discussing their perception of the hazards that law enforcement officers face daily due to the availability of armor-piercing ammunition.

The National Rifle Association, which has taken a position in opposition to the proposals, has requested to testify and we welcome them to share their perspective. We are pleased to hear from the inventor and the manufacturer of one of the best known of the armor-piercing bullets, the KTW bullet—Dr. Paul Kopsch and Mr. John Klein. They will present their view of the law enforcement utility of the KTW bullet and the methods they have taken which are intended to keep the bullets out of the hands of criminals.

Handgun Control, Inc., requested to testify concerning these bullets and the related legislation. We welcome them this afternoon.

Finally, we shall hear from a manufacturer of soft body armor concerning his perspective on the proposed legislation.

Our first witness is the Honorable Mario Biaggi of the city of New York. Congressman Biaggi is a distinguished member of the House of Representatives. I have had the pleasure of serving with Mario Biaggi on the Coast Guard Subcommittee when he was the distinguished chairman of that subcommittee. He has moved to more distinguished ranks and is now chairman of the Merchant Marine Subcommittee of the Merchant Marine and Fisheries Committee.

A 23-year veteran of the New York City Police Department, he was decorated many times and wounded 10 times in the line of duty.

Congressman Biaggi, we are just delighted to have you with us this afternoon. We have your statement. Without objection, it will be made a part of the record. You may proceed in any way that you see fit.

**TESTIMONY OF HON. MARIO BIAGGI, U.S. REPRESENTATIVE
FROM THE STATE OF NEW YORK**

Mr. BIAGGI. Thank you Mr. Chairman and my colleagues on the committee for providing me with the opportunity to address this issue and commend you for your leadership on the broader picture of crime prevention.

Mr. Chairman, 1 year ago today President Reagan was shot and seriously wounded by a would-be assassin outside the Washington Hilton Hotel. Now we must ask ourselves, is President Reagan's

safety any better off today than 1 year ago? In one major change, he now wears a bulletproof vest in public. But how much added safety does that vest really provide?

History tells us that soft body armor was created in the mid-1970's to protect police from the handgun bullets that have killed 792 law enforcement officers during the past decade. Statistics suggest that these bulletproof vests, which are worn by approximately 250,000 U.S. police officers, are a very effective protective device.

For example, during the first 5 years of their use, 1974-78, soft body armor was at least partially responsible for a 28-percent decrease in firearm related police deaths. According to a Justice Department report, soft body armor has been credited with saving the lives of an estimated 400 police since 1974. Just last week the bulletproof vests worn by two New York City police officers were credited with saving their lives and the effects of a shotgun blast at close range.

The vest they were wearing at the time of the shooting was very similar to the vest modeled here by this D.C. police officer, only it is worn on the exterior here for demonstration purposes. Normally, it is worn under the uniform. It offers protection in both the front and back. This particular vest costs about \$100, weighs approximately 5 pounds, and is made of 18 layers of Kevlar, the protective fiber made by DuPont. Under a police officer's uniform it is easily concealable and yet strong enough to defeat most handgun bullets.

However, 3 years ago, I was alarmed to learn from the New York City Patrolmen's Benevolent Association that this same vest is totally useless against a small class of handgun bullets being specially made to pierce metal. We have here examples of one of these so-called cop killer bullets, the .357 Magnum KTW.

The apple green material is Teflon coating, which serves as a high powered lubricant and increases the penetrating capacity of the bullet by some 20 percent.

Tests have shown that this .357 Magnum KTW can penetrate up to 72 layers of Kevlar or the equivalent of 4 bulletproof vests in a single shot. A Federal test conducted last February by the FBI confirmed that the KTW and several other handgun bullets had the ability to easily penetrate the 18-layer bullet-resistant armor.

This vest was used in a test conducted by the New York City Transit Police. And it was a KTW bullet that penetrated both the front and back panels of this vest.

Let me emphasize that these armor-piercing bullets are significantly different from the more conventional handgun ammunition. Generally, the armor-piercing bullets travel at exceptionally high speeds, and they retain their shape on impact due to the hard metals they are made from, usually steel. Most handgun bullets are slower and they flatten out on impact due to their hollow point and/or soft metal composition, most notably lead.

The difference in metallic composition can best be illustrated by a magnet; my aide will demonstrate. A magnet has no effect at all on these lead bullets used by the police. However, these armor-piercing bullets cling to the magnet, signifying their steel core.

What is the purpose of these special metal-piercing handgun bullets? According to promotional material prepared by the inventors of KTW ammunition, "When you need to shoot through concrete

block, an automobile engine block, barricades or armor plate, you'll be glad you have some KTW metal piercers."

That was printed when they first produced the bullet, before the bulletproof vest became popular. Later on they added "bulletproof vests" to their list of easy targets for the KTW metal piercer.

As a matter of practical application, Mr. Chairman, the original idea was to provide police officers with a special type of ammunition that could be used to combat criminals escaping in automobiles. I can tell you that in New York City at least, if not in other major urban areas, you are prohibited from firing at a fleeing car. And if you do, you are subject to strict disciplinary action by the department.

In addition, there are a number of lawsuits in which the city has been found liable where such situations have occurred and innocent persons were injured. In fairness to the designers, these rules are of recent vintage. They may not have been in place when the original bullet was designed, however, we are talking about the state of the art and the state of police activities as of this day.

Significantly, the two most popular users of ammunition, hunters and police, do not use armor-piercing bullets. Most State laws prohibit hunters from using armor-piercing ammunition because it is more likely to wound rather than kill the animal.

Despite the fact that the KTW and other metal-piercing handgun ammunition was originally designed for police use, police departments have determined these bullets are just too powerful for any type of safe law enforcement use. As a result, I have been unable to determine a single police department in this country that uses metal-piercing ammunition.

The reasons are several. First, metal-piercing bullets pose a serious threat to innocent citizens because they tend to either go right through or bounce off their "intended" target, with relatively undiminished power and speed.

The danger that such a bullet produces is more than society and police officers are prepared to accept, especially in the major urban areas that have a dense population.

Second, metal-piercing bullets have a relatively low stopping power, which simply refers to a bullet's ability to disable or literally knock down the person they strike. I can tell you from firsthand experience that I don't want to be armed with a bullet that goes through my target, causing only minimal injury.

Unless you strike an absolutely critical portion of that person's anatomy, you give the criminal enough opportunity to respond. He may die eventually, but that is not a police officer's primary goal. A police officer wants a gun they can use and a bullet they can use with stopping power. Stopping and disorienting power; throw them off balance; stop them cold. These armor-piercing bullets don't do that.

But, let me emphasize that when used against a police officer wearing a bulletproof vest, the armor-piercing ammo becomes far superior to the more conventional variety.

However, despite official police policy forbidding the use of metal-piercing bullets because of the dangers they pose to innocent persons, some individual officers have been known to purchase and carry these bullets.

How readily available are these cop killer bullets. Shockingly, there is no law of any type restricting the manufacture, importation, or the sale of KTW bullets, or any other armor-piercing handgun ammunition. To make matters worse, this ammunition is distributed through local gun dealers just as any other type of bullet would be.

Again, a practical observation, I know the carton that contains these bullets says "for police use only." Well, that may be a well intended mandate or suggestion, but from a practical assessment of what happens in the marketplace, Mr. Chairman, it has little or no meaning. You are talking about dollars. Talking about someone going in to buy some of these bullets and paying a good price for them. And a merchant will sell them and has.

A Bureau of Alcohol, Tobacco and Firearms report states that approximately 30 million rounds of a Czechoslovakian 9-millimeter handgun bullet that will easily penetrate an 18-layer Kevlar vest were imported during the 1970's for commercial sale. Unfortunately, there are no national statistics compiled to indicate whether a bullet used in a crime is metal-piercing or otherwise.

However, we do know—this is important because you will hear testimony to the contrary, but we have the facts and our research is sound. We will provide you with the location and the identification and the time that this took place. We do know that a Florida State highway patrolman and a visiting Canadian police officer were killed by KTW metal-piercing ammunition. I would like those who testify to the contrary to discount that or discredit that.

For good reason the law enforcement community is outraged over the easy access criminals have to metal-piercing handgun bullets. In fact, an overwhelming number of leading police organizations have called for a ban on these bullets.

Acting on their behalf, I have authored a bill, H.R. 5437, that would identify and outlaw all armor-piercing handgun ammunition. Specifically, this measure would direct our Federal firearms regulatory agency, the Department of the Treasury, to conclusively identify all handgun bullets that can penetrate the equivalent of 18 layers of Kevlar. Once identified, these bullets would be banned from further manufacture, import, sale, or use in a crime.

This bill has received the bipartisan cosponsorship of over 70 House Members. Companion measures have also been introduced in the Senate. Before this bill, Mr. Chairman, I had colloquy with a former Member of the House, the chairman of the subcommittee that dealt with the Alcohol, Tobacco and Firearms unit, with the purpose of trying to get a study, to have that unit embark on a study. And he agreed that he would use his good office to do that.

If my recollection is correct that unit was prepared to do it, but then we saw what happened to that unit. But this antedates this legislation by several years. The reason I point that out is because there are some critics of the legislation say that, well, we have done nothing really to identify other ammunition or that we say the problem is only the KTW—we don't say it is only the KTW. There are a number of armor-piercing bullets that should be banned. But the KTW was brought to our attention by the police segment of our population. And the more we looked into it, the more we found out there were others around.

According to the International Association of Chiefs of Police, the task of determining which handgun bullets can penetrate an 18-layer bulletproof vest would not be difficult or costly. In fact, their president has informed me that the IACP already has the machinery in place for such a study.

The specific penalties imposed by this measure are consistent with current firearm laws. Under the provision of this bill, any person who makes, imports, or sells one of these restricted bullets would be subject to a fine of not more than \$10,000, imprisonment for not more than 10 years, and revocation of their Federal license.

A person using or carrying a restricted bullet during the commission of a crime would be subject to a mandatory minimum prison sentence of not less than 1 year nor more than 10 for the first offense and not less than 2 nor more than 25 years for the second or subsequent offense. This mandatory sentence would be in addition to any penalty imposed for the original crime.

Let me emphasize that this bill would in no way penalize those persons who possess this type of ammunition for legitimate purposes, such as gun collectors. My sole intent is to keep these bullets away from criminals. While the future manufacture, importation, or sale would be banned, this law would not be retroactive in any scope.

In addition, my legislation also allows special exceptions for police and military use of armor-piercing handgun bullets if required for public safety or national security.

Also let me say that in no way is my legislation aimed at banning rifle ammunition or the more conventional handgun bullets that are used for hunting and other legitimate purposes. Simply, soft body armor was not designed to stop rifle ammunition which is seldom used in crimes. And the 18-layer Kevlar vest stops the conventional handgun bullets used for sport and self defense.

To insure that the scope of this legislation remains narrowly defined, I have included very strict language that, among other things, limits the length of the gun barrel for Federal test purposes. In simple terms, the longer the gun barrel, the faster the bullet will travel and the deeper it will penetrate.

Under my bill only those bullets that can penetrate an 18-layer vest when fired out of a handgun with a barrel length of 5 inches or less would be outlawed. In other words, some of the more conventional handgun bullets, such as the powerful .44 Magnum, that might be able to penetrate an 18-layer vest out of a longer gun barrel, would not be banned by this bill.

Let me add that the 5-inch criteria was not an arbitrary choice. A recent study revealed that two out of three handguns used in murders, rapes, robberies, and muggings were handguns with barrels protruding no more than 3 inches beyond the cylinder. In fact, that study further showed that the 15 guns most often used by criminals all have barrels less than 5 inches in length.

Another of the study's findings has a special significance today. The weapons used by 10 of 15 assassins or would-be assassins of U.S. political figures have been handguns with a barrel of approximately 5 inches or less in length. Incidentally, John Hinckley used a .22-caliber revolver with a 2-inch barrel.

Fortunately my effort to outlaw these armor-piercing handgun bullets has resulted in a number of significant developments. Besides the obvious increase in public awareness about this problem, as evidenced by this hearing today, a preliminary Federal test has been conducted to identify armor-piercing handgun bullets; DuPont has decided to no longer sell Teflon to the makers of KTW bullets or any other armor-piercing ammunition manufacturer; the makers of KTW bullets have agreed to no longer distribute their ammunition through local gun dealers; and a number of State legislatures have initiated similar efforts to my own aimed at banning the cop killer bullets.

Particularly significant is the fact that Winchester, one of our Nation's largest ammunition manufacturers, recently decided to stop making their metal-piercing bullets that had been on the market for many years.

To quote from their letter to me:

The revelation that some pistol cartridges have the ability to penetrate body armor caused Winchester to review their product line.

On February 22, president of Winchester, H. E. Blaine, issued the directive that the metal-piercing cartridges no longer be manufactured and that all outstanding orders and future inquiries be answered with a notification that the product is no longer available.

These developments are largely, if not entirely, the result of the considerable amount of pressure that has come from an enlightened public.

I focus attention on that particular aspect because some critics say, "Why do we expose it to the public? You will only encourage criminals to purchase it." They are rather naive.

To begin with, there has been an abundance of promotional material in the sports magazines and other newspapers and publications throughout the country regarding armor-piercing ammunition. But I know and I am sure you do, Mr. Chairman, that the criminals are even better informed than the general public. They have been aware of this type of bullet; they have had access to this type of bullet; and they have used this type of bullet long before any legislation was ever introduced.

In addition, these same persons are naive to think that DuPont would have cooperated, or Winchester have cooperated if public awareness about this problem was not heightened by the media.

I am encouraged by these responsible actions, but as you said, having been wounded 10 times during my 23 years as a New York City police officer, I cannot be satisfied until a total ban is placed on the future manufacture, import, or sale of armor-piercing handgun bullets.

Since my ultimate goal is to make these bullets unavailable for criminal use, I also believe that it is essential that the strict criminal penalties called for in my bill be imposed for any person using a restricted handgun bullet during the commission of a felony.

Mr. Chairman, in conclusion, the law enforcement community has stated in very strong terms that they have no use for armor-piercing handgun bullets. Further, hunters are prohibited in most States from using this type of ammunition, and there is no evidence to show that other persons interested in sports or self-defense have any use for a bullet that is advertised to penetrate

"automobiles, barricades, or bulletproof vests." That last one, that last addition, to me is infuriating.

I understand the original designers were well intended in their initial marketing techniques. But, when bulletproof vests came into being as the state of the art and were being used universally by police officers, I must question the motives of those who would advertise the ability of their bullet to penetrate a bulletproof vest.

Mr. HUGHES. I wonder if I might interrupt at this point. We have about 6½ minutes to get to the floor for a vote. Can you come back?

Mr. BIAGGI. Sure.

Mr. HUGHES. The subcommittee stands in recess for 10 minutes.

[Recess.]

Mr. HUGHES. The subcommittee will come to order. I want to apologize to the witnesses and to the audience for the delay. It was a long 10 minutes, but we had a series of votes.

Before we recessed, Congressman Biaggi was still in the general part of his statement.

Mr. BIAGGI. Thank you, Mr. Chairman. The intent of my bill, Mr. Chairman, is simple. It would save police lives and possibly even the life of our President by stopping the bullets that a bulletproof vest cannot. I strongly urge that H.R. 5437 receive expeditious and favorable treatment. I also request permission to submit a Congressional Research Service report on this issue for the record.

Mr. HUGHES. Without objection, it will be so received.

[The report follows.]



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BULLET THREATS TO PROTECTIVE BODY ARMOR

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INTRODUCTION AND SUMMARYINTRODUCTION

Since about 1975, law enforcement officers have been using protective body armor of the "soft" or "lightweight" variety to an increasing extent. This type of body armor, unlike the heavy flak jackets worn by the military and by special police units on dangerous tactical assignments, is designed to be lightweight and soft enough to be worn comfortably under law enforcement officers' uniforms or under plain clothes officers' outer garments.

This type of soft or lightweight body armor has been developed to the extent that it quite effectively "defeats" (stops the penetration of) many types of handgun bullets and some rifle bullets. It is the purpose of this report to analyze the characteristics of bullets which are most likely to defeat soft, lightweight body armor. The following section discusses various types of bullets and the purposes for which bullets are designed. The third section discusses recent law enforcement officer fatalities and the related use of soft body armor. The fourth section discusses recent developments in, and characteristics of, soft body armor. The last section presents a brief analysis of bullet characteristics, particularly those that can defeat currently available soft body armor.

SUMMARY

Existing, commercially available soft, lightweight body armor apparently can effectively stop most of the handgun bullets which pose a threat to law enforcement officers today. However, there is a class of handgun and rifle bullets--often called armor- or metal-piercing--that can penetrate such armor. These types of bullets are: generally constructed of steel-jacketed lead or hard metal alloys; often pointed in shape rather than being flat, rounded, or hollow-pointed; and generally high velocity. Smaller handgun and rifle bullets (for example, .22 caliber) with the above characteristics are generally more effective in penetrating soft body armor than larger bullets (for example, .45 caliber) with the same characteristics.

BULLETSTYPES

There are many ways to classify the various types of bullets that have been or are in use. ^{1/} For purposes of this analysis, bullets will be discussed according to the following characteristics:

- For use mainly in handguns, rifles, or machine guns, or in more than one type of weapon;
- Velocity (low, for example, 730 feet per second, to high, for example, 1800 feet per second);
- Caliber (small, for example, .22 caliber, to large, for example, .45 caliber);
- "Hardness" (soft nosed lead bullet, or partially jacketed, to full metal jacketed (with copper or steel) to hard metal alloy bullet); and
- Shape (round or hollow point to pointed nose).

Sometimes bullets are classified according to either their "stopping power"--their ability to knock down or disable a human being--or their "armor- or metal-piercing" ability. These two types of characteristics, however, may be somewhat mutually exclusive. For example, one bullet designed for high "stopping power" is the .357 caliber magnum hollow point bullet. Upon impact, this bullet expands (because of its hollow point) and converts a large percentage of its (high) velocity to kinetic energy within the wounded body--thus knocking down, stopping, or disabling the person.

^{1/} There may be as many as 10,000 different bullets that have been manufactured since the development of the bullet cartridge around the time of the U.S. Civil War.

This type of bullet, however, may be effectively stopped by soft body armor without body penetration and hence without wounding, except for "blunt trauma". ^{1/} On the other hand, an armor-piercing bullet which will penetrate soft body armor may, because it is hard and retains its shape, pass through a body with relatively little damage if it does not hit a bone, other hard substance, or vital organ. Obviously, bullet wounding capabilities are not completely predictable because of the exceedingly complex structure of the human body, and even the relatively less devastating bullets can and often do kill. In fact, more law enforcement officers were killed with .38 caliber weapons in 1976 through 1980 ^{2/} than with any other weapon, mainly because these weapons are in more common use than other, more devastating bullets like the various magnum and armor-piercing bullets.

PURPOSES

It can be seen from the above discussion that many, if not most, bullet characteristics derive from the purpose or purposes which the ammunition designers had in mind. Thus, expanding bullets, particularly hollow point bullets, were designed for the purpose of more effectively transmitting kinetic energy to the wounded body than do ordinary bullets.

^{1/} Blunt trauma is injury caused by bullets which do not penetrate armor. It is injury caused by the force of the blow itself, as when a person is hit in the chest by a hard swung baseball bat.

^{2/} Federal Bureau of Investigation. Law Enforcement Officers Killed 1976. Washington, U.S. Department of Justice, 1976. p. 24.
Also for 1977, p. 13; 1978, p. 13; 1979, p. 13; and 1980, p. 12.

Protective body armor, including the soft or lightweight variety, has been and is being designed to defeat many types of bullets, including many of the relatively more devastating (high velocity, hollow point) bullets. However, certain types of high velocity bullets made entirely of hard metal alloys, or which are fully covered with steel jackets, can defeat the currently available soft body armor. Thus, certain bullets of the armor- or metal-piercing variety, whether or not designated as such by bullet manufacturers, pose a threat to existing body armor which can effectively defeat most "ordinary" bullet threats.

LAW ENFORCEMENT OFFICER FATALITIES

CURRENT STATISTICS

A number of law enforcement officers are killed and wounded each year by handguns, rifles, shotguns, and other weapons. Recent statistics from the Federal Bureau of Investigation (FBI) indicate that this number, while still large, has decreased rather significantly from 1974 and 1975 to 1978. The following table shows statistics for law enforcement officers killed by firearms and other weapons for this period:

Law Enforcement Officers Killed, by Type of Weapon

WEAPON USED	1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	TOTAL
HANDGUN	97	77	93	95	93	66	59	67	76	69	792
RIFLE	16	16	21	12	21	12	13	13	18	13	155
SHOTGUN	11	18	13	21	13	16	11	11	6	13	133
TOTAL FIREARMS	124	111	127	128	127	94	83	91	100	95	1,080
KNIFE	2	3	2	1	--	5	--	--	4	3	20
BOMB	--	1	--	--	--	4	--	--	1	--	6
PERSONAL WEAPONS	2	--	--	--	--	--	1	1	--	--	4
OTHER (CLUBS, ETC.)	1	1	5	3	2	8	9	1	1	6	37
GRAND TOTAL	129	116	134	132	129	111	93	93	106	104	1,147

Source: Federal Bureau of Investigation. Law Enforcement Officers Killed 1980. Washington, U.S. Department of Justice, 1980. p. 11.

There reportedly is a consensus that at least 400 U.S. law enforcement officers have been protected from death or injury through the use of bulletproof vests from 1975 to the present. ^{1/} Although such a consensus cannot be confirmed with existing data, it is interesting that the approximately 20 percent decrease in firearm-related deaths indicated in the above table since 1974 could be accounted for partially by increased use of soft body armor by law enforcement officers.

The following table shows the size of bullets and types of firearms which caused the deaths of the 95 law enforcement officers in 1980. The handgun bullets shown in that table are all of a class which can be defeated by existing soft body armor unless they are of the hard metal alloy or steel-jacketed, armor-piercing variety. Soft body armor cannot defeat high velocity, metal jacketed rifle bullets either, some of which may be represented in the "rifle" column of the table.

OFFICER FATALITIES WHILE WEARING ARMOR

In 1980, the first year such data were collected uniformly by the FBI, 14 law enforcement officers in the United States were killed in the line of duty while wearing protective vests. ^{2/} Seven of the officers were shot

^{1/} Conversations with a Department of Justice official and a representative of the International Association of Chiefs of Police on March 24, 1982.

^{2/} These cases are taken from Federal Bureau of Investigation. Law Enforcement Officers Killed 1980. Washington, U.S. Department of Justice, 1980. This report does not include information sufficient to determine whether the "protective vests" were soft body armor or other types, nor is that information currently available from the FBI.

1980
**LAW ENFORCEMENT OFFICERS KILLED
 TYPE AND SIZE OF FIREARM**

SIZE OF WEAPON	TYPE OF WEAPON			
	HANDGUN	OFFICER'S OWN WEAPON	RIFLE	SHOTGUN
Total	69	13*	13	13
Handgun size				
.22 Caliber	4			
.25 Caliber	2			
.32 Caliber	8			
9 Millimeter	2			
.357 Magnum	16	7		
.380 Caliber	1	1		
.38 Caliber	30	4		
.44 Magnum	2			
.45 Caliber	1			
Caliber Not Reported	3			
Rifle size				
.22 Caliber			4	
.223 Caliber			3	
7 Millimeter			1	
.30-06 Caliber			1	
.30-30 Caliber			1	
.303 Caliber			1	
.308 Caliber			1	
.444 Magnum			1	
Shotgun size				
20 Gauge				3
12 Gauge		1		10
*Included in appropriate category.				

Source: Federal Bureau of Investigation. Law Enforcement Officers Killed 1980. Washington, U.S. Department of Justice, 1980, p. 12.

in the head and five received fatal gunshot wounds to areas of the upper torso not protected by the vests. One officer was struck by a vehicle. The remaining officer was shot in the back with a bullet that penetrated his vest, but this was a .30-06 caliber rifle bullet fired from about 50 yards away. Soft body armor is not designed to prevent the penetration of most rifle bullets, such as .30-06 caliber bullets. 1/

1/ Id. at p. 28, 30, 32, 33, 34, 36, 37, 38, 40, 42, 43, and 44.

BODY ARMORRECENT DEVELOPMENTS

Since at least the early 1970s, there has been considerable interest among law enforcement support agencies in developing effective soft body armor that would be comfortable and unobtrusive enough to be worn continuously by law enforcement officers while on duty. Organizations like the National Institute of Law Enforcement and Criminal Justice (NILECJ) of the Law Enforcement Assistance Administration (LEAA) of the U.S. Department of Justice, and the International Association of Chiefs of Police, have sponsored several studies of soft body armor. ^{1/} Research programs on soft body armor and weapons threats have been administered and carried out by the Law Enforcement Standards Laboratory of the National Bureau of Standards, Department of Commerce; Edgewood Arsenal, Aberdeen Proving Grounds, Department of the Army; the FBI Quantico Test Base; and several private weapons testing laboratories. About 25 to 30 manufacturers of soft body armor are now producing units commercially for sale to an increasing number of U.S. law enforcement organizations.

^{1/} For example, Montanarelli, Nicholas, Clarence E. Hawkins, and Lester D. Snubin. Body Armor: Lightweight Body Armor for Law Enforcement Officers. Washington, U.S. Department of Justice, LEAA, NILECJ, May 1976. p. 113; Goldfarb, Michael A. et al. Body Armor: Medical Assessment. Washington, U.S. Department of Justice, LEAA NILECJ, May 1976. p. 30; National Institute of Law Enforcement and Criminal Justice. NILECJ Standard for the Ballistic Resistance of Police Body Armor. Washington, U.S. Department of Justice, LEAA, NILECJ, December 1978. p. 10; and International Association of Chiefs of Police. Policy Armor Testing and Summary of Performance Testing Data. Gaithersburg, Maryland, International Association of Chiefs of Police, December 1978. p. 23.

COMMERCIALY AVAILABLE SOFT BODY ARMOR

Most, if not all, soft body armor commercially available today is made of differing numbers of layers of Kevlar, a synthetic (aramid) fiber produced by the Du Pont Company. In addition to the number of layers of Kevlar used, the weaving and other processes used in the production of the final protective vest affects the strength of the product.

In the early 1970s, protective body armor generally was classified as to whether it was made of 7, 12, 16, 24, or other numbers of layers of Kevlar. Currently, manufacturers and police departments often designate certain threats (types of bullets) that the vests are to protect against, regardless of the numbers of layers of Kevlar involved.

In 1982 it is estimated that approximately half (about 250,000) of the Nation's law enforcement officers own or have access to soft body armor. ^{1/}

^{1/} Conversations with a Department of Justice official and a representative of the International Association of Chiefs of Police on March 24, 1982.

The state of the art of protective body armor, which today is largely based upon the use of Kevlar, involves a trade off between the thickness of the protective vest versus the types of bullets which the vest can defeat. Certain commercially available bullets, like .357 caliber magnum hard metal alloy bullets, and some foreign-made nine millimeter steel jacketed bullets, can defeat commercially available soft body armor.

PROTECTION AVAILABLE

A side-by-side comparison of the handgun weapons used to fatally injure law enforcement officers in 1980 (shown above and repeated for convenience here) and handgun bullets required to be defeated by soft body armor in the equipment purchase specifications of a number of U.S. cities indicates that currently available soft body armor apparently can protect against the large majority of bullet threats facing law enforcement officers today.

Handgun Weapons Used to Fatally Injure Law Enforcement Officers in 1978	Deaths in 1980 From Weapons in Column One	Handgun Bullets Required to be Defeated by Representative Police Department Soft Body Armor Specifications 1/
.22 caliber	4	S, M, N (all also include .22 magnum)
.25 caliber	2	—
.32 caliber	8	N
9 millimeter	2	S, M, N
.357 magnum	16	S, M, N
.380 caliber	1	N
.38 caliber	30	S, M, N
.41 magnum	0	S, M, N (N does not indicate magnum)
.44 magnum	2	S
.45 caliber	1	S, M, N
caliber not reported	3	—

1/ From 1979 soft body armor specifications of Milwaukie, Oregon (M); Nashville, Tenn. (N); and San Diego, Calif. (S). The San Diego specification has apparently been adopted by about 40 other U.S. cities.

While most commonly used bullets apparently can be defeated by existing soft body armor, there is a class of bullets which can defeat it. This subject is discussed in the following paragraphs.

POSSIBLE REMAINING THREATS

Bullet Characteristics

Although a number of bullets can be defeated by currently available soft body armor, a number of threats remain. Most, if not all, types of metal- or armor-piercing bullets will apparently defeat existing soft body armor, whether these bullets are hard, metal alloy bullets, or lead bullets which are steel jacketed. Other types of non-armor- or metal-piercing bullets which might defeat soft body armor are bullets which are small caliber (for example, .22 caliber) or high velocity (particularly magnum) bullets. Bullets which combine these latter two characteristics (small caliber plus high velocity) are more likely to defeat some types of soft body armor (depending upon its thickness and construction) even if these bullets are not of hard metal alloy or steel jacketed construction. Thus, there currently exist several specific bullets, and a class of bullets having certain characteristics, that can, or could be designed to, defeat currently available soft body armor.

Blunt Trauma

Even if bullets do not penetrate soft body armor, lethal wounds could be caused by "blunt trauma." This type of wounding effect can be described as being similar to being hit on the body by a hard swung baseball bat. Because this phenomenon currently does not appear to be a major wounding cause, it is not discussed further here. However, it is conceivable that, were higher powered bullets used or developed to defeat soft body armor, blunt trauma effects might be a major cause of concern to body armor researchers, developers, and manufacturers, as well as medical practitioners.

BODY-ARMOR DEFEATING BULLETS: THREAT CHARACTERISTICS

This section describes some bullet characteristics that are important to a consideration of what types of bullets can defeat, or can be designed to defeat, existing soft body armor.

VELOCITY

Handgun bullets typically range in muzzle velocities from about 730 feet per second (fps) (low velocity) to over 1,800 fps (high velocity), depending upon the powder charge of the cartridge and the length of the handgun barrel. Eleven hundred fps (roughly the speed of sound in air) may be a convenient point to differentiate between low and high velocity bullets, although it is unlikely that a consensus could be obtained that significantly different wounding effects occur above and below this velocity for a given type of bullet.

It is clear, however, that high velocity bullets are more likely to defeat soft body armor than low velocity bullets, all other characteristics remaining constant.

CALIBER AND WEIGHT

Caliber measures the diameter of bullets, that is, a .45 caliber bullet has a diameter of .45 inch. Caliber is thus a measure of size. A .45 caliber bullet is considerably larger than a .22 caliber bullet. The most common police bullet, and the most common bullet causing police fatalities, is the .38 caliber, intermediate in size between the .22 caliber and the .45 caliber.

Weights of bullets are measured in grains. The larger the caliber, the more a bullet weighs, given a constant shape.

The smaller caliber bullets, for example, the .22 caliber, are more likely to penetrate the commercially available body armor than larger caliber bullets, other bullet characteristics remaining constant.

SHAPE AND HARDNESS

Bullets are produced in several shapes—including round or ball nosed, flat-nosed, pointed, and hollow pointed. Round, flat-nosed (some of which are called wadcutters or semi-wadcutters), and hollow point bullets are often constructed as lead or semi-jacketed bullets which expand upon contact. The hollow point bullets are generally the most effective of these "expanding" bullets. Pointed bullets generally are constructed of lead with metal jackets, which are usually of copper. If such bullets are jacketed with steel, they generally have armor- or metal-piercing capabilities. Another class of bullets is constructed of hard metal alloys and are also armor- or metal-piercing bullets.

Thus, the harder and more pointed a bullet is, the more likely it is to penetrate commercially available body armor, other bullet characteristics remaining constant.

SUMMARY OF BULLET THREAT CHARACTERISTICS

Given the characteristics of the most successful, currently available soft body armor, bullet threat characteristics can be summarized in the following way:

<u>Bullet Characteristics</u>	<u>Lowest Level of Threat</u>	<u>Highest Level of Threat</u>
Velocity	Low velocity	High velocity
Caliber, weight	Large caliber, heavy	Small caliber, light
Shape	Round or flat nose, hollow point	Pointed
"Hardness"	Lead, or copper semi-jacketed lead	Full steel jacketed lead, or hard metal alloy bullet

Thus, the bullet type with the highest probability of penetrating soft body armor, and with a proven capability of penetrating many layers of existing soft body armor, is a high velocity, small caliber, pointed, steel jacketed lead or metal alloy bullet. Such bullets may be handgun bullets, rifle bullets, or bullets which can be used in either handguns or rifles.

POSSIBLE RAMIFICATIONS OF "PERFECT" BODY ARMOR

Commercially available soft body armor is not perfect, that is, it can be defeated by certain bullets of the hard metal alloy or steel-jacketed armor- or metal-piercing types. Assuming that "perfect" body armor could be developed to meet current threat conditions, there is at least one positive and one negative ramification of such a development:

Possible Positive Ramification

Decreased wounding and death of law enforcement officers under current conditions, that is, continued use by criminals of existing types of bullets which, to a considerable extent, can be defeated by existing soft, light-weight body armor.

Possible Negative Ramification

An "arms and ammunition race" by the criminal segment of society for even more powerful bullets and other weapons to defeat existing armor, and increased use by criminals of such armor. This possible negative ramification could be precluded to some extent by controlling, by law and enforcement, the manufacture, distribution, sale, possession, and international trade of all bullets of the armor- or metal-piercing type and, perhaps body armor.

Mr. BIAGGI. We both made reference to my 23 years of experience in the police department. In addition to that, I have been in the Congress for some 14 years and during that period I have become more conscious of police officers being killed in the line of duty; not simply in the city of New York, but in the chairman's State as well as the entire United States.

What boggles my mind, and oftentimes I wonder about the sincerity of people, I remember several decades ago the city officials of New York would attend the funerals, inspectors' funerals, most ceremonious, and make some commentary either in condemnation of the assailant who was responsible for the death of the police officer, or expressing a sorrow for the loss of a police officer, and vowing in one way or another to do all he can to see that it doesn't happen again.

They shed some crocodile tears—I characterize them as such because they have the ability to make certain their survivors were adequately provided for. But, during those days the survivors would ultimately find him or herself on public assistance in very short order. Happily through the PBA's of the country, that condition has been corrected in a number of places.

But it wasn't only city officials. There were organizations who support, ostensibly support law enforcement officials. Some of them are in business and do good business, whether they manufacture equipment or whether they simply serve to represent what they believe is the best interest of law enforcement. And they have been very helpful in the past, Mr. Chairman, and I have been very closely aligned with them.

But I will never forget those sorrowful moments when a police officer courageously sacrifices his life for others. Then to see people taking positions today against a measure that could effectively reduce the death of law enforcement officials, I am outraged. Yet, I believe it reveals of the true nature of their basic interests.

There is one corporation that finds itself in the enviable position of manufacturing killer bullets and also producing bulletproof vests. If they don't have a market, they will create it.

Yet we find there are other organizations; one specifically, and one that I have had a great deal of respect for, the National Rifle Association. All of my lifetime, the NRA has enjoyed the support of police officers throughout the country. The police officers around the country looked to the NRA for protection and thought they could find refuge in that organization. At times, that refuge was provided.

But to find that the NRA today is opposing not only the language in my bill but also the general intent of this legislation is shocking; shocking and revealing.

I note the president of the New York City PBA is here and we have representatives of the Fraternal Order of Police here. And they are shocked. They don't believe it.

They have every reason to be in that state of mind. Where they look for assistance, they find opposition. Someone said, God-protect me from my friends, I can take care of my enemies. But even worse, when one poses as a friend, wears the mantle of friendship, they have the ability in the stealth of night to deal you the death blow, because you don't protect yourself against that type of friend.

Mr. Chairman, this is the first time I have been critical of the NRA, although of recent vintage, some of their positions have been rather strange. But I would call on the police of our country to assess that organization's position very clearly and attempt to dissuade them from their present course. Because no matter what the justification that they offer in their testimony, the bottom line is, they are willing to sacrifice the lives of police officers, irrespective of what seems to be an obvious step in the right direction. They may rationalize all they want, but the issue is clear, pure and simple.

I know they are powerful. They can come into my district, but I worry not about that, Mr. Chairman. The issue is greater than my district, my survival, or theirs. The issue is doing the right thing for policemen in our country and all law enforcement personnel who are out there on the front line day after day, law enforcement personnel that have the right to believe and expect that their friends of yesterday will in fact be their friends of today.

I sincerely hope that the National Rifle Association reconsiders and alters its present position. Some of the arguments they offer—I have read their testimony, are suspicious and have no place in fact.

Theirs is a doctrinaire position, but it really doesn't belong in this committee, coming from an organization that is ostensibly the friend of law enforcement. They will tell you they are, but I offer this as a challenge, as the criteria by which to judge their sincerity.

I don't know what will happen to this bill, whether it will be adopted in its entirety, or in part but we must deal swiftly and effectively with this problem.

I hope that the state of the art will improve. I recently visited a bulletproof vest manufacturer in Florida, who, has developed a vest insert that can defeat the KTW and other armor-piercing bullets. Although it is too heavy for a practical day-to-day use, it is a major step in the right direction.

The fact that we focus attention on this problem, Mr. Chairman, should be a challenge to the manufacturers to develop an improved bullet-resistant fiber. DuPont, the producer of Kevlar, has indicated their willingness to pursue this possibility.

I think the American genius has the ability to create a superior state of art to resist these cop-killer bullets. But until we do, it is incumbent upon us as Members of the Congress to do what we can.

I commend those in the private sector that have responded already. I hope more improvements are forthcoming. But, I just cannot abide a position in opposition to the intent of this effort, knowing full well that policemen's lives may be lost because of the failure of Government to respond to a need.

Thank you, Mr. Chairman.

[Statement of Congressman Biaggi follows:]

TESTIMONY BY U.S. REPRESENTATIVE MARIO BIAGGI OF NEW YORK

Mr. Chairman, as a 23-year veteran of the New York City Police Department, I greatly appreciate this opportunity to address an issue I consider to be the most dangerous threat facing our nation's 528,000 law enforcement officers. I am referring to high-powered handgun bullets that can rip through the soft body armor worn by police, a number of private citizens, and top government officials, including President Reagan. Your Subcommittee is to be commended for reacting so swiftly to the loud public outcry against this small class of awesome ammunition.

Appropriately, today marks the first anniversary of John Hinckley, Jr.'s attempt to shoot and kill President Reagan. While Hinckley's assassination attempt failed, he was successful in focusing on the need to better protect our President. Not long after the shooting, President Reagan and other top government officials began wearing the same bullet resistant body armor that approximately 250,000 U.S. Law enforcement officers rely on today for protection.

Tragically, evidence I have uncovered over the past 3 years reveals this soft body armor is totally useless against a small class of handgun bullets currently being specially made to pierce metal. I was first informed about the availability of these so-called "cop killer bullets" by the New York City Patrolmen's Benevolent Association in 1979.

Tests have shown that the most powerful of these bullets, the Teflon-coated KTW, can penetrate up to 72 layers of Kevlar, the protective material used to make soft body armor. Since the most popular soft body armor is made of only 18 layers of Kevlar, this means the KTW bullet has the ability to rip through the equivalent of four bulletproof vests in a single shot.

A recent Federal test conducted by the Federal Bureau of Investigation confirmed this claim. In fact, the test, which took place on February 3, 1982, at the FBI's Quantico, Virginia test facility, identified several other handgun bullets that could also easily penetrate the 18-layer bullet resistant armor.

Although the sensitive nature of these findings prevents them from being made public, it can be noted that three of the bullets are made and sold domestically, and two are foreign-made and then imported into the U.S. for sale. These bullets, which are specially made to retain their shape on impact, come in various calibers, including the .38 special, 9mm and .357 magnum.

Let me emphasize that these armor-piercing bullets are significantly different from most handgun ammunition. Generally, the armor-piercing ammunition is made of hard metals, usually brass or an iron compound, and they travel at exceptionally high speeds. The more conventional handgun bullets are slower and they flatten out on impact due to their hollow point and/or soft metal composition, most notably lead.

Let me add that the Teflon coating is unique to the KTW bullet, which is manufactured and sold by North American Ordnance Corporation, a Pontiac, Michigan-based company. According to various test data, the Teflon coating, which is apple green in color, increases the bullet's penetration capability by approximately 20 percent.

What is the purpose of these special metal-piercing handgun bullets? According to promotional material prepared by the inventors of KTW ammunition, "When you need to shoot through concrete block, an automobile engine block, barricades or armor plate you'll be glad you have some KTW metal piercers." Later on, they added "bulletproof vests" to their list of easy targets for the KTW metal-piercer.

Significantly, most State laws prohibit hunters from using armor-piercing ammunition because it is more likely to wound, rather than kill the animal. The end result is usually a slow, agonizing death caused by a loss of blood.

Ironically, the KTW and other metal-piercing handgun ammunition was originally designed to help police. However, police departments have determined these bullets are too powerful for any type of "safe" law enforcement use. According to James P. Damos, President of the International Association of Chiefs of Police, "We can find no legitimate use for such (armor-piercing) ammunition, either in or out of law enforcement."

Despite claims by North American Ordnance that they only sell KTW bullets to police, the President of that company, John Klein, was unable to identify for me a single police department in the U.S. that uses KTW ammunition.

Although Police Departments strictly forbid their officers from using KTW or other armor-piercing ammunition, some individual officers have been known to carry it. For example, a D.C. Metropolitan Police Officer was shot and killed by a criminal in 1980. A subsequent search revealed that at the time of his death, the police officer was carrying KTW ammunition, presumably for that special occasion when he needed to shoot through a "concrete block," or "automobile engine block." Fortunately for the innocent citizen who might have been on the other side of that concrete wall or moving car, the occasion never presented itself.

Another added danger posed by these armor-piercing bullets is their increased ricochet effect. Although designed for maximum penetration, when striking an object at certain angles, these bullets have been found to pose greater ricochet hazards than the more conventional ammunition that flattens out on impact.

Further, these metal-piercing bullets have a relatively low "stopping power," which simply refers to a bullet's ability to disable or literally knock down the

person they strike. As a former police officer, I can state from first-hand experience that no officer in a life-threatening situation wants to be armed with metal-piercing ammunition. It simply does not have the ability to "stop" a criminal. That is precisely why the overwhelming majority of police departments today use hollow-pointed bullets that flatten out on impact, exerting maximum force on the object they strike.

How readily available are these "cop killer bullets?" Shockingly, there is no law of any type restricting the manufacture, importation, or the sale of KTW bullets, or other armor-piercing ammunition. To make matters worse, this ammunition is distributed through local gun dealers, which makes it virtually impossible to monitor who is buying these bullets.

Although the number of metal-piercing bullets currently available in the U.S. is uncertain, a recent report prepared by the Bureau of Alcohol, Tobacco, and Firearms states that "approximately 30 million rounds" of a Czechoslovakian 9mm handgun bullet that will easily penetrate an 18-layer Kevlar vest were imported during the 1970's for commercial sale.

Some have wondered why there is such an urgent need for a prohibition on armor-piercing handgun ammunition now, rather than when it was first invented many years ago. The answer is really quite simple. The soft body armor that is worn today by more than 50 percent of all law enforcement personnel was not even invented until the mid-1970's, and was not used in any significant numbers until the last few years. As a result, the idea of criminals having access to armor-piercing handgun ammunition did not concern police any more than criminals having access to other more conventional types of ammunition. No longer is that the case.

Now the law enforcement community is leading the effort to outlaw handgun ammunition being specially made to pierce body armor. They recognize that soft body armor was designed specifically to stop the handgun bullets that killed 792 police officers between 1971 and 1980.

They also recognize that these bulletproof vests have proven to be a very effective protective device. For example, a Justice Department report I recently received shows that soft body armor "has been credited with saving the lives of an estimated 400 police" since 1974. Statistics also indicate that during the first five years of their use (1974-78) soft body armor was at least partially responsible for a 28 percent decrease in firearm-related police deaths.

Just last week, the bulletproof vests worn by two New York police officers were credited with saving their lives from the effects of a shotgun blast at close range.

However, most importantly, the police community recognizes that these same bulletproof vests provide absolutely no protection at all against "cop killer bullets." That is why an overwhelming number of leading police organizations have called for a ban on these bullets. They include the International Association of Chiefs of Police, the Fraternal Order of Police, the International Union of Police Associations, the New York City Patrolmen's Benevolent Association, the California State Police, the Connecticut State Police, the Ohio State Highway Patrol, and the Baltimore Police Department.

Acting on behalf of our nation's law enforcement community, I have authored a bill, H.R. 5437, that would outlaw all armor-piercing handgun ammunition and provide stiff penalties for its use by criminals.

Specifically, this measure would direct our Federal firearms regulatory agency, the Department of Treasury, to conclusively identify all handgun bullets that can penetrate the equivalent of 18 layers of Kevlar. Once identified, those bullets would be banned from further manufacture, import, sale, or use in a crime. This bill has received the bipartisan cosponsorship of over 65 House Members. Companion measures have also been introduced in the Senate (S. 2017 and S. 2128).

The specific penalties imposed by this measure are consistent with current firearms violation laws. Under the provisions of this Act, any person who makes, imports, or sells one of these restricted bullets would be subject to a fine of not more than \$10,000, imprisonment for not more than 10 years, and revocation of their Federal license.

A person using or carrying a restricted bullet during the commission of a felony would be subject to a mandatory, minimum prison sentence of not less than one year nor more than 10 years for the first offense, and not less than two years nor more than 25 years for the second or subsequent offense. This mandatory sentence would be in addition to any penalty imposed for the original crime.

Let me emphasize that this bill would in no way penalize those persons who possess this type of ammunition for legitimate purposes, such as gun collectors. My sole

intent is to keep these bullets away from criminals. While the future manufacture, importation, or sale would be banned, this law would not be retroactive in scope.

In addition, my legislation also allows special exceptions for police and military use of armor-piercing handgun bullets, if required for public safety or national security.

Also, let me say that in no way is my legislation aimed at banning rifle ammunition, or the more conventional handgun bullets that are used for hunting and other legitimate purposes. Simply, soft body armor was not designed to stop rifle ammunition—which is seldom used in crimes—and the 18-layer Kevlar vest stops the conventional handgun bullets used for sport and self-defense.

In order to ensure the scope of my legislation remains narrowly defined to only those "handgun" bullets that are made in a special way to pierce metal, I have included various safeguards in my bill. First, rather than defining the armor-piercing bullets by complex and often ambiguous terms, I have defined them simply by their ability to penetrate 18 layers of Kevlar, or its equivalent. Plainly, if a handgun bullet can penetrate the 18 layers of Kevlar during the Treasury Department test, it would be outlawed. If it could not, there would be no restriction placed on the bullet.

Let me note that test data prepared by the Law Enforcement Standards Program, administered by the Department of Justice, shows that the 18-layer vest will stop most, if not all, conventional handgun ammunition, including the .357 magnum, the 9mm, the high velocity .38 special, and the high velocity .22 long rifle.

Second, fully recognizing that the length of a gun barrel has an impact on velocity, and therefore, penetration levels, I have limited the length of the gun barrel for Federal test purposes. In simple terms, the longer the gun barrel, the faster the bullet will travel. Specifically, my bill states that only those handgun bullets that can penetrate an 18-layer vest when fired out of a handgun with a barrel length of five inches or less would be outlawed. In other words, some of the more conventional handgun bullets, such as the .357 magnum, that might be able to penetrate an 18-layer vest out of a longer gun barrel, would not be banned under my bill.

Perhaps an even better example of the importance of this gun barrel length criteria would be the way it deals with the .44 magnum—generally regarded as the most powerful conventional variety of handgun ammunition. Clearly, the banning of this popular sporting handgun bullet is not the intent of my legislation. I have been informed by Richard Davis, head of Second Chance body armor and one of the creators of soft body armor, that this 18-layer vest has been determined capable of stopping a .44 magnum bullet when fired out of a five-inch gun barrel or less. Thus, the .44 magnum bullet would not be outlawed.

In addition, the five-inch gun barrel criteria is directly related to the handgun choice of criminals. Last year, Joseph Albright, of Cox Newspapers, studied data on some 14,268 handguns confiscated from criminals. In what is acknowledged to be the most comprehensive study of its kind, Albright found that "two out of every three handguns used in murders, rapes, robberies and muggings were . . . handguns with barrels protruding no more than three inches beyond the cylinder." In fact, his study further showed that the 15 guns most often used by criminals all have barrels four inches or less in length.

Another of Mr. Albright's findings has special significance today. The weapons used by 10 of 15 assassins or would-be assassins of U.S. political figures have been handguns with a barrel of approximately five inches or less in length. Incidentally, John Hinckley's weapon was a .22 caliber revolver with a two-inch gun barrel.

Finally, my bill clearly defines the term handgun to mean a firearm "originally" designed to be fired by the use of a single hand. Thus, ammunition that is primarily made to be fired from a rifle would not be affected by my legislation.

Admittedly, there is some rifle ammunition that can be fired out of handguns. However, those bullets are designed to reach maximum velocity, and therefore maximum penetration, only when fired out of gun barrels much longer than five inches. Thus, most, if not all, of those rifle bullets do not surpass the 18-layer Kevlar penetration level when fired out of a gun barrel five inches or less in length, and they would not be banned by my bill.

I might add that many of the handguns capable of firing rifle ammunition have a barrel longer than five inches and are of the single-shot, bolt-action variety that would not be used by criminals.

According to the International Association of Chiefs of Police, the task of determining which handgun bullets can penetrate the 18-layer bulletproof vest would not be difficult or costly. In fact, James P. Damos has informed me that the IACP "already has the machinery in place for such a study." Further, he states that the study would probably cost less than \$500,000, and would take less than a year. It

should be noted that the IACP's Technology Assessment Program Advisory Council is funded by the National Institute of Justice to identify police equipment problems and the set testing priorities. They have performed extensive studies for the Department of Justice on police body armor.

Mr. Chairman, some have questioned the need for my legislation. Unfortunately, there are no national statistics compiled to indicate whether a bullet used in a crime is metal-piercing or otherwise. Therefore, there is simply no way to know how widespread the criminal use of this metal-piercing ammunition has been in the past. In fact, before 1980 the FBI did not compile statistics on whether a police officer killed in the line of duty was wearing a protective vest.

In an isolated instance, however, I was able to confirm through Dennis Grey, of the Broward County Sheriff's Department, that a Florida State Highway Patrolman and a visiting Canadian Police Officer were killed by KTW metal-piercing ammunition in 1976.

Clearly, however, commonsense tells us that as police increasingly use soft body armor to protect themselves, criminals will seek their own type of special defense—cop killer bullets. There is simply no denying that criminals are aware just how effective bulletproof vests can be. In fact, a growing number of criminals are wearing bulletproof vests in the commission of crimes, as evidenced in last year's Nyack, New York Brink's robbery and the recent arrest of one of the FBI's most wanted killers, Joseph "Mad Dog" Sullivan, who was wearing a vest when captured.

Fortunately, my effort to outlaw these armor-piercing handgun bullets has resulted in a number of significant developments. Besides the obvious increase in public awareness about this problem—as evidenced by this hearing today—a preliminary Federal test has been conducted to identify armor-piercing handgun bullets; Du Pont has decided to no longer sell Teflon to the makers of KTW bullets or any other armor-piercing ammunition manufacturer; the makers of KTW bullets have agreed to no longer distribute their ammunition through local gun dealers; and a number of State Legislatures have initiated similar efforts to my own aimed at banning the cop killer bullets.

Particularly significant is the fact that Winchester-Western, one of our nation's largest ammunition manufacturers, recently decided to stop making their metal-piercing bullets that had been on the market for many years.

I am encouraged by these responsible actions, but as one who was wounded 10 times during my years as a New York City Police Officer, I cannot be satisfied until a total ban is placed on the future manufacture, import or sale of armor-piercing handgun bullets. Since my ultimate goal is to make these bullets unavailable for criminal use, I also believe it is essential that strict criminal penalties be imposed for any person using a restricted bullet during the commission of a felony.

Mr. Chairman in conclusion, the law enforcement community has stated in very strong terms that they have no use for armor-piercing handgun bullets. Further, hunters are prohibited in most States from using this type of ammunition and there is no evidence to show that other persons interested in sport or self-defense have any use for a bullet that is advertised to penetrate "automobiles, barricades, or bulletproof vests." In fact, I have been able to determine only one element of our society that would have any use for armor-piercing bullets—the criminal element.

The intent of my bill is simple. It would save police lives, and possibly even the life of our President, by stopping the bullets their bulletproof vests cannot. I strongly urge that H.R. 5437 receive expeditious and favorable treatment.

At this time, Mr. Chairman, I request permission to submit a Congressional Research Service report on this issue for the record.

Mr. HUGHES. Thank you, Mr. Biaggi, for a very eloquent statement. You have been one of the leading supporters of the law enforcement cause in the Congress. I know in the some 7 years I have been here, you have been out front on just about every law enforcement issue that has been before the Congress, and we certainly appreciate your testimony today.

Let me ask you, one of the criticisms directed to H.R. 2280, which in effect authorizes the Secretary of the Treasury to conduct a study, is that the study is not needed, that there is adequate information. I know you have looked into that. Can you tell us, have you found that there is a need for a study, or do you find that

there is adequate information which might require collating and some degree of screening? What do you find?

Mr. BIAGGI. Initially, I first raised the issue with our former member, Tom Steed. As a result of that colloquy, he had promised that he would do all he could to have the Alcohol, Tobacco and Firearm unit have a study. And they were prepared to do it and they liked the idea.

But then we saw what happened to that group. Then money became a problem. But in the intervening period, we learned a great deal more. We became more and more aware because of staff work and some communications we received from the police community that we identified a number of those armor-piercing projectiles.

My statement also mentioned that the International Association of Chiefs of Police have a mechanism in place to accomplish that study. I don't believe frankly that it will require any money whatsoever. But I think we know enough to know that there are a number of bullets out there that are readily identifiable and we could get more information from the police community in a relatively short time.

Mr. HUGHES. But is it your view that we do need further study on the issue to develop just exactly what bullets are out there on the market today that might be armor piercing?

Mr. BIAGGI. Yes, I think it would be good to have them formally identified at the Federal level so we can deal with them.

Mr. HUGHES. Dealing with H.R. 5437, another bill on this issue that you are the prime sponsor of, is it your view that that legislation would indeed ban the manufacture of KTW bullets?

Mr. BIAGGI. Yes. Yes, it is, for all unlawful purposes. I would outlaw the bullets except for specified police use, unless for police use or national security.

But our information is that law enforcement officials don't want it. There isn't a single department that has expressed a desire for it.

And again I must hasten to correct an erroneous impression. The three designers of the KTW bullet are not to be condemned. They designed it for the expressed purpose of helping law enforcement officials. However, that was back in 1970.

Mr. HUGHES. It is your testimony that the bullet is no longer needed, required, or desired by law enforcement?

Mr. BIAGGI. That is correct. We didn't have the technology of the bulletproof vest for one at that point. There was some around, but now they are universally applied.

I understand the three people involved may have given their rights over to another company, but at that—I said this time and time again, they specifically designed this bullet for the purpose of helping police officers, fleeing cars and the like, if I remember correctly, when in Lorain, Ohio, that is where they originate from. But we can't do that any more.

Simply, police departments have come to realize that the potential risks to innocent persons is just too great when an officer fires at a moving vehicle.

Mr. HUGHES. In your testimony you testified that a Florida State highway patrolman and a visiting Canadian police officer, as I recall, were both killed a few years back, in 1976.

Mr. BIAGGI. Yes.

Mr. HUGHES. They were killed by armor-piercing bullets?

Mr. BIAGGI. Yes.

Mr. HUGHES. Were either one of them wearing a bulletproof vest?

Mr. BIAGGI. No.

Mr. HUGHES. Candidly, one of the things that gives me some concern, and that is why I am interested in hearing from BATF and other experts on the subject, is whether we can really develop standards and specifications that will reach this type of ammunition that will on the one hand prevent such ammunition from falling into the hands of criminals and yet not deprive those who want to use ammunition for sporting and other purposes of the right to do so.

In your examination of the issue, have you found this to be achievable? Do you have an opinion on that?

Mr. BIAGGI. My understanding of it is that the International Association of Chiefs of Police said it can be designed. And again I repeat, it is our intent to draw very narrow legislation, to place the prohibitions clearly, so that we don't infringe on the proper use of guns and the traditional bullet.

Frankly, I have been against gun control, for a host of reasons. But gun control doesn't bear on this issue. This is something very, very different, extremely different; it is an isolated problem that poses a special threat to police officers. That is what confuses me by the NRA's position.

Mr. HUGHES. Well, thank you. The gentleman from Michigan.

Mr. SAWYER. Thank you, Mr. Biaggi, for taking the time to come over here. I am well aware of your background and expertise in these areas.

Interestingly enough, in this morning's mail I received from Michigan a resolution that the Michigan Commission on Criminal Justice has put out. Incidentally, this is a blue ribbon bipartisan commission which includes the chief justice of the Michigan Supreme Court, the State superintendent of education and a variety of others.

They adopted the following resolution on March 24, of which they advised their Federal officials:

Whereas certain types of bullets are capable of piercing all forms of bulletproof vest and can penetrate many materials previously considered bullet resistant, and whereas the piercing capabilities of these bullets pose serious threat to law enforcement officers and to all the citizens of this state, and whereas the purported advantages of these bullets are minimal in comparison to the substantial and serious threat they create, now therefore be it resolved that the Michigan Commission on Criminal Justice strongly urges the legislature to pass appropriate legislation to ban in this state the manufacture, sale, and possession of all exploding bullets, Teflon-coated bullets, or bullets which are of, composed of less than 75 percent lead or aluminum. And be it further resolved that copies of this resolution be transmitted to the governor and all members of the Michigan legislature, and be it further resolved that this resolution be brought to the attention of the appropriate federal officials.

Mr. BIAGGI. I appreciate the support. In addition to the Michigan resolution, similar measures in various States and in various political subdivisions have been passed. It's easy to understand why. We are talking about protecting our first line of defense against crime.

We regret and we mournfully acknowledge the occurrence of another policeman's death. And we say, "What can we do about the assassins?" Well, I don't think there is a complete panacea. I don't suggest that this is the alpha and omega. But it is something we can do, and it is a significant step in the overall effort to better protect our law enforcement community.

Mr. SAWYER. At least in my area of the State of Michigan, where I used to be prosecuting attorney, they won't even use .357's in police work because of their ability to carry and penetrate too much. They stay with the .38 police specials which have less range.

Mr. BIAGGI. During my 23 years, I always carried a .38 special. It's an adequate weapon with good stopping power. It can inflict a fatal wound, but more importantly, it eliminates the ability to respond. That is the real crux of the matter.

Mr. SAWYER. I am a hunter. I have hunted and skeet shot, and that has been one of my main avocations, really. Up until the Hinckley episode, I did not know that manufacture of exploding bullets was even permitted. They are prohibited for hunting anywhere that I am aware of. These Teflon bullets are not used in hunting.

As a matter of fact, recently steel shot has been used instead of lead shot in water fowl hunting because of lead poisoning which results after water fowl eat the lead shot from the bottom of the marshes. Everybody is very upset about it because steel shot is much lighter than lead and there is strong feeling that it is not very effective. They are killing more ducks by wounding them than they are by the lead poisoning.

But I can't imagine, for a private individual, why in the name of heaven he would have any legitimate use for either Teflon or an exploding bullet. They are useless for hunting, if not prohibited.

Mr. BIAGGI. I agree with you. Obviously, there is no lawful purpose. In fact, as mentioned earlier, most States prohibit hunters from using armor-piercing bullets.

Mr. SAWYER. As a matter of fact, in some places, World War II weapons, like the M-1 and .30-caliber carbine, are available for purchase, but they have had to put out special sporting bullets for them because they were under military regulations. They used steel-jacketed or steel bullets and they render the gun virtually useless for any kind of big game hunting and shooting.

Mr. BIAGGI. Correct. You hit big game with one of these bullets and it will go right through them quickly, with very little immediate damage. That animal might survive, but either way, the hunter doesn't have his prize and the animal endures tremendous suffering.

Mr. SAWYER. Unfortunately, they don't survive. It is just they go an awful long way.

Mr. BIAGGI. And you don't recover them yourself.

Mr. SAWYER. Well, thank you very much. I appreciate your taking time to come before this subcommittee.

Mr. BIAGGI. I would like to make one addition. I read testimony of one of the witnesses scheduled to testify today.

They argue my legislation would mean the loss of jobs for those individuals who manufacture this type of ammunition. Isn't that a macabre thought, thinking about lost jobs rather than lost lives?

Mr. SAWYER. I don't even see where jobs would be involved in that. If people couldn't get this kind of bullet and they wanted ammunition for some legitimate purpose, they would buy another kind of bullet. You would presumably have as many people making bullets either way.

Mr. BIAGGI. I agree. I am not thoroughly familiar with the makeup of this individual's business, but it would seem to me that in the light of that statement, perhaps it is the only kind of bullet they manufacture. I don't know. But again, it is a very, very important moral question.

I know how I would answer the question and I just can't fathom people thinking in any other direction.

Mr. SAWYER. Incidentally, the vest this officer had on looks a little different from the ones I was familiar with. Are these still the same as the ones they call Second-Chance vests? Is that a brand name? That is what they call them in my area in Michigan.

Mr. BIAGGI. Second Chance is a company that makes bullet-resistant body armor. This is not the Second-Chance vest, but it is similar. Incidentally, we have a situation in the city of New York, very interestingly, where we have three police departments purchasing vests, along with private individuals who buy their own. There is no requirement as to what type of vest must be used.

And the people of the State of New York have made contribution to a fund where they are able to purchase vests. They range from 10 layers of Kevlar to some 18 layers of Kevlar. They are effective. Of course, some obviously more effective than others; more bullet resistant. But you are talking about the traditional bullets that are most commonly used.

I envision the situation of a police officer wearing a vest, and the sophisticated criminal wearing a vest. The police officer firing his hollow-point bullet striking the criminal. The criminal is saved because he is wearing a vest. The criminal, using cop-killer bullets fires his gun and kills the police officer because his vest is vulnerable.

Mr. SAWYER. When I was prosecutor, I had the opportunity to write a letter exonerating a police officer for killing an individual who would have killed him except he had on one of these vests or one similar to that. I call them Second-Chance vests. It saved his life.

Mr. BIAGGI. Obviously, they worked. And we have some 250,000 police officers wearing them today. And we would like them to be able to enjoy the special protection effective bullet-resistant armor provides.

Mr. SAWYER. The problem is that these things have to be light enough and comfortable enough so that the officers will wear them. In the hot weather, at least up in my part of the State, they are not too comfortable to wear. The heavier they are, and the bulkier they are, the more officers are inclined not to use them. It is like people who don't use safety belts.

Mr. BIAGGI. Well, they are better than they were. I remember the type I used, the so-called flak jackets; you would only put them on in very critical periods for a short period of time. There were bulky and heavy; might have weighed 50 to 75 pounds. But we advanced the state of the art. I am hoping that the manufacturers and researchers can develop an even superior bullet-resistant vest. They have done a great job so far. And I think as technology improves and we continue to act in the best interests of police, the environment out there for the law enforcement officer will be improved.

We will always have some deaths. There will always be some policemen getting shot in the head; there always have been. Some have said, the criminals have recently began shooting for the head directly, so as to avoid the vest. That is nonsense. Those persons are not out in the street in the real world. When criminals are firing, they are firing generally. If they are up close and they stealthily approach them and shoot them, now that is another matter. A head-shot in those instances will always be available. But in hot action and hot pursuit, they are firing hoping it will strike. You don't know where.

Mr. SAWYER. These bullets have gotten quite a lot of publicity in Michigan. I happen to have working in my district office the wife of a Grand Rapids police sergeant. Believe me, I am lobbied every time I show up in my district to get these bullets out of circulation. She is terrified.

Mr. BIAGGI. You have an opportunity now.

Mr. SAWYER. Thank you. I yield back.

Mr. HUGHES. Thank you very much, Mr. Biaggi, for your contribution.

Does the gentleman from Michigan want to offer that resolution?

Mr. SAWYER. Yes, I would be very pleased to.

Mr. HUGHES. Without objection, it is so received.

[The resolution referred to follows:]

RESOLUTION PERTAINING TO THE BAN OF TEFLON-COATED BULLETS

Whereas, certain types of bullets are capable of piercing all forms of "bullet-proof" vests and can penetrate many materials previously considered bullet resistant; and

Whereas, the piercing capabilities of these bullets pose a serious threat to law enforcement officers and to all the citizens of this state; and

Whereas, the purported advantages of these bullets are minimal in comparison to the substantial and serious threat they create; now therefore be it

Resolved, That the Michigan Commission on Criminal Justice strongly urges the legislature to pass appropriate legislation to ban in this state the manufacture, sale, and possession of all exploding bullets, teflon-coated bullets, or bullets which are composed of less than 75 percent lead or aluminum; and be it further

Resolved, That copies of this resolution be transmitted to the Governor and to all members of the Michigan Legislature; and be it further *Resolved*, that this resolution be brought to the attention of appropriate federal officials.

Mr. HUGHES. Also Joseph Minish, who is the prime sponsor of H.R. 5392, has offered a statement which, without objection, will be made a part of the record.

[The statement of Mr. Minish follows:]

HON. JOSEPH G. MINISH, 11TH DISTRICT, NEW JERSEY

Mr. Chairman, I am grateful to the Subcommittee on Crime for the opportunity to voice my support for legislation to suppress KTW bullets and other kinds of ammunition whose sole purpose is to kill people, and particularly police officers. I also commend you for scheduling this hearing so as to allow prompt action on legislation which is literally a matter of life and death for public safety officers and others.

Chairman Hughes is certainly aware of what a vital issue this is in our State of New Jersey, where State Trooper Philip Lamonoco, Jersey City City Patrolman Charles Casserly, and other officers in recent months have fallen victim to criminals bearing guns. Police officers have participated in demonstrations just last week to demand better security policies; on the local level and in the legislature, bills to ban the several kinds of "cop-killer" bullets are being advanced. But all the local legislation we could think of will be ineffective if we do not prevent the circulation of this especially dangerous ammunition in the country generally. I urge expeditious action by this subcommittee and by the Congress before we lose another policeman we might have saved.

I regret that we cannot remove all the extraordinary threats which our police officers face every day in the performance of their duties. In regulating these particular kinds of bullets, however, at least we are acting against one additional danger which we can do something about. We owe the men and women who protect us no less.

Mr. HUGHES. The next witness is Mr. Robert Powis. Mr. Powis, the Deputy Assistant Secretary of Treasury for Enforcement, was named to that position in June of 1981. Mr. Powis previously served in the U.S. Secret Service as a special agent for some 26 years, most recently, as the Assistant Director for Investigations. He has, in addition to his position at Secret Service headquarters, served in numerous field positions including special agent in charge of the Los Angeles office, SAC of the Baltimore office and SAC of the Scranton office. A graduate of Fordham University and St. John's Law School, Mr. Powis is a member of the New York Bar.

We are delighted to have you with us today, Mr. Powis. We do have your statement, which without objection will be made a part of the record. And you may proceed in any way that you see fit. We hope that you will summarize for us.

TESTIMONY OF ROBERT POWIS, DEPUTY ASSISTANT SECRETARY (ENFORCEMENT), U.S. DEPARTMENT OF THE TREASURY

Mr. Powis. Mr. Chairman and members of the subcommittee, it is my pleasure to appear before you today in response to your request of the Treasury Department to supply information about bullets capable of piercing soft body armor and the so-called devastator bullet.

I am accompanied this afternoon by several people who I would like to introduce. Mr. Ed Owen at my right, the chief of the firearms technology branch, and Mr. Alfred C. Johnson, senior firearms examiner of the forensic science branch, both from ATF, and special agent Gary McDermot, at the end of the table on my right, from the U.S. Secret Service.

These gentlemen will be in a position to answer any technical questions that arise, and indeed they are my technical background and expertise.

Mr. Chairman, the Department shares the concern of the committee and of a large number of people who also expressed concern following the recent publicity surrounding a TV program regarding KTW armor-piercing bullets.

Although armor and ordnance experts have been aware that there has been in existence for a number of years many types of handgun ammunition capable of penetrating soft body armor, criminals and persons who would cause harm to others were generally unaware of this situation until the exposure on the television program and the resultant publicity.

The immediate reaction of most people after the publicity was that this bullet must be banned. People at all levels in and out of Government voiced the feeling that legislation should be passed or regulations promulgated that would make its manufacture, make the manufacture and possession of these and similar bullets illegal.

There was a feeling that this would cure the problem.

I would submit for the subcommittee's consideration that the issue is far more complex than meets the eye and that there are no easy answers. A number of practical problems arise in attempting to legislate against the importation, manufacture, and sale of armor-piercing ammunition. I would like to apprise you of the significant problems we see in this effort.

An attempt to define projectile type ammunition, as H.R. 5437 would seek to do, invariably includes a wide range of ammunition commonly used for hunting, target shooting, or other legitimate and long established sporting purposes. The task is further compounded by the fact that soft body armor is not designed to repel any and all armor-piercing bullets or any and all handgun bullets. It should also be noted that serious injury can and does occur, even though a bullet fails to penetrate armor. This is by shock transmitted through the vest into the body and may, in a given situation, be more serious than a bullet wound.

Mr. Chairman, in my testimony today, I do not intend, for obvious reasons, to identify the numerous specialty cartridges which have the ability to penetrate soft body armor. I would like to point out that we have difficulty with the terminology of H.R. 5437 which would restrict handgun bullets rather than complete cartridges. This is impractical because the performance of a bullet or projectile is dependent on a number of factors, including the quantity and type of propellant power used to assemble the bullet into a cartridge. The performance of a bullet which will not penetrate armor can be changed by varying the quantity and/or type of the propellant so that the same bullet will indeed penetrate armor.

Legislation or regulations which attempt to address this problem should deal with complete cartridges rather than mere bullets or projectiles.

While the intent of the bill is to proscribe ammunition such as KTW which will penetrate bullet-resistant vests and apparel, it would, as previously stated, be likely to include other ammunition readily available in commercial channels which is not designed or intended to penetrate soft body armor.

Many handguns currently produced fire rifle slug ammunition. It is likely that such sporting rifle ammunition when fired from a 5-inch barrel would penetrate soft body armor. Therefore, under H.R. 5437, all cartridges for which a handgun is made would have to be tested. This would be a monumental task. Many sporting rifle cartridges would end up being restricted by this bill. Even though regulations may be prescribed which will list certain restricted ammu-

dition, the physical identification of the restricted ammunition as opposed to similar cartridges which are not restricted would be very difficult.

The testing of ammunition contemplated by the bill would be burdensome because virtually all ammunition would need to be tested. Additionally, the bill would mandate the testing of all foreign ammunition imported into the United States. The changing of ammunition designs would create an additional burden under the bill by mandating continuous testing.

The purpose of the bill may be thwarted further if ammunition, which although tested and determined to be nonarmor-piercing, is used in firearms having a barrel length exceeding that of the test weapon. A longer barrel can cause increased muzzle velocity, which in turn can give a projectile from a nonrestricted cartridge the ability to penetrate soft body armor.

In response to the subcommittee's question as to how quickly regulations implementing H.R. 5437 could be issued, we are uncertain as to how much time would be required to reach the point where proposed regulations would be appropriate. In preparation for prescribing regulations listing restricted ammunition, a testing procedure must be established, equipment must be obtained, tests fixtures would have to be constructed, and the acquisition of additional specialized space may be necessary. In addition, barrels in all needed calibers for virtually all kinds of ammunition would have to be acquired as well as the ammunition to be tested.

Moreover, it would be necessary to consult outside experts to develop test procedures and equipment before regulations are proposed. It would probably be 6 months and perhaps longer before regulations could be drafted, and then we would have an additional period of time for evaluating the regulations. In essence, it would be a long time, Mr. Chairman.

With reference to "devastator" or other exploding bullets, we cannot conclude at this point in time that this ammunition poses any more of a serious problem or threat than other types of ammunition. However, the subcommittee may be interested to know that small arms projectiles containing listed explosive materials designed to explode on impact already are regulated under existing law, administered and enforced by the Department and ATF.

Aside from the fact that the ammunition is subject to regulation under the Gun Control Act, the explosive ingredients of such ammunition constitute explosive materials under title XI of the Organized Crime Control Act of 1970. Among other things, title XI requires licensing of those engaged in the business of importing, manufacturing, and dealing in such materials, and permits for others who ship, transport, or receive explosive materials in interstate commerce.

In the Secret Service, protective armor is not viewed as a panacea for the inherent dangers associated with Secret Service protective and investigative responsibilities. It is merely a tool to help reduce the incidence of injury to a person being protected or an employee of the Secret Service in the event that all other security measures fail.

The service depends primarily on security arrangements made prior to the visit of the protectee to prevent injury to that protec-

tee—that is, intelligence gathering, physical security, checkpoints, locks, special lighting, explosives detection, countersniper support, magnetometers, et cetera.

The service has recognized for a long period of time the fact that soft body armor is not designed to defeat all handgun cartridges. Intelligence regarding the utilization or possession of armor-piercing bullets by terrorist groups is classified information. I would like to suggest, Mr. Chairman, that the information in this matter be handled in executive session or by some other arrangement with the committee which might involve us sending a letter under some kind of confidentiality assurance situation.

Mr. Chairman, let me conclude by stating in summary that we are not certain that this legislation, H.R. 5437, will be effective in proscribing ammunition which can penetrate soft body armor. We do have a concern about the availability of armor-piercing ammunition in the hands of people who want to harm others.

With this in mind, the Department has contacted several manufacturers of some of the more commonly known armor-piercing bullets used primarily in handguns. We have asked these manufacturers to voluntarily restrict their sales to legitimate law enforcement organizations at the Federal, State, and local level, and to the armed services. We have asked them not to make sales to Federal firearms licensees.

The response so far has been excellent.

I do not suggest that this is a full solution to the problem. However, we believe that it is a step in the right direction. In the meantime, we are continuing to explore with the Justice Department other legislative alternatives. We will, of course, report to the committee, if and when we are better able to deal with this issue by means of legislation.

At this time, Mr. Chairman, I or one of my associates from ATF and the Secret Service would be pleased to attempt to answer any questions which you or the subcommittee have.

[The statement of Mr. Powis follows:]

STATEMENT BY ROBERT E. POWIS, DEPUTY ASSISTANT SECRETARY FOR ENFORCEMENT,
DEPARTMENT OF THE TREASURY

Mr. Chairman and members of the subcommittee, It is my pleasure to appear before you today in response to your request of the Treasury Department to supply information about bullets capable of piercing soft body armor and the so-called "Devastator" bullet. I am accompanied this morning by Mr. Edward M. Owen, Chief of the Firearms Technology Branch and Mr. Alfred C. Johnson, Senior Firearms Examiner of the Forensic Science Branch, Bureau of Alcohol, Tobacco and Firearms. Also with me is Special Agent Gary McDermot from the U.S. Secret Service. These gentlemen will be in a position to answer technical questions which you may have regarding armor-piercing ammunition.

The Department shares the concern of the Committee and of a large number of people who also expressed concern following recent publicity surrounding a TV program regarding the "KTW" armor-piercing bullet. Although armor and ordnance experts have been aware that there has been in existence for a number of years many types of handgun ammunition capable of penetrating soft body armor, criminals and persons who would cause harm to others were generally unaware of this situation until the exposure on the television program and the resulting publicity.

The immediate reaction of most people after the publicity was that this bullet must be banned. People at all levels in and out of government voiced a feeling that legislation should be passed or regulations promulgated that would make the manufacture and possession of these and similar bullets illegal. There was a feeling that this would cure the problem. I would submit for the Subcommittee's consideration

that the issue is far more complex than meets the eye and that there are no easy answers.

A number of practical problems arise in attempting to legislate against the importation, manufacture or sale of armor-piercing ammunition. I would like to apprise you of the significant problems we see in this effort. An attempt to define projectile-type ammunition as H.R. 5437 would seek to do, invariably includes a wide range of ammunition commonly used for hunting, target shooting or other legitimate and long-established sporting purposes. The task is further compounded by the fact that soft body armor is not designed to repel any and all armor-piercing bullets. This is a very important fact and is worth repeating. Soft body armor is not designed to repel any and all handgun bullets. It should also be noted that serious injury can and does occur even though a bullet fails to penetrate armor. This is by shock transmitted through the vests into the body and may, in a given situation, be more serious than a bullet wound. Mr. Chairman, in my testimony today I do not intend for obvious reasons to identify the numerous specialty cartridges which have the ability to penetrate soft body armor.

I would like to point out that we have difficulty with terminology of H.R. 5437 which would restrict handgun bullets rather than complete cartridges. This is impractical because the performance of a bullet or projectile is dependent upon a number of factors including the quantity and type of propellant power used to assemble the bullet into a cartridge. The performance of a bullet which will not penetrate armor can be changed by varying the quantity and/or type of propellant, so that the same bullet will indeed penetrate armor. Legislation or regulations which attempt to address this problem should deal with complete cartridges rather than mere bullets or projectiles.

While the intent of the bill is to proscribe ammunition such as "KTW" which will penetrate bullet-resistant vests and apparel, it would, as previously stated, be likely to include other ammunition readily available in commercial channels which is not designed or intended to penetrate soft body armor. Many handguns currently produced fire rifle-type ammunition. It is likely that much sporting rifle ammunition when fired from a 5-inch barrel, would penetrate soft armor. Therefore, under H.R. 5437, all cartridges for which a handgun is made would have to be tested. This would be a monumental task. Many sporting rifle cartridges would end up being restricted by this bill. Even though regulations may be prescribed which will list certain restricted ammunition, the physical identification of the restricted ammunition, as opposed to similar cartridges which are not restricted, would be very difficult. The testing of ammunition contemplated by the bill would be burdensome because virtually all ammunition would need to be tested. Additionally the bill would mandate the testing of all foreign ammunition imported into the United States. The changing of ammunition designs would create an additional burden under the bill by mandating continuous testing.

The purpose of H.R. 5437 may be thwarted if ammunition, which although tested and determined to be non-armor piercing, is used in firearms having a barrel length exceeding that of the test weapon. A longer barrel can cause increased muzzle velocity, which in turn, can give a projectile from a non-restricted cartridge the ability to penetrate soft body armor.

In response to the Subcommittee's question as to how quickly regulations implementing H.R. 5437 could be issued, we are uncertain as to how much time would be required to reach the point where proposed regulations would be appropriate. In preparation for prescribing regulations listing restricted ammunition, a testing procedure must be established, equipment must be obtained, test fixtures would have to be constructed, and the acquisition of additional specialized space may be necessary. In addition, barrels in all needed calibers for virtually all kinds of ammunition would have to be acquired, as well as the ammunition to be tested. Moreover, it would be necessary to consult outside experts to develop test procedures and equipment before regulations are proposed.

Based upon the above, it would probably be six months, perhaps longer, before regulations could be proposed to implement H.R. 5437. Once proposed, the regulation process usually takes 60 to 120 days to complete. This includes a comment period, generally 60 days, and time for evaluating comments, review of the proposed regulation, and issuance of the final regulation. It is our judgment that the end product would be difficult to achieve, would include many cartridges that are commonly used for sporting purposes and would invariably fail to include certain cartridges that could, under certain different conditions, be able to penetrate soft body armor.

With respect to "Devastator" or other exploding bullets we cannot conclude at this point in time that this ammunition poses any more of a serious problem or

threat than other types of ammunition. However, the Subcommittee may be interested to know that small arms projectiles containing explosive materials designed to explode on impact already are regulated under existing law administered and enforced by the Department and ATF. Aside from the fact that the ammunition is subject to regulation under the Gun Control Act, the explosive ingredients of such ammunition constitute "explosive materials" under Title XI of the Organized Crime Control Act of 1970 (18 U.S.C. Chapter 40). Among other things, Title XI requires licensing of those engaged in the business of importing, manufacturing and dealing in such materials and permits for others who ship, transport, or receive explosive materials in interstate commerce. In other words, a dealer in exploding bullets must be licensed under Title XI and may only distribute the ammunition in interstate commerce to other licensees or permittees. Furthermore, these materials must be stored safely and securely in conformity with Federal regulations. Although "small arms ammunition" is exempt from regulation under Title XI, "Devastator" bullets do not constitute exempt ammunition since their high explosive ingredients are not treated as small arms ammunition components.

In the Secret Service, protective armor is not viewed as a panacea for the inherent dangers associated with Secret Service protective and investigative responsibilities. It is merely a tool to help reduce the incidence of injury to a person being protected or an employee of the Secret Service in the event that all other security measures fail.

The Service depends primarily on security arrangements made prior to the visit of the protectee to prevent injury to that protectee, i.e., intelligence gathering, physical security, check points, locks, special lighting, explosives detection, counter-sniper support, magnetometers, etc. The Service has recognized for a long period of time the fact that soft body armor is not designed to defeat all handgun cartridges.

Intelligence regarding utilization or possession of armor-piercing bullets by terrorists groups is classified information. I would like to suggest, Mr. Chairman, the information in this matter be handled in Executive Session.

Mr. Chairman, let me conclude by stating in summary that we are not certain that this legislation—H.R. 5437—will be effective in proscribing ammunition which can penetrate soft body armor. We do have a concern about the availability of armor-piercing ammunition in the hands of people who want to harm others. With this in mind, the Treasury Department has contacted several manufacturers of some of the more commonly known armor-piercing bullets used primarily in handguns. We have asked these manufacturers to voluntarily restrict their sales to legitimate law enforcement organizations at the Federal, State and local level and to the armed services. We have asked them not to make sales to Federal firearms licensees. The response so far has been excellent. I do not suggest that this is a full solution to this problem. However, we believe that it is a step in the right direction. In the meantime, we are continuing to explore with the Justice Department other legislative alternatives. We will, of course, report to the Committee if and when we are better able to deal with this issue by means of legislation.

We have also been asked to comment on H.R. 2280 and H.R. 5392, which are bills authorizing the Secretary of the Treasury to conduct a study of handgun ammunition manufactured in, or imported into the United States, to determine which have the capacity to penetrate bulletproof vests commonly used by most enforcement officers. There were previous studies conducted by the Department of the Army for the Department of Justice at the cost of approximately \$1.4 million. From these studies and others and from the knowledge and expertise which exists in law enforcement at the Federal, State and local levels, we know of a number of bullets which have the capacity to penetrate bullet-proof vests. The problem arises, as indicated above, in the effort to define what it is we wish to prohibit. We have doubts about the value of these bills in light of information already known and whether or not the amount of \$500,000 would be sufficient to do a worthwhile study if another one is indeed needed.

At this time, Mr. Chairman, I or one of my associates from ATF and the Service would be pleased to attempt to answer any questions which you or the members of the Subcommittee might have.

Mr. HUGHES. Thank you, Mr. Powis, for that very comprehensive statement. First, I wonder if you can tell us what the administration's position is on H.R. 2280 which would authorize the Secretary of the Treasury to conduct a study of handgun bullets manufactured in or imported in the United States to determine which bullets have the capacity to penetrate bulletproof vests.

Mr. Powis. Mr. Chairman, there have been some previous similar studies, perhaps not on all fours, but similar. There were studies conducted by the Department of Army for the Department of Justice several years ago. The one study I have made reference to cost approximately \$1.4 million. From these studies, from the study by the Department of the Army and the one done by the Bureau of Standards and others, and from the knowledge and expertise which exists in law enforcement at the Federal and State and local levels, we do know of a number of bullets which have the capacity to penetrate bulletproof vests.

The problem arises, as I have indicated previously, when we attempt to define what it is that we wish to prohibit. We do have some doubt about the value of H.R. 2280 in light of information already known. And we do think that the cost factor of \$500,000 is considerably understated in terms of what might have to be done if another study is indeed deemed necessary.

Mr. HUGHES. I am not so sure I understand completely what you said. Do we have ample information now on which to be able to postulate and make some recommendation for legislation or don't we?

Mr. Powis. We have a lot of information about cartridges that are capable of penetration and I think there is a serious question about whether another study, what would it accomplish and how much more would it enlighten us. And I would like to ask Mr. Owen if he would expound on that just a little.

Mr. HUGHES. On the one hand you suggest it would cost a substantial amount of money, more than \$500,000 to be able to conduct a new study. I would presume we would use the information we have available to us now. On the other hand, you say we have enough information. So which is it? Do we have enough information that we can make some value judgments that make sense relative to armor-piercing bullets and, if not, what do we need at this point to get that additional information?

Mr. Powis. I think the probability is that we have enough information, Mr. Chairman. I would like to ask Mr. Owen to comment on that, please, from a technical point of view.

Mr. OWEN. Mr. Chairman, in looking at ammunition in general today, it becomes extremely difficult to differentiate rifle ammunition from handgun ammunition. There are a tremendous number of handguns manufactured which fire rifle type—

Mr. HUGHES. Is it interchangeable?

Mr. OWEN. Yes, sir. It is interchangeable ammunition. From studying the reports that have been done on bullets which will penetrate soft body armor, it is fairly easy to determine that when a given pistol cartridge is listed as having the ability to penetrate armor, any other pistol cartridge, similar or having a higher velocity or more mass than the cartridge tested, we can fairly safely assume that cartridge should also penetrate the body armor.

From the standpoint of conducting a thorough test, the bill that is under question indicates that the testing will be done with a 5-inch barrel weapon. This creates a very large area of unknown factors to us. The testing that we have had privilege to thus far has not used any specific set barrel length. So in this vein, we would have to start from ground zero, build test fixtures, acquire virtually

every caliber of ammunition that there is, all of the armor and we would need to make specialized barrels.

Part of the question that I have with that type testing, one revolver in particular which is manufactured to fire an interchangeable cartridge only comes with a barrel length of 7 or 7½ inches. If we were to test that from a 5-inch barrel, it may not penetrate the soft body armor. However, when used in the firearm it is designed to be fired from, it does.

Mr. HUGHES. Yes. In fact, I think Mr. Powis' testimony in that regard specifies, I think, my own concerns expressed to Mr. Biaggi about whether we can actually develop criteria that will identify armor-piercing bullets. Because it does depend on, as I think you fellows indicated clearly, the length of the barrel, the amount of explosives, the mass and shape of the missile itself, the projectile, and other factors that would have to be taken into account in trying to develop a criteria that would identify what is and what is not armor piercing.

But again, let me just get back to my question, do we have sufficient information at this point to be able to make some valid judgments, or would it require a great deal of additional testing? Would it require us to go out into the field and to test different size cartridges, different size missiles, different size barrels? What would be required at this posture for us to develop a body of evidence from which we could make some intelligent decisions?

Mr. Powis. Mr. Chairman, agent McDermot from the Secret Service, I think, can help in this area.

Mr. HUGHES. Well, we are getting down to the end. I hope so, because beyond him there is nothing else.

Mr. McDERMOT. Mr. Chairman, the Secret Service has for years recognized the need for body armor. We use all of the different levels and the Bureau of Standards has a voluntary standard for body armor. We can't say that body armor or bullet resistant vests fall in one category. There are different categories of bullet resistant body armor. Whereas ammunition that would penetrate a type 1, level 1 vest would not penetrate a level 4 vest.

Mr. HUGHES. A level 1 is composed of how many layers?

Mr. McDERMOT. The number of layers of Kevlar. But a level 4 is not Kevlar at all. It is hard armor. And I think herein lies the problem. Kevlar was not designed to defeat all handgun weapons.

In fact, Kevlar was not designed as bullet resistant material at all. It was designed for tires. It was invented by DuPont for the fibers in tires and because of its strength to weight ratio, it was used secondarily in bullet-resistant vests.

We have known in the service for a long time basically what will and will not penetrate it. It was designed to protect against medium to low velocity .38 special and lower velocity rounds. If we are using armor to protect us against a higher level, then we go a higher level than a level 2 which is Kevlar. We go into some of the hard—

Mr. HUGHES. That is the 18-layer?

Mr. McDERMOT. Level 2 would actually go all the way to 23 layers.

Mr. HUGHES. Eighteen to 23?

Mr. McDERMOT. It is actually 16 to 23. But an 18-layer vest is a commonly used vest, and that is a type-2 vest. But you could have a 23-layer vest that was a type-2 vest.

But none of the Kevlar soft vests are designed to defeat all handgun rounds. It is mostly higher velocity handgun rounds, including some of the rounds that the Secret Service uses, that will penetrate type-2 vests. To get into something that will not penetrate bullet-resistant vests in handgun rounds, you are going to have to go to something like a type-3 vest, which is a hard armor or a glass reinforced plastic.

So again when we define armor, you have to define it as to what we are talking about in terms of handgun rounds.

Mr. HUGHES. Let me see if I can get an answer to my question which is still, what is it that we need? Do we need additional testing and information on not only the cartridges themselves, fired in different weapons, but the characteristics of projectiles fired that way as well, in order to test against the penetration of soft body armor which also is in different categories that offer different levels of protection? It sounds to me like we need more information.

Mr. McDERMOT. I think that from our standpoint, everyone sitting at this table is all for eliminating any type of a round that is a threat to policemen.

Mr. HUGHES. We are all against crime.

Mr. McDERMOT. We are all against—we don't want any policeman to get shot. I think we are all in agreement on that. But the problem is that if you limit it to Kevlar or soft body armor, your task is going to be monumental and you will eliminate a lot of legitimate rounds that are used.

Mr. HUGHES. Let me see if I can quickly get to the point.

My difficulty is we don't have enough information. I realize that we are dealing with a very complex issue, because there are a lot of variables, some of which we may not have a total handle on.

Do you folks have enough information right now available to you, whereby we can begin making some judgments as to whether we can adequately describe cartridges that have no sporting purpose, that are penetrating in nature, that the law enforcement community doesn't want, and are in fact falling into the hands of the criminal element that we can identify without hurting any of the sporting elements at this time?

Mr. POWIS. Mr. Chairman, I think if we are not strapped for the moment with the 5-inch barrel length testing, we do have enough information.

Mr. HUGHES. I see.

Mr. POWIS. That is one of the biggest problems. We have never done testing or seen test results where the 5-inch was the controlling factor.

Mr. HUGHES. It seems to me that we could make some tests pretty quickly with different lengths of barrels with different projectiles. That shouldn't take a lot of time to do, should it?

Mr. POWIS. I think there is a question of, there are plenty of tests with different size barrels. There is a body of information that exists with respect to different size barrels. The problem here is the 5-inch barrel.

Mr. OWEN. But I think even with using random length barrels, for example, the KTW cartridge from one firearm will penetrate the soft body armor very cleanly. Another cartridge fired from the same handgun, which was never really intended to be an armor-penetrating cartridge, will also defeat that armor.

Mr. HUGHES. I understand. It seems to me that the longer the barrel, the more penetrating power we have to begin with.

Mr. OWEN. The ultimate speed of the bullet.

Mr. HUGHES. The ultimate speed of the bullet is directly related to the length of the barrel?

Mr. OWEN. The distance that we fire to the target has a bearing.

Mr. SAWYER. I have always understood that, with respect to rifles, for example, it did not make any difference whether you were using a 20- or 22-inch carbon barrel or even maybe a 28-inch barrel. At least that is what I have always—

Mr. OWEN. Barrel length to a point, once the bullet is allowed to achieve its maximum velocity in a barrel, that is what is required to get optimum performance. And some rifles may achieve that pressure at about 16 inches. And you have excess barrel length beyond that.

Mr. HUGHES. It seems to me that we are also going to have some problem in trying to establish criteria. Obviously, distance from the subject is going to have a bearing, length of the barrel is going to have a bearing, the amount of powder is going to have a bearing, the mass of the projectile is going to have a bearing, the shape of the projectile is going to have a bearing, and the type of body armor is going to have a bearing.

My question is, Do we have enough information right now to be able to really develop a rational standard, whether it is based upon being 5 feet away from the subject or 7 feet away from the subject?

Mr. POWIS. I think the problem is, Mr. Chairman, that we feel that after considerable amount of additional study, and so forth we probably would end up in the same kind of a problem that we are now in attempting to define what it is that we want to ban. And I would defer to the expertise of these gentlemen on that.

Mr. HUGHES. Let me approach it from another angle. I have an open mind. I really am concerned as to whether we can develop intelligent criteria that has a rational relationship and not unduly harm those that want ammunition for legitimate purposes. That is all we are trying to do.

What I am trying to find out, at this posture, is do we have sufficient information now about the various variables for us to be able to take a look at the standard and say, "Hey, look, it wouldn't create any problems really to the sporting public, and it wouldn't create any problems for any other user of ammunition, and it just might in some instances be of assistance to a police official."

Are we there yet and do we have sufficient information?

Mr. OWEN. I don't really think so.

Mr. HUGHES. I don't want any more studies. We have enough information. I don't want to expend any more money than we have to, but the bottom line is that police officers are being killed every day and whether or not it is with or without body armor is irrelevant.

If we can develop standards that will not terribly inconvenience other legitimate uses and that bear a rational relationship to protecting an officer's life, it seems to me we ought to be doing that, and it is not dollars and cents.

If we can't do that, that is one thing, but it seems to me that we should be able at least to take a look at it intelligently and get enough of the variables we are talking about in order to make some intelligent decisions.

Apparently the Justice Department is looking at it and there has been a draft bill sent to OMB.

Mr. POWIS. I am aware that Justice sent a draft some time ago.

Mr. HUGHES. What does that do?

Mr. POWIS. I believe that that particular bill would set a standard for a handgun at 16 inches; is that true?

Mr. OWEN. One of the drafts for handguns was a barrel with less than 16 inches.

Mr. HUGHES. Where did they get that from? Was it Housing and Urban Development?

Mr. OWEN. The problem comes from a legal length of a rifle.

Mr. HUGHES. Did you folks have some input into that? Whom did Dave Stockman consult with, the Department of the Interior or some other agency?

Mr. OWEN. It was a Department of Justice study. I don't think it went beyond that. I believe that that particular draft, and it was only a draft, it has not been adopted in any way, and I believe that even in the Justice Department they are looking at other alternatives now.

That particular draft had similar problems to this one. It would ban a certain amount of sporting ammunition not intended to penetrate armor. Because of the fact that the handgun was less than 16 inches it would cover a tremendous amount of handgun ammunition capable of penetrating a type-2 armor.

There was terminology in there primarily in the use of handguns and some ammunition manufactured to be used interchangeably between handguns and long guns.

Mr. HUGHES. Did the Justice Department consult you at all involving that?

Mr. POWIS. With respect to the particular draft you are talking about; no. We have had since that time, though, a considerable dialog about this situation. As I indicated, we are looking at possible alternatives.

Mr. HUGHES. That has been in the past week or so, was that after the legislation was drafted?

Mr. POWIS. We have had contact in the last week, but we commented on their original draft at great length some time ago.

Mr. HUGHES. I am trying to find out if they consulted you before they drafted the legislation.

Mr. POWIS. On that particular draft there was no consultation.

Mr. HUGHES. It is incredible. You people are the ones who have the expertise about firearms.

Mr. POWIS. Let me say I think there is a lot of expertise in the Treasury Department, and there is a lot of expertise in the Justice Department. I am not sure that anyone comes to the fore as having more than anybody else.

We are very comfortable with the expertise we have from the Department.

Mr. HUGHES. Let me yield to my colleague.

Mr. SAWYER. With respect to ammunition that would be interchangeable between rifle and handgun, are the only ones which would be involved the .44 Magnum and the .22?

Mr. OWEN. There are a tremendous number of guns and variety of the rifle cartridges. There have been some types of handguns produced to handle one or more of those cartridges.

One company in particular builds a single-shot firearm with interchangeable barrels, and there are approximately 25 or 30 different barrels available.

Mr. JOHNSON. There is something called subcaliber doctrines where the ammunition can be used. That is .30-caliber carbines and a .22-long rifle have been used in center-fire rifles.

Some of the more modern handguns for what is commonly called silhouette shooting utilize cartridges and 30/30 caliber and .308 caliber, and dozens of handloads using high-velocity cartridges.

Mr. SAWYER. Can you buy these bullets separately for handloading, and are they sold?

Mr. JOHNSON. They haven't been offered as a reloading component.

Mr. SAWYER. There would be nothing to stop that?

Mr. JOHNSON. It is basically a simple brass bullet. Someone, with the proper equipment, could turn one on a lathe, a screw-making machine, and it doesn't require a great deal of mechanical aptitude.

Mr. SAWYER. It is hard for me to believe that Teflon itself helps the penetration of bullets. Does it?

Mr. JOHNSON. As Mr. Biaggi stated, it is 20 percent and that is probably optimistic. It will penetrate quite a bit itself without Teflon, but that cartridge was designed to penetrate rigid metal, car doors and what have you.

It was developed before the advent of Teflon. The Teflon might add some high lubricity or slip factor on rigid metal and car doors and something of that nature, but I don't believe it gives a great deal to it.

Mr. SAWYER. It is hard to believe that it would increase the capacity for penetration.

Mr. JOHNSON. Part of the problem, as I see it here, is that we are terming turning soft-body armor to be all body armor and this is relative to type 2 which is the common type of soft-body armor. We, at the table, are pretty much aware of what the capabilities of type-2 soft-body armor are and the other types of body armor.

The problem of detecting all other types of ammunition gages the standard that would develop for type 2, and using a 5-inch barrel length which is an odd and unusual barrel length.

Mr. SAWYER. Are there any statistics available that link the use of these bullets to any death or injury?

Mr. POWIS. As far as I know, I have never heard of an officer or law enforcement officer, and that would include Federal officers, who also wear a considerable amount of Kevlar body armor, I have never heard of a situation where an officer who was wearing a vest, soft-body armor was killed by one of these.

Mr. Biaggi mentioned, and apparently there was a situation in Florida where two officers were killed, but they were not wearing vests.

Mr. SAWYER. Probably they would have been killed more effectively by a regular lead bullet?

Mr. McDERMOT. For your information, there is a round that we are aware of which has considerably more penetrating power than KTW, which is available for handgun cartridges which has no Teflon coating, going back to what you were saying. It is just a brass bullet of a particular shape which will penetrate much more than this one element, and it has no coating at all.

Mr. SAWYER. I am quite familiar with guns and firearms, but I am no expert in bullets. It strikes me when I look at this bullet that if they took the Teflon off and had that brass bullet pointed, it would be more penetrating than with the blunt nose and the Teflon.

Mr. JOHNSON. At one time that bullet was pointed, but getting back to your comment about using handgun ammunition in rifles, in the .357 caliber, some of the carbines with tubular magazines are made in .357 caliber.

The pointed ammunition would be pointed in the primer at the magazine tubes. That could be dangerous with tube-type magazines and pointed ammunition. But at one time, that bullet was designed with a pointed head.

Mr. SAWYER. It strikes me that that bullet with a pointed nose would be more penetrating than one with a blunt nose, like this one with the Teflon. That is an observation from a non-expert.

Mr. JOHNSON. It is a good observation because lead bullets are made in that same configuration to get away from the rounded configuration, and it does administer some shock with that flat end.

Mr. SAWYER. Thank you.

Mr. HUGHES. I have one additional question.

Haven't some of the sporting magazines been advertising some of these KTW bullets for some years and there have been a number of articles written about the characteristics of this type of ammunition?

Mr. POWIS. I would defer to my compatriot here.

Mr. JOHNSON. Yes, the KTW—the ads aren't as prevalent as they were at one time and not only limited to publicity magazines, but they were using those shells for years prior to the introduction of them among the TV newscasts.

Mr. McDERMOT. We tested that so we have known about it for a number of years.

Mr. HUGHES. The reason I question you is, I see a statement of another witness here that I have some question about. It says that until the publicity on TV and otherwise, criminals and other persons were not aware of these bullets.

Mr. POWIS. One of the bases for that statement was a conversation that I had with one of the manufacturers who I believe will testify today, and he indicated to me that the requests for this type of ammunition were virtually nil for some period of time until this particular TV show.

Now, that isn't to say that he didn't have some normal sales outlets, but after that TV show he got a tremendous amount of inquiry and he could better speak for himself about the kind of lunatic fringe and that element that definitely was not an element that needed this kind of bullet for any legitimate purpose.

Mr. HUGHES. I suppose we could draw a reasonable inference that because of the additional publicity there were other comments that people were generally more aware of. I guess until we talk to some of the criminals who have used it, I don't know whether we can say they found out about it from watching TV. That is hard to surmise from whatever information is available now.

Mr. POWIS. I think some people did know about it before, but I think the widespread publicity that it got hit along the broad spectrum of the criminal element as well as the general public.

Mr. HUGHES. I think you know what I am interested in at this point, and I suspect I can talk for my committee.

We would like to know a little more about this whole area. It is a complex issue and we don't know whether or not in fact anything is achievable, but we think it would save some police officers' lives if we can look at this and/or look at it more closely, and if we can develop some standards that make sense it will in fact protect lives.

Where the ammunition has no other purpose or value except for use by a criminal, it seems to me that we could do some good if we can focus in on that type of ammunition.

It seems to me from your testimony that we don't have sufficient information right now, at least we haven't put it all together to arrive at any hard and fast conclusions.

I would hope that you would do that and I expect to have an additional hearing on it. Perhaps by the time we have the next hearing, you will have some additional information for us on it.

Mr. POWIS. We will continue working with Justice to develop this and I think Mr. Johnson has something additional that he wants to say.

Mr. JOHNSON. The direction of the bill toward the KTW is one thing, but we, at the table, know there are other types of ammunition, legitimate ammunition, that still penetrate body armor. It is very difficult to single out that type that will penetrate body armor.

Some of the sporting ammunition that was never designed to do it, will do it.

Mr. HUGHES. Some ammunition was not designed to go through body armor, but that might be the impact of it, and if in fact there is ammunition that in effect does penetrate soft-body armor, that has no legitimate purpose other than for the criminal element.

It seems to me we ought to be taking a serious look at this.

Mr. JOHNSON. Some of this has sporting applications. There is .22-caliber ammunition that we know will penetrate type-2 armor.

Mr. HUGHES. I think that is part of the body of evidence that we want to develop, if we can, about ammunition which does have a redeeming value which I don't think anyone wants to curtail, and the other kind which has no other purpose than being used by the criminal element, if in fact it is being used by the criminal element. That is another question.

Mr. POWIS. We would agree with what you are saying.

Mr. HUGHES. Thank you very much. We appreciate your testimony, and we hope that you will continue to work with members of the staff in developing a body of evidence on which we can make some valuable decisions.

Mr. OWEN. We will do that, Mr. Chairman.

Mr. HUGHES. We have a problem developing. The hour is getting late and we have had a number of interruptions. We have a number of out of town witnesses. Are there out of town witnesses that could not return at a rescheduled date?

I think we will try to accommodate the out of town witnesses and we will take Phil Caruso next. We will ask if Mr. Darwick and Mr. Murphy can come back at another time and we will reschedule unless they have particular problems, unless you have a preference to go at one time?

Mr. DAVIS. I am the last one scheduled.

Mr. HUGHES. We are going to take Mr. Davis and we understand that you cannot come back. We will take your testimony today. We will take Phil Caruso.

I understand that Norm Darwick can return, as can Mr. Burke, legislative counsel of the International Brotherhood of Police Officers and that will save some time.

We will take Mr. Caruso and then we will take the out-of-town witnesses that cannot come back. The witnesses will then be Dr. Kopsch and Mr. John Klein and Mr. Davis, president of Second Chance Body Armor.

TESTIMONY OF PHIL CARUSO, PRESIDENT, PATROLMEN'S BENEVOLENT ASSOCIATION OF THE CITY OF NEW YORK

Mr. CARUSO. I appreciate the opportunity to present the views of the New York City Police Department and I represent some 20,000 members. They are all police officers who work the streets of New York City.

I would like to provide you with perhaps a different perspective than you just heard from the Secret Service. I have been a street cop myself for almost all of my time, with the exception of the work I am now doing, as president of the New York City PBA.

I don't think I can fully elaborate upon the very comprehensive and cogent statement made by Mario Biaggi, who is one of our more illustrious former members.

Mr. HUGHES. May I interrupt you for just a moment. I just want to thank the in-town and out-of-town witnesses who can come back. That will be Mr. Darwick, Mr. Murphy, Neal Knox of the NRA, and Pete Shields of Handgun Control, Inc. We appreciate your indulging us this afternoon. Mr. Caruso, I'm sorry, please continue.

Mr. CARUSO. I have a prepared statement, but I am not going to read it. For the sake of brevity I will highlight the more salient features that should be projected here today.

A few years ago the New York City PBA at great expense and great effort conducted a bulletproof vest campaign to provide each police officer with a lifesaving vest. It would appear that in spite of that campaign and in spite of the fact that we now have what we feel psychologically at least provides us with a measure of protec-

tion that police officers need, the presence and proliferation of so-called killer bullets would tend to completely nullify that measure of safety.

We deal with the streets of the city of New York, and it is not uncharacteristic of what is happening in many major urban centers in this country, with a very devious brand of criminal today. The zip gun of yesterday has turned out to be a 9 millimeter of today.

I wish some members of the panel and some previous speakers and the people who are against this piece of legislation were with me last week when they could have seen a very graphic illustration of what that bulletproof vest means to a police officer working under combat conditions such as we are confronted with each and every day in New York City. We had two police officers shot at point blank range and if it weren't for the bulletproof vest we would have had two dead police officers.

We are getting tired of this. It is happening far too frequently. We can't conceive of the idea of anybody trying to nullify or wipe out the measure of protection that we now have.

To know that among the infernal weaponry that has been developed we now have bullets that will penetrate quite readily the garment, the vest that we now have, is absolutely outrageous. I can't see any rhyme or reason why anybody would possibly oppose this legislation.

All we are asking for is that little measure of extra protection and we like to think that responsible officials are with us and we like to think that the NRA is with us because we are not gun control fanatics.

We are not attempting to disenfranchise the people of this country from their right to keep and bear arms. Many of us engage in sporting activities, shooting sports. I myself for many years have. But there is no reason tactically for either police or sportsmen to use these bullets, so why not just take them off the market and make them as difficult as possible to be made or distributed and used against the people that it was designed to protect in the first place.

It is convoluted, but it is working against us as opposed to working in our favor. It is a sad commentary when I have to come here and express that police officers have to resort to the use of bulletproof vests in the first place. It is a sad commentary on the quality of life in these wonderful United States.

All we are asking for is that we be given that little extra dimension of concern and consideration and support that we need to make our job a little easier and perhaps a little safer.

With that I think I have wrapped it up and I appreciate your attention and thank you again for the opportunity to express my views.

Mr. SAWYER. I do not sense that there is any opposition on the panel to the concern behind this legislation as such. The questions that occur to me are, first, are there any cases where these bullets have in effect pierced one of these vests?

Mr. CARUSO. No, Mr. Sawyer, I can't realistically and honestly provide you with a specific incident. However, the theory here

should be an ounce of prevention. We have come across criminals carrying these cartridges, and the potential is there.

Why should we wait until the horse leaves the barn, we would like that ounce of prevention. As I say, I characterize the criminal of today as a very devious type, and it is not beyond them to get access or have access to these bullets and they will get them.

Ultimately a cop may be killed and I would like to think that perhaps we stopped that from happening.

Mr. SAWYER. The other question that I have is, can we adequately and effectively define or describe what it is we are trying to stop? I have before me a Library of Congress study on this question and they say that from the information they have developed, the shape and size of the bullet have more effect on penetration than the coating of the bullet. The hardness of the material that it is made of has a big impact as well.

They say that a pointed .22 bullet has more penetrating capability than a .45-caliber blunt bullet.

I think we can all agree that if we have got a bullet that is going to be dangerous, and its principal use is to be illegal, that is one thing. But I just have in my own mind a big question. Can we effectively describe the kind of thing we want to stop?

Mr. CARUSO. I think we can define it, as difficult as it may seemingly appear to be on the surface.

That bulletproof vest was never designed to be totally omnipotent, and we realize that within the vast array of bullets available ballistically in this country and throughout the world that certainly there are weapons and bullets that will penetrate vests.

What we are trying to do is narrow down the risk, the risk factor involved as far as those weapons and those types of ammunition which are frequently and commonly used by this violent criminal that I speak of. That I think we can do, and very effectively, if we have the will and determination to do so.

Mr. SAWYER. I think it makes sense to me, if you are dealing with soft-type armored vests, that a .22 bullet might be more dangerous than a .44?

Mr. CARUSO. Ironically that is very true; however, we can never make police work totally safe. As I suggest, we are trying to narrow down the risk factor. Unless we can get our people out there with armored equipment and 48 tanks, then our job is never going to be totally safe. We expect that.

Mr. SAWYER. If we prohibit Teflon-coated bullets made of material harder than lead, we still have not attacked the question of what a better-shaped bullet will do.

Mr. CARUSO. Obviously something will slip through the cracks and we expect this. But again facing the totality of circumstances and looking at the most common types of weapons and ammunition that is readily accessible to the criminal, I think we would narrow down the risk factor.

Psychologically that reenforcement that would be provided to police officers would be cause for a boost in morale, I would say. That can't hurt. Police officers have to operate effectively and efficiently and it is nice to know that people are behind us, legislatively, our responsible leaders support us in our endeavor.

Making our community safe is not an easy job any more. As I suggested, many urban so-called ghetto areas are involved. We are the people on the front lines each and every day. We know what we need and we know what we want, and I hereby make an impassioned plea for support. It is as simple as that.

Mr. SAWYER. I assure you, that there is no lack of concern on the part of any member of this committee. The chairman and I, as former prosecutors, dealt with the police all of the time and we are on your side. We understand the problems that you are faced with.

I just do not want to see us turn out legislation that causes a lot of problems and does not really accomplish our goals. That is the question I have and I sense that the chairman may have somewhat the same concern.

We could prohibit the Teflon-coated .45-caliber bullet, and maybe not touch a harder substance .22 pointed bullet with no Teflon that is more lethal. That illustrates my concern that we do what we intended to do and not do a lot of things that we did not intend.

Mr. CARUSO. If there is some possible way that the legislation could be all-comprehensive in terms of defining and pinpointing every type of bullet that would cause serious injury by penetrating a vest, that is OK with us. That is fine. It may be very difficult.

We are asking very simply for a narrowing down of the risk factor involved by eliminating those common types of weapons and ammunition that we are confronted with. This is one means of achieving that end.

We can't accept the fact that this can't be accomplished. And we feel it can be to a large measure.

Mr. HUGHES. You were here during the testimony by Mr. Powis of the Bureau of Alcohol, Tobacco and Firearms. We are dealing with a very serious problem. I think most people want to try to minimize the risk to the police officers. We all have the same purpose. This senseless killing of police officers or maiming of police officers is something that is just out of hand in this country. We all want to focus on the criminal element and do what we can.

Our difficulty is trying to define the characteristics we want to forbid sufficiently so that we are not hurting a legitimate interest and therein lies the problem.

I appreciate your testimony. Mr. Biaggi is your Congressman, isn't he?

Mr. CARUSO. Yes.

Mr. HUGHES. He has done an outstanding job of representing the district and I don't know anyone who works any harder than Mario Biaggi. Any time there is something important before our committee, Mario Biaggi is here.

Mr. CARUSO. It is nice to have him here.

Mr. HUGHES. So you can be very proud of the representation that you have in the Congress on behalf of his law enforcement constituency which is around the country, and naturally in New York.

We are trying to see if there is something that can and should be done in this area that makes sense.

Mr. CARUSO. Thank you, Mr. Chairman.

Mr. HUGHES. Thank you, Mr. Caruso.

[The statement of Mr. Caruso follows:]

PRESENTATION BY PHIL CARUSO, PRESIDENT, PATROLMEN'S BENEVOLENT ASSOCIATION
OF THE CITY OF NEW YORK

As president of the Patrolmen's Benevolent Association of the City of New York, representing over 20,000 police officers working in one of the most dangerous cities in the world, I am deeply interested in legislation that would prohibit the manufacture or use of either "devastator" or "killer bullets" and am pleased that I have this opportunity to address you today.

As to the legitimate use of so-called "killer bullets," which have the capacity to pass through soft body armor, I know of none. Even police officers have no need for bullets that have such great power. Indeed, such a bullet cannot be considered an antipersonnel projectile, because, in effect, such a bullet will have less stopping power and actually would go right through the criminal suspect whom it is designed to deter. Such a bullet would not deform when hitting the subject, and, in effect, would not provide our police officers with the kind of stopping power sometimes needed in life-threatening situations on the streets of the city of New York. Our tactical squads are sufficiently well-equipped with various types of special ammunition suited to meet unique contingencies, such as hostage or barricade situations, and there is absolutely no tactical need for killer bullets to be placed in the arsenal of these specialized units.

Consequently, since there are no legitimate and logical purposes for their availability, there should be no objection to the prohibition of the use of this type of armor-piercing projectile. Since their only use would be an illegitimate one, that of being able to penetrate the Kevlar of soft body armor and kill the individual who is legally and properly wearing such protection, which, in most cases, would be police officers and other law enforcement personnel, these bullets should be banned.

As the public is aware, the New York City Patrolmen's Benevolent Association was in the forefront of a drive to equip police officers with bulletproof vests because of the high number of our members who sustained fatal chest and back wounds in combat situations with a violent breed of criminal.

Since the innovation of the vests, the incidence of fatalities has been somewhat alleviated. Police lives are being saved because otherwise fatal shots are stopped or sufficiently slowed down by the protective gear now worn by police officers. Unless legislation is passed to prohibit the sale and use of these so-called "killer bullets," no police officer within the city of New York, or, indeed, anywhere in the country, will feel safe while wearing body armor because its safety value is clearly nullified by these projectiles.

Similarly, "devastator bullets" have no legitimate purpose in the area of law enforcement because, if these projectiles explode upon impact, they are as equally dangerous to police as to members of the public because they can hit a non-vital organ and still be deadly because of their capacity to shatter into sharp fragments and thereby cause arterial bleeding to death.

On behalf of our members and their families, as well as on behalf of all the law abiding citizens of New York City, We urge the passage of legislation before you which will prohibit the manufacture and use of "killer bullets" or "devastator bullets."

Thank you for your kind attention.

Our next witnesses will sit as a panel. Approximately 12 years ago Dr. Kopsch, former president of KTW, Inc., and his partner, special investigator John Turr, developed ammunition capable of penetrating automobiles and barricades. Their ammunition became known as KTW, the first initials of the inventors' surnames.

Mr. Klein is president of the North American Ordnance Corp., which has exclusive manufacturing rights and is a worldwide distributor of KTW ammunition. Prior to assuming his position as president, he was employed by various arms specialty firms.

Welcome. We have your statements which without objection will remain a part of the record and you may proceed as you see fit. We hope you will try to summarize for us.

TESTIMONY OF DR. PAUL KOPSCH, PRESIDENT, KTW, INC.

Dr. KOPSCH. Thank you, Honorable Congressmen and ladies and gentlemen.

I am Dr. Paul J. Kopsch of Lorain, Ohio, and am the "K" in KTW. My background is that of a practicing physician whose hobby happens to be guns. I have practiced in Lorain since 1951. Right now I am off on another endeavor, that of supplying \$20,000 a year to medical students from Lorain County as scholarship aid. None of this money is from ammunition. Until the end of my life I shall have four young people in medical school.

You have been told that our armor-piercing ammunition is of recent origin and represents a mortal hazard to honest people. The truth is somewhat different, and I would like to summarize the first 10 years of KTW.

We began marketing our ammunition in 1968—14 years ago. From the inception, we have limited sales to police and military users. The first report of the startling efficiency of our ammunition appeared in the ARA Bulletin for July 1968. Up until 1979, 24 articles about our ammunition appeared in such journals of police interest as Law & Order, Police Chief, Police Product News, and the American Journal of Clinical Pathology.

Our policy has been inflexible from the beginning, that there are to be no sales to civilians. We are as strict as your proposed legislation, and cannot be plea bargained by the defense or prosecution as your statutes can be. If any of our shells are in civilian hands we want to know how they got there.

I wrote the Honorable Congressman Biaggi on December 18, 1981, to find out if he knew of any leaks in our security system and have not yet had the courtesy of a reply.

My partners and I did not seek, nor do we welcome, our present notoriety. We are aware of the political motivation for the present persiflage, and would remind you that of New York City's 16 Congressmen, 4 will be terminated by the last census' results. The remainder face an uncertain future, since the city's redistricting plan was declared illegal by the Federal courts. Thus, the New York City Congressman's lot is not a happy one.

As a couple of your witnesses have already mentioned, the proposed H.R. 5437 lacks precision. Handgun is better defined in the present Federal Code as a weapon meant to be fired with one hand, and protective armor was classified in great detail, and at considerable prior expense to the taxpayer, by LEAA's December 1978 Monograph on Ballistic Resistance of Police Body Armor.

We follow Mr. Lincoln's precept of 1861, that "The people will save their government if the government will do its part only indifferently well."

In KTW's first 10 years we moved out 232,171 cartridges to governments and their agencies and to individual police officers and departments. I have submitted earlier today to you gentlemen the lists of nations and the localities in your home States for the non-public record, for to our mind nothing but harm can come from this present publicity concerning improved ammunition for police use and the use of protective vests by police.

As one of the vestmakers has been saying for years, "If they know you are wearing a vest, they will shoot for the head."

Thank you very much, Mr. Chairman.

Mr. HUGHES. Thank you, Doctor.

[Statement of Dr. Kopsch follows:]

PREPARED STATEMENT OF DR. PAUL J. KOPSCH

Mr. Chairman, honorable Congressmen, ladies and gentlemen:

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Also, the proposed HR 5437 lacks precision. Handgun is better defined in the present Federal code. And protective armor was classified by LEAA's Dec. 78 Monograph on Ballistic Resistance of Police Body Armor. We follow Mr. Lincoln's precept of 1861 that "The people will save their government if the government will do its part only indifferently well".

In KTW's first 10 years of manufacturing and marketing, 1968 to 1977, we moved out 232,171 cartridges to governments and their agencies, and to individual police officers and departments. I submit these lists of nations, and localities in your home states for the nonpublic record, for to our minds nothing but harm can come from the present brouhaha concerning improved ammunition for police use and the use of protective vests by police. As one of the vest makers has been saying for years, "If they know you're wearing a vest they will shoot for the head".

Mr. HUGHES. Mr. Klein, we have your statement and it has been made a part of the record in full and I wonder if you could summarize it for us.

TESTIMONY OF JOHN M. KLEIN, PRESIDENT OF NORTH AMERICAN ORDNANCE CORP.

Mr. KLEIN. Mr. Chairman, as a concerned citizen, former military officer, and a businessman who has devoted his entire career, to developing and supplying law enforcement and military products, I would like to take this opportunity to thank you and the members of your committee for inviting me to express my views regarding H.R. 2280, H.R. 5392 and H.R. 5437.

I will begin by delving into the background surrounding North American Ordnance Corp.'s involvement with KTW ammunition, follow the events concerning KTW as seen by myself over the past 5 months and then address what I believe to be shortcomings of the proposed legislation.

In early 1980, North American Ordnance Corp. executed an agreement with KTW, Inc., for the exclusive, worldwide rights to manufacture and distribute KTW ammunition. Part of that agreement limits the sale of KTW ammunition to police, military, and

U.S. State Department approved governments, hence the "Police Use Only" designation.

Since taking over KTW, North American Ordnance Corp. has consistently made every effort to maintain the distribution of KTW ammunition within this framework. North American Ordnance Corp.'s memo to law enforcement personnel, dated February 15, 1982, 'Subject: KTW Ammunition,' details North American Ordnance Corp.'s distribution policy through March 15, 1982.

In November of 1981, I received a telephone call from the Los Angeles Times. A gentleman identified himself as a reporter by the name of Billiter who was writing a story regarding KTW ammunition. He indicated that he was investigating the complaints of a Mr. Arthur Kassel, director of the California Narcotics Authority. Mr. Billiter informed me that Mr. Kassel was an ex-FBI agent, and that he was working closely with the DEA in California.

Just prior to my discussion with Mr. Billiter, I recall a telephone inquiry I received requesting that North American Ordnance Corp. immediately send KTW to a Mr. Arthur Kassel who was the director of the California Narcotics Authority, so that Mr. Kassel could test the ammunition. I declined to ship the ammunition to the individual requesting it; however, I suggested that he contact one of our dealers in California. This fact is most pertinent and should be kept in mind when considering the KTW controversy.

I did not give Mr. Billiter any information over the telephone and requested that he send a letter to me. As you can see from his letter, he clearly spells out Mr. Kassel's position with the California Narcotics Authority. I have recently received a reply to my inquiry to the State of California and now have a clear reading as to Mr. Kassel's position with the California Narcotics Authority. I will address that subject in a few moments.

Also in November 1981, I was contacted by NBC News and was requested to give a television interview regarding KTW ammunition, in order to tell my side of the story. I declined the television interview and asked Ms. Beth Polson, the director of the program, to give serious consideration to not airing such a documentary due to the fact that the potential criminal element in our country would be made aware of the existence of KTW ammunition.

Even more significantly, these individuals would be enlightened as to the widespread use of lightweight Kevlar bulletproof vests. She and NBC News continued to assemble data for their documentary, and eventually, Dr. Paul Kopsch, president of KTW, Inc., agreed to be interviewed.

Ms. Polson's and NBC's positions as stated by Jack Perkins were that the public and subsequent criminal elements were already educated as to the existence of these products through trade and gun magazine articles. Thus further exposure would be superfluous. This raises the question as to why the program was aired at all.

I personally disagree with this reasoning and purport that the public and criminal elements were not aware of KTW ammunition and the widespread use of bulletproof vests by police.

In January 1982 a congressional aide telephoned me just prior to the airing of the NBC News magazine story on KTW ammunition. The aide opened his conversation with me by questioning me in-

tently as to why North American Ordnance Corp. was manufacturing a bulletproof vest which was capable of stopping KTW ammunition.

I explained that there were a number of reasons why, and to briefly summarize; the vest was being developed, based on a European need, as a deterrent for a bullet made in the Eastern bloc which possesses characteristics similar to KTW ammunition. The Eastern bloc bullet has shown up in more terrorist activities in Europe than many people would like to admit.

I further explained to the aide that in most cases, police who face such threats desire to respond against, as well as be protected from, such a threat with an equal ammunition and thus the need for KTW.

During the course of our conversation, I also expressed to the aide that I felt very strongly against airing the NBC program for the reasons previously stated herein.

I further indicated that we should not be so eager to disseminate technical data regarding products such as KTW, since it would be irresponsible.

The aide replied that it was not irresponsible and that the NBC News program was the momentum needed for a congressional hearing and necessary for a public outcry.

I asked the aide why NBC had chosen KTW and North American Ordnance Corp. and not similar products on the market.

He stated that neither himself nor the Congressman had any ill intent toward North American Ordnance Corp.; however, they were using KTW as an example.

I informed the aide that there were numerous rounds other than KTW sold freely on the market that would penetrate bulletproof vests.

He showed no interest to explore the whole spectrum of cartridges capable of penetrating bulletproof vests.

I asked the aide why the Congressman did not propose gun control.

He responded that it was too controversial. He also answered that gun control was a trend these days—a trend he did not mind seeing.

On January 8, 1982, NBC Newsmagazine aired its program on KTW ammunition. From that time, until today, our company has been besieged by reporters, purchasers, Federal and State police agencies, and others. I feel certain that most of you have seen articles which have been written about KTW ammunition. I will not elaborate as to the accuracy and authenticity or lack thereof in what has been published.

I will note however, that a large segment of our society believes verbatim what is printed in newspapers and what is shown on television. Freedom of the press is a right which, as an American, I would not give up at any cost. Freedom to destroy one's business or to eliminate employees' livelihoods without sufficiently investigating the facts at issue is another story.

On February 8, 1982, I received a telephone call from Mr. Robert Powis, Deputy Assistant Secretary for Enforcement, Department of the Treasury. This call seemed to me to be the first coherent effort to solve the alleged KTW problem. Mr. Powis discussed with me

the pending legislation and asked that our company voluntarily restrict the sale of KTW ammunition only to police departments and Federal agencies and to refrain from selling to individual police officers through federally licensed dealers.

In principle, I agreed with Mr. Powis, and I asked if he had contacted the other manufacturers of products with penetrating characteristics similar to KTW.

He indicated to me that he was in the process of doing so, and I told him that upon receipt of written confirmation of the position of the other manufacturers, I would then voluntarily restrict the sale of KTW ammunition only to law enforcement or governmental agencies.

On March 9, 1982, a U.S. Representative announced that the Du Pont Co. would no longer sell Teflon coatings to KTW or North American Ordnance Corp. According to the Representative's press release, "Du Pont's new policy is in response to the tremendous amount of recent media attention that has educated the Delaware-based company about the serious dangers these so-called cop killer bullets pose to the thousands of U.S. police officers who rely on bullet-resistant armor for protection." What the news release didn't say was that Du Pont is the same company that produces the fiber from which Kevlar bulletproof vests are made. The news release also failed to mention, that Du Pont's own sales personnel have been at our facility to inspect the procedures used to apply Teflon coating to KTW bullets.

On March 22, 1982, I received a letter from the U.S. Representative who is sponsoring H.R. 5437. The letter, dated March 18, 1982, explained the Congressman's concern and requested information regarding KTW ammunition. In my opinion, this letter was the first glimmer of a logical, nonmedia related action the author undertook regarding KTW.

As a businessman, I find it necessary to deal with problems in a logical manner. It would seem to me that if a problem did exist, one would sit down and analyze the problem, to determine its causes and possible solutions. To facilitate this process it would seem logical to thoroughly research the problem in order to implement the simplest and most effective solution.

Subsequently, one would first go to the Federal regulatory agency which governed the product. In the case of KTW ammunition, it would be the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms. One would then ask that agency to contact the company or companies who were allegedly a cause for concern and set up a meeting between the concerned parties.

After such a meeting, one would then analyze whether satisfactory progress had been made toward solving the problem and if it was necessary or not to propose legislation to limit the availability of the commodity.

Had such a meeting been held, North American Ordnance Corp. would have made every effort to cooperate; however, I was unaware that there had ever been a need for concern until I received the telephone call and the November 25, 1981 letter from Mr. Bilitier of the Los Angeles Times. I was never called upon by the author of H.R. 5437 to sit down with him or any members of the Federal regulatory agency to discuss this alleged problem. It seems

to me the author made no attempt to seek a nonlegislative solution to the alleged KTW problem.

In further reviewing the March 18, 1982 correspondence and the attachments I received from the author, it appears that the questions he posed should have been raised when the author identified the problem, supposedly in 1979. The attachments to his letter were a series of news releases starting in February 1982; a document from the Department of Justice, dated February 23, 1982, a document from the Department of the Treasury, dated February 25, 1982, and a photocopy of the Congressional Record, dated July 28, 1981.

All of these documents are less than 1 year old. The documents which deal with the Federal agencies who are involved in regulating arms and ammunition are less than 4 months old. And the Congressman identified the problem in 1979?

In summary, there are some very salient points to be considered regarding the events which have transpired and given national attention to this issue:

First, it is readily apparent to me that no effort was made by the author of H.R. 5437 to investigate or explore nonlegislative measures to solve the alleged problems with KTW and similar ammunition.

Second, it is further apparent to me that no attempt was made by the author to reach a solution by contacting the companies or the regulatory agencies involved before he contacted the media, and used the media to heighten the public awareness of KTW and the use of bulletproof vests by police.

Third, the NBC Newsmagazine coverage of KTW appears to have been conceived by committing a crime. The program contained seemingly fraudulent representations and inaccuracies which made for exciting viewing but is generally inappropriate subject matter for the serious issues we are here to discuss.

The March 15, 1982 letter from the State of California, youth and correctional agencies, evidences there is no California Narcotics Authority. Yet this fictitious State of California agency, presented by NBC Newsmagazine, misled the America public on prime time national television as to the true purpose of the agency and its director, Mr. Arthur Kassel, who incidentally owns the Beverly Hills Gun Club, the location where the NBC Newsmagazine program was filmed.

Fourth, through the extensive media coverage given to KTW ammunition and bulletproof vests, there is no doubt in my mind that the potential perpetrators of violent crime had been made aware of how and where to shoot police officers or diplomats. This is clearly evidenced as follows: The loss of a high ranking U.S. diplomat in Paris, who was shot in the head, the Turkish Consulate in Los Angeles, who was shot in the head; a drug enforcement agent in Columbus, Ohio, who was shot in the head; a Michigan State trooper who was intentionally shot between the panels of his bulletproof vest.

Are these examples purely coincidental? Or could they be a result of the media exposure given to this issue?

Fifth, I feel strongly that the efforts thus far displayed to protect policemen from the so-called cop killer bullet have been sorely mis-

guided. In his attempt to solve what he considers a threat to police, the author of H.R. 5437 has in fact seriously magnified a problem which I am firmly convinced could have been solved without media intervention. As it now stands; however, the extensive media exposure appears to have endangered the lives of policemen and diplomats everywhere.

The final result of this saga is countless State and local legislative actions, which have been instituted throughout the United States, three congressional bills which have been proposed, and a highly enlightened criminal element who now know that police officers wear bulletproof vests and the way to attack a police officer is to shoot for an area which is not covered by a bulletproof vest or to attack with a more powerful weapon.

I feel that KTW ammunition, North American Ordnance Corp., and KTW, Inc. have suffered an unjust media flogging due to misinformation, half truths, and the perpetration of at least one crime. This issue, without question, is a prime example of what the law enforcement community does not need.

In all of the proposed bills, no provision is made for law enforcement equipment manufacturers to utilize KTW ammunition for testing, and no provisions are made for export of KTW ammunition to friendly governments. The proposed legislation requiring regulation of ammunition by an agency director, who changes every 4 years or sooner, leaves no clear guideline from which the law enforcement community can establish a reasonable working criteria.

The notion to categorize ammunition as to its effectiveness against a bulletproof vest will only serve to give the potential criminal a shopping list from which he can select ammunition. As we all know, these types of individuals tend not to follow legal procedures to obtain guns and ammunition.

If legislation is necessary, I feel that the only legislation which is workable would be legislation which would give increased penalties to those who utilize known metal-piercing handgun ammunition in the commission of a crime.

Our company has, in the past, and will continue in the future, to restrict the sale of KTW to police or governmental agencies only. I have never been in favor, nor would I be in the future, of every police officer in America having access to KTW ammunition. It is a very special ammunition for special applications. Its high penetrating qualities do have a use in the police community. There is an alarming rate of crime being committed by felons wearing bulletproof vests.

If a felon was identified to be wearing a bulletproof vest, and if a confrontation were necessary, the police should have the ability to respond effectively.

The growing concern with terrorism leads me to believe, with conviction, that our police agencies should have access to KTW ammunition. I was recently informed by a European manufacturer of Kevlar bulletproof vests that he had just received an order for 1,000 bulletproof vests from Libya. The same country who allegedly has hit squads who have threatened our President.

I urge you to seriously consider the pertinent points which I have outlined and to bear in mind the amount of emotion which has been stirred by the truly uninformed and misled media.

Thank you.

[Statement and exhibits of Mr. John M. Klein follow:]

TESTIMONY BY JOHN M. KLEIN, PRESIDENT, NORTH AMERICAN ORDNANCE CORP.

Mr. Chairman, as a concerned citizen, former military officer and a businessman who has devoted his entire career to developing and supplying law enforcement and military products, I would like to take this opportunity to thank you and the members of your committee for inviting me to express my views regarding H.R. 2280, H.R. 5392 and H.R. 5437. I will begin by delving into the background surrounding North American Ordnance Corporation's involvement with KTW ammunition, follow the events concerning KTW as seen by myself over the past five months and then address what I believe to be shortcomings of the proposed legislation.

In early 1980, North American Ordnance Corporation executed an agreement with KTW, Inc. for the exclusive, worldwide rights to manufacture and distribute KTW ammunition. Part of that agreement limits the sale of KTW ammunition to police, military and U.S. State Department approved governments, hence the "Police Use Only" designation. Since taking over KTW, North American Ordnance Corporation has consistently made every effort to maintain the distribution of KTW ammunition within this framework. North American Ordnance Corporation memo to law enforcement personnel, dated 15 February 1982, "Subject: KTW Ammunition," details North American Ordnance Corporation's distribution policy through 15 March 1982.

In November of 1981, I received a telephone call from the Los Angeles Times. A gentleman identified himself as a reporter by the name of Billiter who was writing a story regarding KTW ammunition. He indicated that he was investigating the complaints of a Mr. Arthur Kassel, Director of the California Narcotics Authority. Mr. Billiter informed me that Mr. Kassel was an ex-FBI agent and that he was working closely with the DEA in California.

Just prior to my discussion with Mr. Billiter, I recall a telephone inquiry I received requesting that North American Ordnance Corporation immediately send KTW to a Mr. Arthur Kassel who was the Director of the California Narcotics Authority, so that Mr. Kassel could test the ammunition. I declined to ship the ammunition to the individual requesting it; however, I suggested that he contact one of our dealers in California. The fact is most pertinent and should be kept in mind when considering the KTW controversy.

I did not give Mr. Billiter any information over the telephone and requested that he send a letter to me. As you can see from his letter, he clearly spells out Mr. Kassel's position with the California Narcotics Authority. I have received a reply and now have a clear reading as to Mr. Kassel's position with the California Narcotics Authority. I will address that subject in a few moments.

Also in November, 1981, I was contacted by NBC News and was requested to give a television interview regarding KTW ammunition, in order to tell my side of the story. I declined the television interview and asked Ms. Beth Polson, the director of the program, to give serious consideration to not airing such a documentary due to the fact that the potential criminal element in our country would be made aware of the existence of KTW ammunition. Even more significantly, these individuals would be enlightened as to the widespread use of lightweight Kevlar bulletproof vests. She and NBC News continued to assemble data for their documentary, and eventually, Dr. Paul Kopsch, President of KTW, Inc., agreed to be interviewed.

Ms. Polson's and NBC's positions as stated by Jack Perkins were that the public and subsequent criminal element were already educated as to the existence of these products through trade and gun magazine articles. Thus further exposure would be superfluous. This raises the question as to why the program was aired at all. I personally disagree with this reasoning and purport that the public and criminal elements were not aware of KTW ammunition and the widespread use of bulletproof vests by police.

In January, 1982, a congressional aide telephoned me just prior to the airing of the NBC Newsmagazine story on KTW ammunition. The aide opened his conversation with me by questioning me intently as to why North American Ordnance Corporation was manufacturing a bulletproof vest which was capable of stopping KTW ammunition. I explained that there were a number of reasons why, and to briefly summarize; the vest was being developed, based on a European need, as a deterrent for a bullet made in the Eastern Bloc which possesses characteristics similar to KTW ammunition. The Eastern Bloc bullet has shown up in more terrorist activities in Europe than many people would like to admit. I further explained to the aide that in most cases, police who face such threats desire to respond against, as well as

be protected from, such a threat with an equal ammunition and thus the need for KTW.

During the course of our conversation, I also expressed to the aide that I felt very strongly against airing the NBC program for the reasons previously stated herein. I further indicated that we should not be so eager to disseminate technical data regarding products such as KTW, since it would be irresponsible. The aide replied that it was not irresponsible and that the NBC News program was the momentum needed for a congressional hearing and necessary for a public outcry. I asked the aide why NBC had chosen KTW and North American Ordnance Corporation and not similar products on the market. He stated that neither himself nor the Congressman had any ill intent toward North American Ordnance Corporation; however, they were using KTW as an example. I informed the aide that there were numerous rounds other than KTW sold freely on the market that would penetrate bulletproof vests. He showed no interest to explore the whole spectrum of cartridges capable of penetrating bulletproof vests. I asked the aide why the Congressman did not propose gun control. He responded that it was too controversial. He also answered that gun control was a trend these days—a trend he did not mind seeing.

On January 8, 1982, NBC Newsmagazine aired its program on KTW ammunition. From that time, until today, our company has been besieged by reporters, purchasers, federal and state police agencies, and others. I feel certain that most of you have seen articles which have been written about KTW ammunition. I will not elaborate as to the accuracy and authenticity or lack thereof in what has been published. I will note; however, that a large segment of our society believes verbatim what is printed in newspapers and what is shown on television. Freedom of the press is a right which, as an American, I would not give up at any cost. Freedom to destroy one's business or to eliminate employees' livelihoods without sufficiently investigating the facts at issue is another story.

On February 8, 1982, I received a telephone call from Mr. Robert Powis, Deputy Assistant Secretary (Enforcement), Department of the Treasury. This call seemed to me to be the first coherent effort to solve the alleged KTW problem. Mr. Powis discussed with me the pending legislation and asked that our company voluntarily restrict the sale of KTW ammunition only to police departments and federal agencies and to refrain from selling to individual police officers through federally licensed dealers. In principle, I agreed with Mr. Powis, and I asked if he had contacted the other manufacturers of products with penetrating characteristics similar to KTW. He indicated to me that he was in the process of doing so, and I told him that upon receipt of written confirmation of the position of the other manufacturers, I would then voluntarily restrict the sale of KTW ammunition only to law enforcement or governmental agencies.

On March 9, 1982, a U.S. Representative announced that the Du Pont Company would no longer sell teflon coatings to KTW or North American Ordnance Corporation. According to the Representative's press release, "Du Pont's new policy is in response to the tremendous amount of recent media attention that has educated the Delaware-based company about the serious dangers these so-called 'cop killer bullets' pose to the thousands of U.S. police officers who rely on bullet resistant armor for protection." What the news release didn't say was that Du Pont is the same company that produces the fiber from which Kevlar bulletproof vests are made. The news release also failed to mention that Du Pont's own sales personnel have been at our facility to inspect the procedures used to apply teflon coating to KTW bullets.

On March 22, 1982, I received a letter from the U.S. Representative who is sponsoring H.R. 5437. The letter, dated 18 March 1982 explained the congressman's concern and requested information regarding KTW ammunition. In my opinion, this letter was the first glimmer of a logical, non-media related action the author undertook regarding KTW. As a businessman, I find it necessary to deal with problems in a logical manner. It would seem to me that if a problem did exist one would sit down and analyze the problem to determine its causes and possible solutions. To facilitate this process it would seem logical to thoroughly research the problem in order to implement the simplest and most effective solution. Subsequently, one would first go to the federal regulatory agency which governed the product. In the case of KTW ammunition, it would be the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms. One would then ask that agency to contact the company or companies who were allegedly a cause for concern and set up a meeting between the concerned parties. At such a meeting, one would then analyze whether satisfactory progress had been made toward solving the problem and if it was necessary or not to propose legislation to limit the availability of the commodity. Had such a meeting been held, North American Ordnance Corporation would have made every effort to cooperate; however, I was unaware that there had ever been a need

for concern until I received the telephone call and the 25 November 1981 letter from Mr. Billiter of the Los Angeles Times. I was never called upon by the author of H.R. 5437 to sit down with him or any members of the federal regulatory agency to discuss this alleged problem. It seems to me the author made no attempt to seek a non-legislative solution to the alleged KIW problem.

In further reviewing the 18 March 1982 correspondence and the attachments I received from the author, it appears that the questions he posed should have been raised when the author identified the problem, supposedly in 1979. The attachments to his letter were a series of news releases starting in February, 1982; a document from the Department of Justice, dated 23 February 1982, a document from the Department of the Treasury, dated 25 February 1982, and a photocopy of the Congressional Record dated 28 July 1981. All of these documents are less than one (1) year old. The documents which deal with the Federal agencies who are involved in regulating arms and ammunition are less than four (4) months old. And the congressman identified the problem in 1979?

In summary, there are some very salient points to be considered regarding the events which have transpired and led to national attention to this issue:

1. It is readily apparent to me that no effort was made by the author of H.R. 5437 to investigation or explore non-legislative measures to solve the alleged problems with KTW and similar ammunition.

2. It is further apparent to me that no attempt was made by the author to reach a solution by contacting the companies or the regulatory agencies involved before he contacted the media, and used the media to heighten the public awareness of KTW and the use of bulletproof vests by police.

3. The NBC Newsmagazine coverage of KTW appears to have been conceived by committing a crime. The program contained seemingly fraudulent representations and inaccuracies which made for exciting viewing but is generally inappropriate subject matter for the serious issues we are here to discuss. The 15 March 1982 letter from the State of California, Youth and Correctional Agencies, evidences there is no California Narcotics Authority. Yet this fictitious State of California agency, presented by NBC Newsmagazine, misled the American public on prime time national television as to the true purpose of the agency and its director Mr. Arthur Kassel, who incidentally owns the Beverly Hills Gun Club, the location where the NBC Newsmagazine program was filmed.

4. Through the extensive media coverage given to KTW ammunition and bulletproof vests, there is no doubt in my mind that the potential perpetrators of violent crime have been made aware of how and where to shoot police officers or diplomats. This is clearly evidenced as follows: The loss of a high ranking U.S. diplomat in Paris who was shot in the head; the Turkish Consulate in Los Angeles who was shot in the head; a drug enforcement agent in Columbus, Ohio who was shot in the head; a Michigan State Trooper who was intentionally shot between the panels of his bulletproof vest. Are these examples purely coincidental? Could they be a result of the media exposure given to this issue?

5. I feel strongly that the efforts thus far displayed to protect policemen from the so called "cop killer bullet" have been sorely misguided. In his attempt to solve what he considers a threat to police, the author of H.R. 5437 has in fact seriously magnified a problem which I am firmly convinced could have been solved without media intervention. As it now stands; however, the extensive media exposure appears to have endangered the lives of policemen and diplomats everywhere.

The final result of this saga is countless state and local legislative actions which have been instituted throughout the United States, three (3) Congressional Bills which have been presented, and a highly enlightened criminal element who now know that police officers wear bulletproof vests and the way to attack a police officer is to shoot for an area which is not covered by a bulletproof vest or to attack with a more powerful weapon.

I feel that KTW ammunition, North American Ordnance Corporation, and KTW, Inc. have suffered an unjust media flogging due to misinformation, half truths, and the perpetration of at least one crime. This issue is, without question, a prime example of what the law enforcement community does not need.

In all of the proposed bills, no provision is made for law enforcement equipment manufacturers to utilize KTW ammunition for testing, and no provisions are made for export of KTW ammunition to friendly governments. The proposed legislation requiring regulation of ammunition by an agency director, who, changes every four (4) years or sooner, leaves no clear guideline from which the law enforcement community can establish a reasonable working criteria. The notion to categorize ammunition as to its effectiveness against a bulletproof vest will only serve to give the potential criminal a shopping list from which he can select ammunition. As we all

know, these types of individual's tend not to follow legal procedures to obtain guns and ammunition. If legislation is necessary, I feel that the only legislation which is workable would be legislation which would give increased penalties to those who utilize known metal piercing handgun ammunition in the commission of a crime.

Our company has in the past and will continue in the future to restrict the sale of KTW to police or governmental agencies only. I have never been in favor of, nor would I be in the future, of every police officer in America having access to KTW ammunition. It is a very special ammunition for special applications. Its high penetrating qualities do have a use in the police community. There is an alarming rate of crime being committed by felons wearing bulletproof vests. If a felon was identified to be wearing a bulletproof vest, and if a confrontation were necessary, the police should have the ability to respond actively.

The growing concern with terrorism leads me to believe, with conviction, that our police agencies should have access to KTW ammunition. I was recently informed by a European manufacturer of Kevlar bulletproof vests that he had just received an order for one thousand (1,000) bulletproof vests from Libya. The same country who allegedly has hit squads who have threatened our President.

I urge you to seriously consider the pertinent points which I have outlined and to bear in mind the amount of emotion which has been stirred by a truly uninformed and misled media.

Thank you.

NORTH AMERICAN ORDNANCE CORP.,
Pontiac, Mich., February 15, 1982.

To: All law enforcement personnel.
Subject: KTW ammunition.

In an attempt to set the record straight and to give you additional insight into what has become an emotional issue, I am enclosing under this cover brochures and data regarding KTW ammunition. The data does not give finite results of penetration, nor does it give velocities or bullet characteristics. This omission is by design.

Prior to NBC "Newsmagazine's" expose of the "killer bullet," little was known about KTW and less was known about where to get it. Our company maintained an extremely low profile, not even publishing a telephone number. Persons with legitimate need for our product were able to find us through responsible sources.

As a result of the NBC "Newsmagazine" television program and the extensive coverage given to KTW ammunition, two (2) important issues have developed. First, you can credit NBC News with giving every criminal who saw the TV program on KTW a crash course in how to kill a policeman or dignitary. Second, the criminal element in our country now knows that a majority of uniformed policemen are wearing body armor. As a direct result of this program, policemen can now expect to be shot in the head or criminals will start using higher penetration bullets fired from rifles. As a ranking officer from the RCMP, who called me after the NBC "Newsmagazine" program, put it, "It is the most irresponsible journalism I have ever seen." Aside from being irresponsible to the police community and the citizens of this country, NBC "Newsmagazine" and the newspapers have proliferated countless inaccuracies as to the details of the KTW bullet and our distribution. It is appalling.

I am taking the liberty of enclosing our policy for the sale of KTW to police departments as well as to federally licensed dealers. You will note that there are very specific steps to be followed by parties who wish to obtain KTW ammunition. Steps which we feel are reasonable and proper.

I could spend many pages describing to you the inaccuracies and purely sensational fabrications which have appeared either in the newspapers or on the NBC "Newsmagazine" program. Without a question, it is a blatant misuse of the press and a manipulation of the police community to institute reverse gun control. Take away the ammunition and the guns will follow.

There are; however, three (3) parties which have to be held responsible for this circus approach to a very serious matter: Congressman Mario Biaggi, his aide Mr. Craig Floyd, and Mr. Arthur Kassel of the California Narcotics Authority.

Mr. Craig Floyd called me the day NBC "Newsmagazine" aired the story on KTW ammunition. During the conversation, which lasted nearly one hour, Mr. Floyd indicated to me that the program that evening was crucial to the momentum of Congressman Biaggi's bill and that it was the congressman's opinion that a public outcry was needed against this ammunition. I asked Mr. Floyd who was responsible for the NBC "Newsmagazine" story. His reply was riddled with half-hearted excuses for its airing, leading me to conclude that Congressman Biaggi and he had engineered the involvement by NBC News.

Mr. Kassel, on the other hand, who I had the occasion to meet during the Ordinance Expo '82 in Los Angeles during the last week of January, 1982, admitted to Mr. Richard Cox of the National Rifle Association (NRA) and me that he knew little about guns and less about ballistics and ammunition. Yet, Mr. Kassel sat so dignified at his desk representing himself as the California Narcotics Authority, denouncing KTW, as a killer bullet, and seeking its ban. We have yet to verify whether the California Narcotics Authority is a law enforcement agency or not. Our preliminary findings regarding the California Narcotics Authority indicate that it is not a law enforcement agency; however, we have once again asked the Attorney General of the State of California for a very explicit definition of the organization and its charter. The notion of being able to buy KTW ammunition through the mail is utterly preposterous.

I received a call some weeks before the NBC "Newsmagazine" program indicating that Mr. Kassel of the California Narcotics Authority wanted to test KTW ammunition over the following weekend and would it be possible for North American Ordinance Corporation to immediately ship ammunition to him. I declined to do so; however, I suggested that he contact one of our dealers in California. The dealer in California contends, and I support his contention, that the party who contacted him identified himself as a law enforcement official and asked that the ammunition be sent to Mr. Kassel at the California Narcotics Authority. The television and media interpretation of the aforementioned facts was portrayed as someone simply calling up and receiving KTW ammunition C.O.D. through the mail. When I questioned Mr. Kassel about how the ammunition was delivered, he conceded that it may very well have been delivered via UPS. He conveniently did not remember the call to me, the California dealer, or the reasons given for the purchase.

The true story of KTW, a 10-year-old product, would not be as exciting as the story Congressman Biaggi, his aide Mr. Floyd, and Arthur Kassel have woven with NBC and the newspaper media. Our story is that we have tried very hard to be responsible to the law enforcement community. We have taken the extra steps when we didn't have to. We marked our boxes "For Police Use Only." We selected our dealers as carefully as we could. As distribution continued and we found that parts of the system were not working to our satisfaction, we took the extra step of asking the dealers to sign our "Statement of Understanding and Compliance." For all of these extra steps and responsibility, the media has seen fit to sensationalize the ammunition and fabricate erroneous stories about KTW and North American Ordinance Corporation. We, as a company, are not bound by federal law in our distribution to mark boxes, have customers sign statements, or do anything other than to sell to legitimate federally licensed dealers who order the ammunition. We chose not to do that and to take the approach that we have. I can assure you that we will continue with this approach in the future.

North American Ordinance Corporation is not the only manufacturer of metal piercing ammunition. KTW is not the only ammunition which will penetrate a Class II bullet proof vest. There are numerous cartridges which will penetrate Class II bullet proof vests and do so without being manufactured as "metal piercing" ammunition. The banning of handgun cartridges which will penetrate bullet proof vests is not the answer! Legislating stiff penalties for criminals who are caught using any metal piercing ammunition in the commission of a crime is the answer.

Many people have indicated that they see no useful purpose for metal piercing ammunition. I can attest that I have direct knowledge that KTW ammunition was used by Dutch authorities when terrorists seized a train in Holland and held hostages for several weeks. Entry into the train was accomplished by using KTW ammunition. There are several other instances of its use which I have been asked not to divulge. The best recent example which I can cite is when the rediscovery of the Black Panther & Weathermen underground organizations occurred during the Brink's robbery in New York. It is my understanding that each of the criminals apprehended was wearing body armor. One (1) of the criminals had at least one impact, and possibly two (2) on his bullet proof vest and had kept one of the bullets which impacted the vest as a souvenir. This situation is all too often occurring today and is the type of situation for which KTW was designed. The police who are charged with the responsibility to protect the rights of innocent citizens need every advantage that they can possess to maintain civil order. It is with this thought in mind that we continue to manufacture KTW for the police community.

In summary, I cannot attest to the intentions of Congressman Biaggi, his staff, Mr. Kassel, or any of the members of the media. I can only say that I am not running for public office. I am not trying to sell newspapers. I am not trying to gain notoriety for myself, nor am I trying to lift the ratings of my television program. The public outcry has been heard. The momentum of Congressman Biaggi's bill has

been created. You, as members of the law enforcement community, will be the cool heads that will prevail.

I leave you with the following thoughts to consider: TV and media exposure have educated the criminal element in the extensive use of body armor by police. Technical data relative to KTW has been openly advertised in the press as to its composition and performance characteristics. One can only conclude that it is the police community who has been manipulated and hurt by the obviously politically motivated, liberal, unscrupulous media exposure of KTW ammunition to the public, not by the ammunition itself.

It is my understanding that the FBI Uniform Criminal Statistics Records show that no policeman has ever been killed or wounded by KTW ammunition. Since the criminal element has now been educated, the greatest fear that we now have are incidents such as the recent assassination of the Turkish Consulate in Los Angeles who was killed by a gunshot wound to the head.

I would be most happy to answer any questions which you have or discuss with you any proposals or matters which you feel are relevant to this matter.

Thanking you in advance.

I remain

Sincerely,

JOHN M. KLEIN, *President.*

Enclosures.

LOS ANGELES TIMES,
Los Angeles, November 25, 1981.

JOHN KLEIN,
*President, North American Ordinance Co.,
2271 Star Court, Pontiac, Mich.*

DEAR MR. KLEIN: Thank you for your telephone conversation with me today. Although you answered most of my questions in that conversation, which I appreciate, I am sending this letter, as you requested, with some additional questions about the ammunition your firm makes.

Would you be kind enough to send me any printed literature you may have about the ammunition? I am specifically referring to the armor-piercing bullet which we discussed.

Since Mr. Arthur Kassel, of the California Narcotic Authority, is charging that he was able to purchase your ammunition with virtually no security check, I would be interested in your response. Mr. Kassel is leading the move in California to get State legislation banning your ammunition.

You told me in our telephone conversation that you didn't want to comment on which police forces in the United States, if there are any, currently using your ammunition. You also declined to name the "federal or national police" in other countries which you said are now using your ammunition. I am interested in contacting police forces that may be using your ammunition, and I would very much appreciate any information you might send me.

Congressman Mario Biaggi of New York is sponsoring Federal legislation to "ban handgun bullets that can kill police officers wearing bulletproof vests." His office told me that ammunition like your company makes easily penetrates bulletproof vests and thus endangers police officers who may wear them. Your comments on this would be appreciated.

The news story I am writing is about the move to ban the type of ammunition your company makes. This is a general request for your side of the story.

Thank you again for the telephone conversation.

Sincerely,

BILL BILLITER,
Times Staff Writer.

[From the Los Angeles Times, Jan. 25, 1982]

BILL AIMS AT ARMOR-PIERCING BULLETS

(By Bill Billiter, Times Staff Writer)

The bullet is hard, semi-pointed, colored pale green and coated with Teflon. It can penetrate a target like no other bullet: It can drill through metal, stone or many layers of wood.

Some say, though, the most disturbing characteristic of the armor-piercing bullet is that it easily punctures bulletproof vests, a major item of police self-protection.

"The only thing I can see people using this bullet for is to shoot through a bullet-proof vest," said State Assemblyman Tom Bane (D-Tarzana).

"I've introduced a bill to get rid of the bullets in California. My bill would make it a felony to possess these bullets. That would be our way of trying to get rid of the bullets that have already been sold."

WOULD BE FIRST STATE

If Bane's bill passes—and so far he says he has strong support and no opposition—California will become the first State to outlaw bullets that can penetrate bulletproof vests.

Another bill aimed at the controversial bullets is also pending in the California Legislature. Sponsored by Sen. Ed Davis (R-Chatsworth) and Assemblyman Richard Katz (D-Sepulveda), the bill would increase the fine and jail sentence for people caught carrying the high-penetration bullets while also carrying a concealed firearm.

The California bills have been introduced in the wake of a growing campaign by law enforcement officials to restrict or outlaw bullets capable of penetrating bulletproof vests.

A New York congressman has been trying for two years to get the Federal Government to ban the super-piercing bullet. A New York State legislator also is seeking a ban.

Even though there are no known fatalities from the controversial bullet, its potential for misuse has drawn strong attention from law enforcement officials.

A major U.S. manufacturer of the bullets claims they are only sold to and used by police. But State and Federal law enforcement officials say they know of no police force that has authorized use of such bullets.

"They (the bullets) are so powerful that police departments throughout the country refuse to use them," said an official of the Patrolmen's Benevolent Assn. of New York City.

U.S. Rep. Mario Biaggi (D-N.Y.), a former New York City police officer, calls the super-piercing bullets "the greatest threat facing law enforcement officers in the 1980s."

Biaggi, who wants a federal study and eventually a ban on such bullets, cited a Congressional Research Service report that warned of "an arms and ammunition race by the criminal segment of society . . . to defeat existing (police-protection) armor."

Biaggi said the super-piercing bullet is just such a weapon sought by criminals in their "arms race" against law enforcement.

Police in Florida say that criminals there are using the Teflon-coated bullet, although no policeman has been shot with it.

"We confiscated some of these bullets on a drug-smuggling boat a few days ago," said Capt. L. J. Mertz of the Coral Gables, Fla., Police Department. "People in the drug trade are wearing bulletproof vests themselves now, and these bullets could be used when they shoot against each other or when they shoot at us."

Bane argues that if the bullet is shunned by police departments, it has no real value except to criminals.

LITTLE KNOWN ABOUT USERS

Law enforcement officials say little is known about who uses the super-piercing bullet—or why. Biaggi said that his proposed study would seek answers.

While there are other manufacturers of the super-piercing bullet, including a firm in Czechoslovakia, Biaggi said "the most powerful of these bullets, the Teflon-coated KTW," is manufactured by North American Ordnance Co. of Pontiac, Mich.

That company insists that the KTW bullet is only sold to law enforcement officials, a claim that critics, including Biaggi, say is simply not true.

"They simply mail you the bullets if you mail them the money," said an aide to Biaggi.

John Klein, president of North American Ordnance, claimed in a telephone interview that the KTW bullet is well controlled by his company and designed for police use.

"The bullet was designed for law enforcement purposes," he said. "Basically, it is used by law enforcement personnel in a situation where a person has barricaded-in an area. California State Police Chief Ken Risen, who said, "It would be ideal for terrorists."

Noting that his office is charged with protecting the lives of state officials, including the governor, Risen said that he thinks California should halt the sale and use of the super-piercing bullets.

Bane said that he is getting solid support from his fellow legislators.

He said a representative of the National Rifle Assn., which opposes any bill linked to gun control, has inquired about his bill and has so far not taken a stand against it.

"Once you see this bullet tested and understand what it does, I just don't think anyone would tolerate it," Bane said.

"Anybody that's using this bullet is out to kill a cop, and that's just about what it's used for. Nothing else. Nothing else is it good for."

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, D.C., March 18, 1982.

Mr. JOHN KLEIN,
President, North American Ordnance Corp.,
2271 Star Court, Pontiac, Mich.

DEAR MR. KLEIN: It has come to my attention that North American Ordnance Corporation manufactures a handgun bullet that is specially designed to pierce metal. As a 23-year veteran of the New York City Police Department, I am deeply concerned about the serious dangers this type of ammunition poses to the thousands of law enforcement officers who rely on soft body armor for protection against handgun bullets.

A recent Federal test conducted by the Federal Bureau of Investigation determined that a North American Ordnance KTW bullet of various calibers (including .38 special, .357 magnum, and 9mm) could easily penetrate the 18-layer Kevlar body armor worn by most police officers. I have authored a bill, H.R. 5437, to identify and outlaw those handgun bullets that can penetrate an 18-layer Kevlar vest (copy of bill and background materials enclosed).

However, I am hopeful that this serious problem can be successfully resolved through a voluntary effort on the part of those few companies that manufacture or import handgun ammunition that can defeat bulletproof vests. I would very much appreciate any comments you might have on this crucial issue. Specifically, I would like to know:

When did North American Ordnance begin manufacturing and selling KTW ammunition?

How many rounds of KTW ammunition does North American Ordnance manufacture and sell on an annual basis?

How many rounds of KTW ammunition are sold domestically?

How many licensed ammunition dealers sell KTW ammunition?

Has North American Ordnance determined a special need for this type of ammunition?

What methods are used by North American Ordnance to enforce your "For Police Use Only" restriction?

What police departments, if any, here in the U.S. buy and use KTW ammunition?

What police departments, if any, in foreign countries buy and use KTW ammunition?

Does North American Ordnance test its ammunition for penetration capability before it is marketed? If not, would North American Ordnance consider adopting such a policy in an effort to prevent handgun bullets that can defeat soft body armor from being made and sold?

Would North American Ordnance consider voluntarily stopping the manufacture and sale of metal-piercing handgun ammunition?

As the manufacturer of what is generally acknowledged to be the most effective handgun bullet made to pierce metal, North American Ordnance's response to this problem is critically important. I look forward to your comments.

Sincerely,

MARIO BIAGGI, M.C.

97TH CONGRESS
2D SESSION

H. R. 5437

To limit availability and use of handgun bullets that are capable of penetrating certain body armor.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 3, 1982

Mr. BIAGGI (for himself, Mr. PEPPER, Mr. MINISH, Mr. WORTLEY, Mr. RICHMOND, Mr. ADDABBO, Mr. STARK, Mr. EDGAR, Mr. SCHEUER, Mr. WEISS, Mr. STRATTON, Mr. ANNUNZIO, and Mr. DOWNEY) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To limit availability and use of handgun bullets that are capable of penetrating certain body armor.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*
3 That this Act may be cited as the "Law Enforcement Offi-
4 cers Protection Act of 1982".

5 SEC. 2. (a) Whoever, being a licensed importer, manu-
6 facturer, or dealer under chapter 44 of title 18, United States
7 Code, imports, manufactures, or sells a restricted handgun
8 bullet, except as specifically authorized by the Secretary of
9 the Treasury for purposes of public safety or national secu-

1 rity, shall be fined not more than \$10,000 or imprisoned not
2 more than ten years, or both, and the license of such person
3 shall be subject to revocation under such chapter.

4 (b) Whoever—

5 (1) uses a restricted handgun bullet to commit any
6 felony for which he may be prosecuted in a court of
7 the United States; or

8 (2) carries a restricted handgun bullet unlawfully
9 during the commission of any felony for which he may
10 be prosecuted in a court of the United States;

11 shall, in addition to the punishment provided for the commis-
12 sion of such felony, be sentenced to a term of imprisonment
13 for not less than one year nor more than ten years. In the
14 case of his second or subsequent conviction under this subsec-
15 tion, such person shall be sentenced to a term of imprison-
16 ment for not less than two nor more than twenty-five years.

17 Notwithstanding any other provision of law, the court shall
18 not suspend the sentence in the case of a conviction of such
19 person under this subsection or give him a probationary sen-
20 tence, nor shall the term of imprisonment imposed under this
21 subsection run concurrently with any term of imprisonment
22 imposed for the commission of such felony.

23 SEC. 3. (a) The Secretary of the Treasury may prescribe
24 such regulations as may be necessary to carry out this Act,

1 including regulations requiring appropriate persons to provide
2 samples of bullets for testing under this Act.

3 (b) Any regulation identifying a bullet as a restricted
4 handgun bullet shall take effect sixty days after the date on
5 which such regulation is promulgated in accordance with ap-
6 plicable law.

7 SEC. 4. As used in this Act, the term—

8 (1) "body armor" means a commercially available,
9 soft, lightweight material with penetration resistance
10 equal to or greater than that of eighteen layers of
11 kevlar;

12 (2) "handgun" means a firearm originally de-
13 signed to be fired by the use of a single hand; and

14 (3) "restricted handgun bullet" means a bullet
15 that, as determined by the Secretary of the Treasury,
16 when fired from a handgun with a barrel five inches or
17 less in length, is capable of penetrating body armor.

EX-HERO COP PROPOSES A BAN ON "COP KILLER BULLETS"

U.S. Rep. Mario Biaggi (D-NY), a highly decorated ex-police officer from New York City, today introduced tough new legislation to outlaw the so-called "cop killer bullets" that can rip through the bulletproof vests worn by over 50 percent of our nation's law enforcement personnel.

Biaggi, who first introduced a bill two years ago calling for a Federal study to identify all armor-piercing handgun ammunition, said, "New evidence I have uncovered indicates a study by itself is simply not enough. The law enforcement community fully agrees."

Biaggi's new bill would not only call for the same Federal study, but it would also outlaw those handgun bullets that are determined to be capable of penetrating a bulletproof vest. Once identified by the Department of the Treasury, it would be against the law for any person to make, import, sell or use "armor-piercing" handgun bullets.

According to Biaggi, the specific penalties imposed by his measure are consistent with current Federal firearm laws. The licensed importer, manufacturer or dealer would be subject to a fine of not more than \$10,000, imprisonment for not more than 10 years, and revocation of their Federal license.

A person using or carrying a restricted bullet during the commission of a felony would be subject to a mandatory, minimum prison sentence of not less than one year nor more than 10 years.

Biaggi called for swift action on his bill, saying, "The law enforcement community for which this ammunition was designed says it has no use for armor-piercing handgun bullets. I know of only one element of our society that does—the criminal element."

SECRET FEDERAL TEST IDENTIFIES FIVE "COP KILLER BULLETS"

U.S. Rep. Mario Biaggi (D-NY) said a secret test conducted by Federal law enforcement officials has determined that at least five handgun bullets on the market today can penetrate the bulletproof vests worn by more than 50 percent of our nation's police officers.

According to Biaggi, the February 3rd test was jointly conducted by the Drug Enforcement Administration (DEA) and the Federal Bureau of Investigation (FBI) at the Bureau's Quantico, Virginia test facility.

The specific test results are not expected to be made public due to the threats such information could pose to police. However, Biaggi did say the findings supported his claim that an American made teflon-coated bullet could easily penetrate the 18-layer Kevlar vest used by most police. The test also revealed for the first time that two foreign bullets being imported into the U.S. have this same armor-piercing capacity, Biaggi noted.

Ironically, the test was conducted on the same day Biaggi introduced tough new legislation to outlaw any handgun bullet determined by the Federal government to be capable of penetrating the soft body armor worn by police. Biaggi had first authored similar legislation (H.R. 2280) two years ago.

Biaggi's new bill (H.R. 5437) would prohibit the availability of these so-called "cop killer bullets" once they are identified through Federal tests, and would establish mandatory minimum prison sentences for any person carrying or using such a bullet in the commission of a crime.

Biaggi speculated that DEA's direct involvement in the testing may have resulted from reports that drug smugglers in the Miami area are using armor-piercing handgun ammunition in large quantities.

Biaggi is a highly decorated 23-year veteran of the New York City Police Department who was wounded 10 times in the line of duty.

BIAGGI ANNOUNCES AN END TO "TEFLON-COATED" BULLETS

After meeting today with Du Pont Company officials, U.S. Rep. Mario Biaggi (D-NY) announced that Du Pont will no longer sell Teflon to those who have been using it to make a special type of handgun ammunition that rips through the bulletproof vests worn by police.

The announcement comes at a time when Biaggi, a former New York City Police Officer, is trying to outlaw "armor-piercing" handgun bullets, including the Teflon-coated KTW bullet that tests have shown can penetrate the equivalent of four bulletproof vests in a single shot.

Biaggi said, "Federal tests have identified four other handgun bullets with similarly awesome penetrating capability. However, the KTW's unique Teflon coating has placed it in a class by itself. According to various test data, the Teflon coating, which is apple green in color, increases the bullet's penetration by approximately 20 percent. Du Pont is to be commended for their responsible action in this important matter."

Teflon, a non-stick substance often found in frying pans, has been used by the makers of KTW ammunition as a high powered lubricant that helps a bullet slide through an object with very little resistance. KTW bullets are currently made and sold by North American Ordnance, a Pontiac, Michigan company that also makes bulletproof vests.

According to Biaggi, Du Pont's new policy is in response to the tremendous amount of recent media attention that has educated the Delaware based company about the serious dangers these so-called "cop killer bullets" pose to the thousands of U.S. police officers who rely on bullet resistant armor for protection. The KTW bullet was originally made "For Police Use Only," but police strongly oppose its use and recently revealed evidence shows KTW ammunition has been purchased by civilians and used by criminals.

Biaggi's bill (H.R. 5437) would ban the availability of "armor-piercing" handgun bullets and would impose a mandatory, minimum prison sentence of one to ten years for any person convicted of using such ammunition in the commission of a crime.

TESTIMONY BY U.S. REPRESENTATIVE MARIO BIAGGI

Mr. Chairman, I wish to express my full support for the legislation (AB 2392) authored by the Honorable Tom Bane to outlaw a small class of handgun ammunition that is specially made to penetrate the bulletproof vests worn by over 50 percent of our nation's law enforcement personnel. I do so as a 23-year veteran of the New York City Police Department and as one who has researched this issue for the past three-years.

Recognizing the serious dangers these so-called "cop killer bullets" pose to police officers, I have introduced similar legislation at the Federal level. My bill, H.R. 5437, calls for a Federal study to determine which handgun bullets have the ability to penetrate the 18-layer Kevlar bulletproof vest that is worn by most police officers. Once identified by the study, my bill would ban the availability of those bullets, and would establish mandatory, minimum prison sentences for any person carrying or using such ammunition in the commission of a felony.

The need for this legislation is clear. Tests have shown that the most powerful of these bullets, the Teflon-coated KTW, can penetrate up to 72 layers of Kevlar, the protective material used to make bulletproof vest. In simpler terms, this means the KTW bullet has the ability to rip through the equivalent of four bulletproof vests in a single shot.

A recent Federal test conducted jointly by the Drug Enforcement Administration (DEA) and the Federal Bureau of Investigation (FBI) confirmed this claim. In fact, the test, which took place on February 3, 1982, at the FBI's Quantico, Virginia test facility, identified five different handgun bullets that could easily penetrate the 18-layer soft body armor worn by law enforcement personnel.

In order to prevent these test findings from reaching the criminal element, the five bullets identified as "armor-piercing" will not be made public. However, it can be noted that three of the bullets are made and sold domestically, and two are foreign-made and then imported into the U.S. for sale. These bullets, which are specially designed to pierce metal, come in various calibers, including the .38 special, 9mm and .357 magnum.

I would also like to point out that my own study has revealed a sixth handgun bullet that has similarly awesome armor-piercing capability. It is foreign-made and is reported to be even more effective at penetrating body armor than the KTW bullet. This bullet was not available for the DEA-FBI test.

Although each of the six armor-piercing handgun bullets appears to be slightly different in composition, they do tend to share certain general characteristics. For example, they are pointed in shape rather than being flat or rounded, and they travel at a very high velocity. However, their most important common feature is a hard metal core with a full steel jacket that allows these bullets to retain their shape on impact. This is in sharp contrast to most conventional ammunition, which flattens out in impact due to a hollow or soft metal (i.e. lead) core.

Let me add that the Teflon coating is unique to the KTW bullet. According to various test data, the Teflon coating, which is apple green in color, increases the bullet's penetration capability by approximately 20 percent.

Ironically, the armor-piercing KTW bullet was created by J. Paul Kopsch, Dan Turcus and Don Ward in the late 1960's to help police. There had been a bank robbery in their hometown of Lorain, Ohio. Police bullets being fired at the robbers were bouncing off the car being used by the criminals to escape. Kopsch, Turcus and Ward—whose last initials formed the KTW name—decided to develop a handgun bullet that could be used by police in such situations. They were successful. In fact, they were too successful for their own good.

The police departments for whom the bullet was designed found the KTW ammunition far too dangerous for any type of safe law enforcement use. In addition, the KTW bullet—as do other armor-piercing bullets—has a relatively low "stopping power," especially when compared to the hollow-pointed bullets used by the police today that flatten out on impact and literally knock down, or disable the person they strike.

As a result, KTW, Inc., as the three inventors called themselves, were forced to rely on limited mail order sales to individual law enforcement officers here in the U.S. and overseas. In 1980, KTW, Inc., sold the exclusive rights to make and sell their bullets to North American Ordnance, a Pontiac, Michigan company.

Both North American Ordnance and KTW, Inc., have adhered to a company policy of selling the KTW bullet "For Police Use Only." Yet, interestingly, they are unable to identify a single police department in the U.S. that uses the KTW bullet. In fact, police officials I have spoken to indicate they strictly forbid individual officers from carrying such ammunition because of the dangers it poses to innocent citizens.

Shockingly, there is no law of any type restricting the sale of KTW bullets, or other armor-piercing ammunition. Thus, the "For Police Use Only" policy imposed by North American Ordnance is virtually unenforceable. To make matters worse, a significant amount of KTW ammunition is distributed through local gun dealers, which makes it especially difficult for North American Ordnance to monitor the sale of their bullets. Aware of these obvious flaws in the KTW sales policy, I was not surprised to learn that persons other than police had obtained the KTW ammunition.

For example, in 1976 a Florida State Highway Patrolman, and a visiting Canadian police officer were killed in Broward County, Florida by criminals using KTW ammunition. Further, one California civilian informed me he merely ordered a number of KTW bullets over the phone from a local gun dealer after being informed that other members of his gun club had done the same. No identification was ever requested and the bullets were delivered C.O.D.

Some have wondered why there is such an urgent need for a prohibition on armor-piercing handgun ammunition now, rather than when it was first invented. The answer is really quite simple. The soft body armor that is worn today by more than 50 percent of all law enforcement personnel was not even invented until the mid-1970's, and was not used in any significant numbers until the last couple of years. As a result, the idea of criminals having access to armor-piercing handgun ammunition did not concern police any more than criminals having access to other more conventional types of ammunition. No longer is that the case.

Now the law enforcement community is leading the effort to outlaw handgun ammunition being specifically made to pierce body armor. They recognize that soft body armor was designed specially to stop the handgun bullets that killed more than 700 law enforcement officers during the past 10 years. They recognize that these bulletproof vests have proven to be a very effective protective device. For example, a Justice Department report I recently received shows that soft body armor "has been credited with saving the lives of an estimated 400 police" since 1974. Statistics also indicate that during the first five years of their use (1974-78) bulletproof vests were at least partially responsible for a 28 percent decrease in firearms-related police deaths.

However, most importantly, the police community recognizes that these same bulletproof vests provide absolutely no protection at all against "cop killer bullets." That is why such leading police organizations as the International Association of Chiefs of Police, the Fraternal Order of Police, the International Union of Police Associations, the Los Angeles Police Department, and the California State Police have called for a ban on such bullets.

Fortunately, the effort initiated by myself in the Congress and Mr. Bane in the California Legislature to outlaw these armor-piercing handgun bullets has resulted in a number of significant developments. Besides the obvious increase in public

awareness about this problem—as evidence by this hearing today—a Federal test has been conducted to identify armor-piercing handgun bullets; Du Pont has decided to no longer sell Teflon to the makers of KTW bullets or any other armor-piercing ammunition manufacturer; the makers of KTW bullets have agreed to no longer distribute their ammunition through local gun dealers; a number of other State legislatures around the country have initiated their own methods of dealing with this serious problem; and the Congress is expected to begin hearings on this issue later this month.

I am encouraged by these actions, but as one who was wounded 10 times during my years as a New York City Police Officer, I cannot be satisfied until a total ban is placed on the future manufacture, import or sale of armor-piercing handgun bullets. Since my ultimate goal is to make these bullets unavailable for criminal use, I also believe it is essential that strict criminal penalties be imposed for any person using a restricted bullet during the commission of a felony.

Mr. Chairman in conclusion, the law enforcement community has stated in very strong terms that they have no use for armor-piercing handgun bullets. Further, evidence suggest that hunters, target shooters, or persons seeking self-defense have no use for a bullet that is advertised to penetrate "automobiles, barricades, or bulletproof vests." In fact, I know of only one element of our society that would have any use for armor-piercing bullets—the criminal element.

Simply stated, Mr. Chairman, we must stop the bullets that bulletproof vests cannot. With this in mind, I strongly urge that Mr. Bane's measure (AB 2392) to outlaw armor-piercing handgun ammunition receive prompt and favorable consideration by this Committee and the California Legislature.

DEPARTMENT OF THE TREASURY,
Washington, D.C., February 25, 1982.

Hon. MARIO BIAGGI,
House of Representatives,
Washington, D.C.

DEAR MR. BIAGGI: This is in response to your letter to Secretary Regan dated January 8, 1982, concerning H.R. 2280, a bill "to authorize the Secretary of the Treasury to conduct a study of handgun bullets manufactured in or imported into the United States to determine which bullets have the capacity to penetrate bulletproof vests commonly used by most enforcement officers."

The Department shares your concern that armor-piercing bullets pose a danger to law enforcement officers. In this regard we are currently studying the problem and are aware of several studies conducted by the Department of the Army for the Law Enforcement Assistance Administration, Department of Justice. It is reported that these extensive studies cost about \$1.4 million.

There is no question in our minds that the so-called "KTW" bullet has the capabilities attributed to it in recent news accounts. However, problems arise when an effort is made to regulate or legislate against the manufacture or importation of such a bullet. An attempt to define a prohibited-type bullet invariably includes a wide range of bullets commonly used for hunting, target shooting or other legitimate and long-established sporting purposes.

Nevertheless, these problems do not diminish our concern over the KTW bullet. In this regard, a member of my staff has been discussing this matter with the manufacturer of KTW ammunition who has agreed to restrict domestic sales of this ammunition to Federal, State and local law enforcement agencies, and the Armed Services of the United States. Under this preliminary agreement, to be confirmed in writing, the manufacturer will no longer make sales to Federal firearms licensees, thus ending any civilian sales or distribution.

After we evaluate the LEAA studies of the penetrating abilities of various ammunition, we will be in a better position to assess the merits of the study recommended in your bill. As soon as we make a determination, I will communicate our findings to you. Please be advised that the contents of this letter have been approved by OMB.

In the meantime should you desire any further information regarding this matter, please feel free to call me at 566-2568 or my Deputy Assistant Secretary Robert E. Powis at 566-5054.
Sincerely,

JOHN M. WALKER, JR.,
Assistant Secretary
(Enforcement and Operations).

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF JUSTICE ASSISTANCE, RESEARCH, AND STATISTICS,
Washington, D.C., February 23, 1982.

Hon. MARIO BIAGGI,
House of Representatives,
Washington, D.C.

DEAR CONGRESSMAN BIAGGI: This is in response to your inquiry to the Attorney General regarding lightweight soft body armor.

The National Institute of Justice conceived, developed, and field tested the lightweight body armor made of Kevlar aramid in the period between 1973 and 1976. The program justification was based on the rapidly escalating number of police officers killed by gunshot and the attacks on Governor Wallace and Senator Stennis. NIJ contracted with the U.S. Army Biophysics Laboratory at Edgewood Arsenal, Maryland, to perform the development work and medical evaluations. Natick Laboratories at Cambridge, Massachusetts did comfort testing, design, and developed quality control methods for purchase of woven material.

NIJ's Law Enforcement Standards Laboratory at the National Bureau of Standards revised the previously developed but obsolete Standard for Ballistic Resistance of Police Body Armor to represent accurately the levels of threat found on the street as determined by a previously funded NIJ study performed by the International Association of Chiefs of Police. IACP's study had produced statistics on confiscated handguns over a five year period in five major cities.

Subsequently, in 1975, the National Institute funded the fabrication and distribution of 5,000 pieces of armor in 15 cities for the determination of wearability and comfort. Quality control testing was performed in accordance with the standard and the Natick specifications. This resulted in general acceptance by police nationally. The program has been credited with saving the lives of an estimated 400 police since that time.

During the ten year period that this program was in existence, it is estimated that the following costs to the federal government (NIJ) were incurred:

National Bureau of Standards (LESL)	\$450,000
U.S. Army	1,090,584
Testing Program (IACP).....	135,000
Armor Purchase and Field Test	1,440,000
Total	3,115,584

Approximately \$1,200,000 of Law Enforcement Assistance Administration formula funds was expended by the states in the purchase of soft body armor since 1975. This is an approximate figure inasmuch as the information is comingled with other data relating to expenditures for personnel. I have enclosed a print-out which covers all state reported expenditures in this category.

The entire research program was managed by Mr. Lester D. Shubin of NIJ. I have attached several documents pertinent to your questions and which help in describing our program.

We would welcome the opportunity to discuss any facet of this program about which you may require additional information.

Sincerely,

STEPHEN T. BOYLE,
Director, Office of Congressional Liaison.

[From the Congressional Record, July 28, 1981]

BIAGGI WORKS TO PROTECT POLICE FROM KILLER BULLETS

Mr. BIAGGI. Mr. Chairman, earlier this year I reintroduced a bill, H.R. 2180, to authorize a Federal study to identify and ultimately ban handgun bullets that are

capable of penetrating bulletproof vests used by police officers. I had intended to offer this legislation in the form of an amendment to the pending bill, but the amendment could have faced a point of order that, in all likelihood, would have been sustained.

Nonetheless, this life-threatening situation remains and it merits our attention today. At this time, I wish to provide a brief history of the problem and then engage the chairman in colloquy on an alternative course of action.

Due largely to improved design and an alarming increase in violent crime, police officers are relying more and more heavily on bulletproof vests for protection. Unfortunately, a preliminary investigation I have conducted at the request of the New York City Patrolmen's Benevolent Association reveals that these vests may not be enough.

My study has determined there is an entire class of handgun bullets—often referred to as metal- or armor-piercing—which can penetrate bulletproof vests. Most of these bullets are available to the public on a nationwide basis. My findings are based largely on discussions I have had with numerous recognized experts in the field of ballistics and firearms from both the private and public sector.

These so-called killer bullets are generally constructed of steel-jacketed lead or hard metal alloys; pointed in shape rather than being flat, rounded, or hollow-pointed; and are classified as high velocity. Size does not seem to be a major factor, since the metal-piercing bullets include some varieties of the small .22 caliber as well as the much larger .357 caliber.

Yet, while the facts seem to indicate very dangerous situation for law enforcement officers, the data is simply not sufficient enough to justify a ban at this time. Instead, it appears that we must first conclusively identify the handgun bullets capable of penetrating the vests before we can ban them from the public marketplace. That is what my legislation proposes and that is the direction I am hoping to move in today.

Preliminary and informal discussions I have had with the Director of the Bureau of Alcohol, Tobacco, and Firearms, G. R. Dickerson, has convinced me that the Bureau has the resources to perform a cost-efficient study in this area if instructed to do so.

Last year, I was encouraged when I received expressions of concern about the situation from then-chairman of the House Subcommittee on Treasury Appropriations, Tom Steed. While Mr. Steed's retirement soon thereafter prevented his taking action in this matter, I am confident the gentlemen from California (Mr. Roybal) will also recognize the critical nature of this problem and act accordingly.

Mr. Chairman, I raise this issue with a special sensitivity to the need to protect our law enforcement community. Having served 23 years on the New York City Police Force and having been wounded 10 times during the line of duty, I fully recognize that the protection of our Nation's law enforcement officers is essential to the morale and effectiveness of our crime prevention force.

Earlier this year, President Reagan was seriously wounded by a would-be assassin's handgun bullet. Since that time much attention has been focused on the need for Presidents to wear bulletproof vests during public appearances. That fact, along with the realization that handgun bullets kill more police officers than any other weapon should be reason enough to require the study I have proposed.

For further documentation, I wish to insert a copy of a report prepared by the Congressional Research Service entitled, "Bullet Threats to Protective Body Armor."

At this time, Mr. Chairman, I would like to engage the chairman, Mr. Roybal, in a colloquy regarding this issue, and ask the gentleman if he shares my concern on this issue.

Mr. ROYBAL. Mr. Chairman, if the gentleman will yield, let me assure the gentleman from New York that I certainly do share his concern, and I fully recognize the critical need for such a study to be conducted as soon as possible.

To insure that this goal can be achieved, I will inform the Treasury Secretary and his associates of the subcommittee's interest in this study, and I will request the Secretary to prepare a preliminary plan and cost-estimate for conducting the study. I am hopeful that a full report detailing the preliminary plan and cost-estimate could be submitted to the subcommittee by the end of the year so that we can make the necessary funding arrangements.

Finally, I would like to thank my distinguished colleague from New York for raising this important issue and acknowledge him for his untiring efforts on behalf of the law enforcement community.

Mr. BIAGGI. I appreciate the Chairman's concern, and am grateful for the active role he has pledged.

Mr. Chairman, I include in my remarks a report prepared by the Congressional Research Service, entitled "Bullet Threats to Protective Body Armor."

BULLET THREATS TO PROTECTIVE BODY ARMOR

(By William C. Boesman, Science Policy Research Division, November 27, 1979)

INTRODUCTION

Since about 1975, law enforcement officers have been using protective body armor of the "soft" or "lightweight" variety to an increasing extent. This type of body armor, unlike the heavy flak jackets worn by the military and by special police units on dangerous tactical assignments, is designed to be lightweight and soft enough to be worn comfortably under law enforcement officers' uniforms or under plain clothes officers' outer garments.

This type of soft or lightweight body armor has been developed to the extent that it quite effectively "defeats" (stops the penetration of) many types of handgun bullets and some rifle bullets. It is the purpose of this report to analyze the characteristics of bullets which are most likely to defeat soft, lightweight body armor. The following section discusses various types of bullets and the purposes for which bullets are designed. The third section discusses recent law enforcement officer fatalities and the related use of soft body armor. The fourth section discusses recent developments in, and characteristics of, soft body armor. The last section presents a brief analysis of bullet characteristics, particularly those that can defeat currently available soft body armor.

SUMMARY

Existing, commercially available soft, lightweight body armor apparently can effectively stop most of the handgun bullets which pose a threat to law enforcement officers today. However, there is a class of handgun and rifle bullets—often called armor- or metal-piercing—that can penetrate such armor. These types of bullets are generally constructed of steel-jacketed lead or hard metal alloys; often pointed in shape rather than being flat, rounded, or hollow-pointed; and generally high velocity. Smaller handgun and rifle bullets (for example, .22 caliber) with the above characteristics are generally more effective in penetrating soft body armor than larger bullets (for example, .45 caliber) with the same characteristics.

BULLETS

Types

There are many ways to classify the various types of bullets that have been or are in use. For purposes of this analysis, bullets will be discussed according to the following characteristics.

For use mainly in handguns, rifles, or machine guns, or in more than one type of weapon;

Velocity (low, for example, 730 feet per second, to high, for example, 1800 feet per second);

Caliber (small, for example, .22 caliber, to large, for example, .45 caliber);

"Hardness" (soft nosed lead bullet, or partially jacketed, to full metal jacketed (with copper or steel) to hard metal alloy bullet); and

Shape (round or hollow point to pointed nose).

Sometimes bullets are classified according to either their "stopping power"—their ability to knock down or disable a human being—or their "armor- or metal-piercing" ability. These two types of characteristics, however, may be somewhat mutually exclusive. For example, one bullet designed for high "stopping power" is the .357 caliber magnum hollow point bullet. Upon impact, this bullet expands (because of its hollow point) and converts a large percentage of its (high) velocity to kinetic energy within the wounded body—thus knocking down, stopping, or disabling the person. This type of bullet, however, may be effectively stopped by soft body armor without body penetration and hence without wounding, except for "blunt traumas". On the other hand, an armor-piercing bullet which will penetrate soft body armor may, because it is hard and retains its shape, pass through a body with relatively little damage if it does not hit a bone, other hard substance, or vital organ. Obviously, bullet wounding capabilities are not completely predictable because of the exceedingly complex structure of the human body, and even the relatively less devas-

tating bullets can and often do kill. In fact, more law enforcement officers were killed with .38 caliber weapons in, for example, 1978 than with any other weapon, mainly because these weapons are in more common use than other, more devastating bullets like the various magnum and armor-piercing bullets.

Purposes

It can be seen from the above discussion that many, if not most, bullet characteristics derive from the purpose or purposes which the ammunition designers had in mind. Thus, expanding bullets, particularly hollow point bullets, were designed for the purpose of more effectively transmitting kinetic energy to the wounded body than do ordinary bullets. Protective body armor, including the soft or lightweight variety, has been and is being designed to defeat many types of bullets, including many of the relatively more devastating (high velocity, hollow point) bullets. However, certain types of high velocity bullets made entirely of hard metal alloys, or which are fully covered with steel jackets, can defeat the current available soft body armor. Thus, certain bullets of the armor- or metal-piercing variety, whether or not designated as such by bullet manufacturers, pose a threat to existing body armor which can effectively defeat most "ordinary" bullet threats.

LAW ENFORCEMENT OFFICER FATALITIES

Current statistics

A number of law enforcement officers are killed and wounded each year by handguns, rifles, shotguns, and other weapons. Recent statistics from the Federal Bureau of Investigation (FBI) indicate that this number, while still large, has decreased rather significantly from 1974 and 1975 to 1978. The following table shows statistics for law enforcement officers killed by firearms and other weapons for this period.

LAW ENFORCEMENT OFFICERS KILLED, BY TYPE OF WEAPON

	1974	1975	1976	1977	1978	Total
Handgun.....	95	93	66	59	66	379
Rifle.....	12	21	12	13	14	72
Shotgun.....	21	13	16	11	11	72
Total firearms.....	128	127	94	83	91	523
Knife or cutting instrument.....	1		5			6
Bombs.....			4			4
Officers weapons.....				1	1	2
Other (clubs, etc.).....	3	2	8	9	1	23
Grand total.....	132	129	111	93	93	658

Source: U.S. Department of Justice, Law Enforcement Officers Killed 1978. Washington, U.S. Department of Justice, 1978, p. 12.

In 1978, there reportedly was a consensus of representatives of the soft body armor apparel manufacturers that about 250 law enforcement officers had been protected from death or injury through the use of bulletproof vests over the 1975 through 1978 period. Although such a consensus cannot be confirmed with existing data, it is interesting that the approximately 28 percent decrease in firearm-related deaths indicated in the above table could be accounted for partially by increased use of soft body armor by law enforcement officers. The following table shows the size of bullets and types of firearms which caused the deaths of the 91 law enforcement officers in 1978. The handgun bullets shown in that table are all of a class which can be defeated by existing soft body armor unless they are of the hard metal alloy or steel-jacketed armor-piercing variety. Soft body armor cannot defeat high velocity, metal jacketed armor-piercing rifle bullets either, some of which may be represented in the "rifle" column of the table.

LAW ENFORCEMENT OFFICERS KILLED, 1978—TYPE AND SIZE OF FIREARM

Size of weapon	Type of weapon			
	Handgun	Officer's own weapon	Rifle	Shotgun
Total.....	56	14	14	11
Handgun size:				
.22 caliber.....	5			
.25 caliber.....	3			
.32 caliber.....	2			
7.65 millimeter.....	1			
9 millimeter.....	7			
.357 magnum.....	13	6		
.380 caliber.....	2			
.38 caliber.....	25	7		
.41 Magnum.....	1			
.41 Magnum.....	2			
.45 caliber.....	4	1		
Caliber not reported.....	1			
Rifle size:				
.22 caliber.....			4	
.222 caliber.....			1	
.223 caliber.....			2	
5.56 millimeter.....			1	
7.62 millimeter.....			1	
.30/30 caliber.....			2	
.300 caliber.....			1	
.308 caliber.....			1	
.45 caliber.....			1	
Shotgun size:				
410 gage.....				2
.22 caliber/20 gage over and under.....				1
16 gage.....				1
12 gage.....				6
Gage not reported.....				1

¹ Included in handgun category.
From: U.S. Department of Justice, Law Enforcement Officers Killed 1978. Washington, U.S. Department of Justice, 1978, p. 13.

Officer fatalities while wearing armor

In 1978, five law enforcement officers in the United States were killed in the line of duty while wearing soft body armor. In all cases, the officers were apparently killed because they were wounded in places not protected by the soft body armor, as summarized below:

Shot with a .357 magnum bullet "which entered his chest through the side opening of his vest."

Shot with a .380 caliber weapon "three times in the chest, fell to the ground, and was subsequently fatally shot in the head."

Shot with a .357 magnum bullet "in the chest, back, and head."

Shot with a .38 weapon, three of the six shots "entered his side and one his head, inflicting fatal wounds."

Shot by a .38 bullet "when apparently he entered a crouched position and a bullet passed directly into the chest area at a place not protected by the vest."

During another shooting in 1978 in which a police officer was killed:

A second officer on the scene of the shooting was "spared serious harm by his bullet-proof vest, suffer[ing] only minor injury."

The remaining 35 officers who received their fatal wounds in the torso in 1978 apparently were not wearing protective vests.

Recent developments

Since at least the early 1970s, there has been considerable interest among law enforcement support agencies in developing effective soft body armor that would be comfortable and unobtrusive enough to be worn continuously by law enforcement officers while on duty. Organizations like the National Institute of Law Enforcement and Criminal Justice (NILECJ) of the Law Enforcement Assistance Administration (LEAA) of the U.S. Department of Justice, and the International Association of Chiefs of Police, have sponsored several studies of soft body armor.¹ Research programs on soft body armor and weapons threats have been administered and carried out by the Law Enforcement Standards Laboratory of the National Bureau of Standards, Department of Commerce; Edgewood Arsenal, Aberdeen Proving Grounds, Department of the Army; the FBI Quantico Test Base; and several private weapons testing laboratories. About 17 or so manufacturers of soft body armor are now producing units commercially for sale to an increasing number of U.S. law enforcement organizations.

Commercially available soft body armor

Most, if not all, soft body armor commercially available today is made of differing numbers of layers of Kevlar, a synthetic (aramid) fiber produced by the Du Pont Company. In addition to the number of layers of Kevlar used, the weaving and other processes used in the production of the final protective vest affects the strength of the product.

In the early 1970s, protective body armor generally was classified as to whether it was made of 7, 12, 16, 24, or other numbers of layers of Kevlar. Currently, manufacturers and police departments often designate certain threats (types of bullets) that the vests are to protect against, regardless of the numbers of layers of Kevlar involved.

The state of the art of protective body armor, which today is largely based upon the use of Kevlar, involves a trade off between the thickness of the protective vest versus the types of bullets which the vest can defeat. Certain commercially available bullets, like .357 caliber magnum hard metal alloy bullets, and some foreign-made nine millimeter steel jacketed bullets, can defeat commercially available soft body armor.

Protection available

A side-by-side comparison of the handgun weapons used to fatally injure law enforcement officers in 1978 (shown above and repeated for convenience here) and handgun bullets required to be defeated by soft body armor in the equipment purchase specifications of a number of U.S. cities indicates that currently available soft body armor apparently can protect against the large majority of bullets threats facing law enforcement officers today.

Handgun weapons used to fatally injure law enforcement officers in 1978	Deaths in 1978 from weapons in column 1	Handgun bullets required to be defeated by representative police department soft body armor specifications ¹
.22 caliber.....	5	S, M, N
.25 caliber.....	3	
.32 caliber.....	2	N
7.65 millimeter.....	1	
9 millimeter.....	7	S, M, N
.357 Magnum.....	13	S, M, N
.380 caliber.....	2	N
.38 caliber.....	25	S, M, N
.41 Magnum.....	1	S, M, N
.44 Magnum.....	2	S
.45 caliber.....	4	S, M, N
Caliber not recorded.....	1	

¹ For example, Montanarelli, Nicholas, Clarence E. Hawkins, and Lester D. Snubin., *Body Armor Lightweight Body Armor for Law Enforcement Officers*, Washington, U.S. Department of Justice LEAA, NILECJ, May 1976. p. 113; Goldfarb, Michael A. et al. *Body Armor: Medical Assessment*, Washington, U.S. Department of Justice, LEAA, NILECJ, May 1976 p. 30; National Institute of Law Enforcement and Criminal Justice. NILECJ

Standard for the Ballistic Resistance of Police Body Armor. Washington, U.S. Department of Justice, LEAA, NILECJ, December 1978. p. 10; and International Association of Chiefs of Police. *Policy Armor-Testing and Summary of Performance Testing Data*. Gaithersburg, Maryland International Association of Chiefs of Police, December 1978. p. 23.

While most commonly used bullets apparently can be defeated by existing soft body armor, there is a class of bullets which can defeat it. This subject is discussed in the following paragraphs.

*Possible remaining threats**Bullet characteristics*

Although a number of bullets can be defeated by currently available soft body armor, a number of threats remain. Most, if not all, types of metal- or armor-piercing bullets will apparently defeat existing soft body armor, whether these bullets are hard, metal alloy bullets, or lead bullets which are steel jacketed. Other types of non-armor- or metal-piercing bullets which might defeat soft body armor are bullets which are small caliber (for example, .22 caliber) or high velocity (particularly magnum), bullets. Bullets which combine these latter two characteristics (small caliber plus high velocity) are more likely to defeat some types of soft body armor (depending upon its thickness and construction) even if these bullets are not of hard metal alloy or steel jacketed construction. Thus, there currently exist several specific bullets, and a class of bullets having certain characteristics, that can, or could be designed to, defeat currently available soft body armor.

Blunt trauma

Even if bullets do not penetrate soft body armor, lethal wounds could be caused by "blunt trauma." This type of wounding effect can be described as being similar to being hit on the body by a hard swung baseball bat. Because this phenomenon currently does not appear to be a major wounding cause, it is not discussed further here. However, it is conceivable that, were higher powered bullets used or developed to defeat soft body armor, blunt trauma effects might be a major cause of concern to body armor researchers, developers, and manufacturers, as well as medical practitioners.

BODY-ARMOR DEFEATING BULLETS: THREAT CHARACTERISTICS

This section describes some bullet characteristics that are important to a consideration of what types of bullets can defeat, or can be designed to defeat, existing soft body armor.

Velocity

Handgun bullets typically range in muzzle velocities from about 730 feet per second (fps) (low velocity) to over 1,800 fps (high velocity), depending upon the powder charge of the cartridge and the length of the handgun barrel. Eleven hundred fps (roughly the speed of sound in air) may be a convenient point to differentiate between low and high velocity bullets, although it is unlikely that a consensus could be obtained that significantly different wounding effects occur above and below this velocity for a given type of bullet.

It is clear, however, that high velocity bullets are more likely to defeat soft body armor than low velocity bullets, all other characteristics remaining constant.

Caliber and weight

Caliber measures the diameter of bullets, that is, a .45 caliber bullet has a diameter of .45 inch. Caliber is thus a measure of size. A .45 caliber bullet is considerably larger than a .22 caliber bullet. The most common police bullet, and the most common bullet causing police fatalities, is the .38 caliber, intermediate in size between the .22 caliber and the .45 caliber.

Weights of bullets are measured in grains. The larger the caliber, the more a bullet weighs, given a constant shape. The smaller caliber bullets, for example, the .22 caliber, are more likely to penetrate the commercially available body armor than larger caliber bullets, other bullet characteristics remaining constant.

Shape and hardness

Bullets are produced in several shapes—including round or ball nosed, flat-nosed, pointed, and hollow pointed. Round, flat-nosed (some of which are called wadcutter

or semi-wadcutters), and hollow point bullets are often constructed as lead or semi-jacketed bullets which expand upon contact. The hollow point bullets are generally the most effective of these "expanding" bullets. Pointed bullets generally are constructed of lead with metal jackets, which are usually copper. If such bullets are jacketed with steel, they generally have armor- or metal-piercing capabilities. Another class of bullets is constructed of hard metal alloys and are also armor- or metal-piercing bullets.

Thus, the harder and more pointed a bullet is, the more likely it is to penetrate commercially available body armor, other bullet characteristics remaining constant.

Summary of bullet threat characteristics

Given the characteristics of the most successful, currently available soft body armor, bullet threat characteristics can be summarized in the following way:

Bullet characteristics	Lowest level of threat	Highest level of threat
Velocity	Low velocity.....	High velocity.
Caliber weight.....	Large caliber, heavy.....	Small caliber, light.
Shape.....	Round or flat nose, hollow point.....	Pointed.
"Hardness".....	Lead, or copper semi-jacketed lead.....	Full steel jacketed lead, or hard metal alloy bullet.

Thus, the bullet type with the highest probability of penetrating soft body armor, and with a proven capability of penetrating many layers of existing soft body armor, is a high velocity, small caliber, pointed, steel jacketed lead or metal alloy bullet. Such bullets may be handgun bullets, rifle bullets, or bullets which can be used in either handguns or rifles.

Possible ramifications of "perfect" body armor

Commercially available soft body armor is not perfect, that is, it can be defeated by certain bullets of the hard metal alloy or steel-jacketed armor- or metal-piercing types. Assuming that "perfect" body armor could be developed to meet current threat conditions, there is at least one positive and one negative ramification of such a development:

Possible positive ramification

Decreased wounding and death of law enforcement officers under current conditions, that is, continued use by criminals of existing types of bullets which, to a considerable extent, can be defeated by existing soft, light-weight body armor.

Possible negative ramifications

An "arms and ammunition race" by the criminal segment of society for even more powerful bullets and other weapons to defeat existing armor. This possible negative ramification could be precluded to some extent by controlling, by law and enforcement, the manufacture, distribution, sale, and international trade of all bullets of the armor- or metal-piercing type.

NORTH AMERICAN ORDNANCE CORP.
Pontiac, Mich., February 2, 1982.

FLORENCE T. SYNDER,
State of California, Department of Justice,
Sacramento, Calif.

DEAR MS. SNYDER: Thank you for your letter of 22 January 1982 regarding my letter of 7 December 1981; subject: Mr. Arthur Kassel.

In my letter to you, I asked if the State of California and the Federal Drug Enforcement Agency of the U.S. Government is funding the California Narcotics Authority. In addition, I would like to know the answers to the following questions: (1) Is the California Narcotic Addict Evaluation Authority the same organization as the California Narcotics Authority? (2) Is the California Narcotic Addict Evaluation Authority chartered as a law enforcement agency? (3) Does Mr. Kassel have police officer powers and is he a sworn police officer? (4) Does the California Narcotic Addict Evaluation Authority have the ability to act as a law enforcement agency? (5) Are

the members of the California Narcotic Addict Evaluation Authority full-time employees of the State of California? (6) If the California Narcotic Addict Evaluation Authority has full-time and part-time members, please advise me as to the percentage of each and the status which Mr. Kassel falls into? (7) Is Mr. Kassel a paid employee of the California Narcotic Addict Evaluation Authority or is he a volunteer worker? (8) Are there more officers who act as a governing board of the California Narcotic Addict Evaluation Authority, and what is their status as to full-time employment or are they acting as part-time administrators?

I realize that I have given you an extensive number of questions; however, the matter which I originally described in my letter of 7 December 1981 has escalated to a point where the obvious lack of facts and the use by Mr. Kassel of the California Narcotics Authority to legitimize his television appearance on NBC "Newsmagazine" has adversely affected our business.

It is my desire to find out what is the exact position of the California Narcotics Authority, how it relates to the California Narcotics Addict Evaluation Authority and how either of these two (2) agencies relate to the participation of an agency of the State of California in the recent NBC "Newsmagazine" television expose of KTW ammunition which misled American television viewers and contained several erroneous facts.

I would appreciate your prompt reply to my questions.
Thanking you in advance.

I remain
Sincerely,

JOHN M. KLEIN, *President.*

STATE OF CALIFORNIA,
YOUTH AND ADULT CORRECTIONAL AGENCY,
Sacramento, Calif., March 15, 1982.

Mr. JOHN M. KLEIN,
President, North American Ordnance Corp.,
Pontiac, Mich.

DEAR MR. KLEIN: Ruth Rushen has forwarded your letter to us for reply. I will try to answer each question in the order presented in your letter of February 2, 1982 to the State Department of Justice.

1. To the best of my knowledge, there is no "California Narcotic Authority." There is a "Narcotic Addict Evaluation Authority" (NAEA) chaired by Arthur Kassel.

2. I don't believe that the NAEA is "chartered" as a law enforcement agency. I am unaware of any provision under California law for issuing such a "charter."

3. On the basis of his appointment to the NAEA, Mr. Kassel does not have peace officer powers and he is not a sworn peace officer. The NAEA is responsible for paroling and revoking the parole of addicts committed by the courts. As a member of the NAEA, Mr. Kassel has the authority to issue an arrest warrant for the revocation of an addict's parole.

4. I have enclosed the sections of our State code which describe the functions of the NAEA.

5. Members of the NAEA are part-time and appointed by the Governor.

6. The NAEA has several full-time staff, however all seven (7) members are part-time.

7. Mr. Kassel is a paid member of the NAEA.

8. See "6" above.

Please let me know if any of the above answers are unclear.
Sincerely,

GARY D. MACOMBER,
Undersecretary.

Enclosure.

§ 3150. Narcotic Addict Evaluation Authority

(a) There is in the state government a Narcotic Addict Evaluation Authority, hereafter referred to in this article as the "authority." The authority shall be composed of seven members, each of whom shall be appointed by the Governor, for a term of four years and until the appointment and qualification of his successor. Members shall be eligible for reappointment. The chairman of the authority shall be designated by the Governor from time to time. The terms of the members first appointed to the authority shall expire as follows: one on January 15, 1965, one on January 15, 1966, one on January 15, 1967, and one on January 15, 1968. The terms of the three members first appointed to the authority pursuant to amendments to this section enacted at the 1979-80 Regular Session of the Legislature shall expire as follows: one on January 15, 1983, one on January 15, 1984, and one on January 15, 1985. Their successors shall hold office for terms of four years, each term to commence on the expiration date of the term of the predecessor. The Governor shall fill every vacancy for the balance of the unexpired term. Insofar as practicable, persons appointed to the authority shall have a broad background in law, sociology, law enforcement, medicine, or education, and shall have a deep interest in the rehabilitation of narcotic addicts.

(b) Each member of the authority shall devote such time to the duties of his or her office as required for performance of his or her duties and shall be entitled to an annual salary of nine thousand five hundred dollars (\$9,500) for attendance upon business of the authority. The chairman shall be entitled to an annual salary of ten thousand dollars (\$10,000). In addition, each member shall be allowed actual expenses incurred in the discharge of his duties, including travel expenses.

(c) The authority shall maintain its headquarters at the California Rehabilitation Center and shall be provided with necessary office space, equipment and services from funds appropriated to the California Rehabilitation Center.

(d) The authority shall meet at the center or its branches at such times as may be necessary for a full and complete study of the cases of all patients who are certified by the Director of Corrections to the authority as having recovered from addiction or imminent danger of addiction to such an extent that release in an outpatient status is warranted. Other times and places of meetings may also be fixed by the authority. Where the authority performs its functions by meeting en banc in either public or executive sessions to decide matters of general policy, at least three members shall be present, and no such action shall be valid unless it is concurred in by a majority vote of those present. The authority may meet and transact business in panels. Each authority panel shall consist of at least two members of the authority. Two members of the authority shall constitute a quorum for the transaction of business of a panel. No action shall be valid unless concurred in by a majority of the members present.

(e) Members of other similar boards may be assigned to hear cases and make recommendations to the authority. Such recommendations shall be made in accordance with policies established by a majority of the total membership of the authority.

Amended Stats 1980 ch 950 § 2.

Amendments:

1980 Amendment: (1) Amended subd (a) by (a) substituting "seven" for "four" after "composed of" in the second sentence; and (b) adding the sixth sentence; and (2) added "or her" wherever it appears in the first sentence of subd (b).

§ 3151. Director's certification that outpatient status warranted: Automatic annual review in absence of certification: Release as outpatient: Rules: Conditions: Supervision: Suspension of release

After an initial period of observation and treatment, and subject to the rules and policies established by the Director of Corrections, whenever a person committed under Article 2 or Article 3 of this chapter has recovered from his addiction or imminent danger of addiction to such an extent that, in the opinion of the Director of Corrections, release in an outpatient status is warranted, the director shall certify such fact to the authority. If the director has not so certified within the preceding 12 months, in the anniversary month of the commitment of any person committed under this chapter his case shall automatically be referred to the authority for consideration of the advisability of release in outpatient status. Upon any such certification by the director or such automatic certification, the authority may release such person in an outpatient status subject to all rules and regulations adopted by the authority, and subject to all conditions imposed by the authority, whether of general applicability or restricted to the particular person released in outpatient status, and subject to being retaken and returned to inpatient status as prescribed in such rules, regulations, or conditions. The supervision of such persons while in an outpatient status shall be administered by the Department of Corrections. Such persons are not subject to the provisions of Penal Code Section 2600.

A single member of the authority may by written or oral order suspend the release in outpatient status of such a person and cause him to be retaken, until the next meeting of the authority. The written order of any member of the authority shall be a sufficient warrant for any peace officer to return such persons to physical custody.

It is hereby made the duty of all peace officers to execute any such order in like manner as ordinary criminal process.

Added Stats 1965 ch 1226 § 2; Amended Stats 1967 ch 1124 § 14; Stats 1969 ch 238 § 3; Stats 1970 ch 167 § 1.

Prior Law: Former Pen C § 6516, as added by Stats 1963 ch 1706 § 11 p 3356.

Amendments:

1967 Amendment: Added the third paragraph.

1969 Amendment: Added the second sentence in the second paragraph.

1970 Amendment: Deleted "of six months" after "treatment" in the first sentence of the first paragraph.

Cross References:

Termination of enrollment as inactive member of State Bar: B & P C § 6007.

Collateral References:

38 Cal Jur 3d Incompetent, Addicted, and Disordered Persons §§ 81, 82.
25 Am Jur 2d Drugs, Narcotics, and Poisons § 74.

Law Review Articles:

Due process in parole revocation proceedings. 63 CLR 276.

Attorney General's Opinions:

51 Ops Atty Gen 173 (arrest and confinement by law enforcement officers of narcotic addict whose outpatient status has been suspended).

NOTES OF DECISIONS

1. In General
2. Constitutional Requirements
3. Outpatient Status
4. Requiring Testing as Condition of Probation or Parole
5. Illegal Entry; Searches and Seizures

1. In General

Whether any particular rule of criminal practice should be applied in a narcotics addict commitment proceeding depends upon consideration of the relationship of the policy underlying the rule to the proceeding; and two principal policies are served by the rule authorizing revocation of conditional release without notice and hearing; first, it permits the authority to promptly return the releasee to custody minimizing the danger that he will further relapse or go into hiding, and second, to hold such a hearing every time a releasee is suspended, for whatever cause, would impose an excessive burden on the machinery of the administration of justice far outweighing any speculative benefit. Marks, In re (1969) 71 C2d 31, 77 Cal Rptr 1, 453 P2d 441.

Legislative directives of conduct were clearly inferable from the declared purpose of the statute granting power to the Narcotic Addict Evaluation Authority to grant, regulate, and suspend outpatient status, and the standards to guide it in the exercise of such power were sufficiently precise, where, under Welf & Inst Code, §§ 3000, 3151, and 3152, it appeared that the authority's powers were to be exercised upon an informed determination made in good faith, promote the treatment and rehabilitation of the person committed as an addict, with due regard for the protection of the addict against himself and of the public in general, and in obedience to the several mandatory conditions prescribed. Marks, In re (1969) 71 C2d 31, 77 Cal Rptr 1, 453 P2d 441.

There are limitations on the Narcotic Addict Evaluation Authority's powers with respect to imposing conditions on the release, to outpatient status, of a person committed either as an addict or as a person in imminent danger of becoming addicted. People v Myers (1972) 6 C3d 811, 100 Cal Rptr 612, 494 P2d 684.

2. Constitutional Requirements

The requirements of due process are satisfied in the case of commitment and treatment of narcotic addicts by elaborate statutory safeguards circumscribing his original commitment, such as personal service of the petition and order for medical examination, arraignment on the petition, notice of time and place of hearing, right to counsel, right to subpoena and cross-examine witnesses, right to the attendance and testimony of examining physicians, and right to jury trial to review the issue of addiction (Welf & Inst Code, §§ 3050-3108); and when at some later date the Narcotic Addict Evaluation Authority in its discretion grants such a person a conditional release, its action is tentative and may be changed for cause, and such procedure presents no federal question. Marks, In re (1969) 71 C2d 31, 77 Cal Rptr 1, 453 P2d 441.

An outpatient under the narcotic addict commitment program is neither a parolee nor a probationer, and therefore analogies with the status of such persons in an unsatisfactory approach in determining whether such outpatients can be subjected to searches without a warrant by reason of their status alone. People v Myers (1972) 6 C3d 811, 100 Cal Rptr 612, 494 P2d 684.

Conditions imposed by the Narcotic Addict Evaluation Authority upon release, to outpatient status, of a person committed either as an addict or a person in imminent danger of becoming addicted, which infringe personal liberties must reasonably relate to the narcotic addict commitment program's purposes of treatment and rehabilitation. People v Myers (1972) 6 C3d 811, 100 Cal Rptr 612, 494 P2d 684.

The holding that outpatients in the civil addict program threatened with revocation of their conditional release status by the Narcotic Addict Evaluation Authority have a constitutional right to a quantum of due process protection has prospective application only. Relitigation of cases arising before the filing of the decision would probably not result in a clearer determination of the facts surrounding such revocations; the authority's belief that due process did not mandate procedures at which the outpatient could challenge the revoca-

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tion decision was reasonable; and, most important, retroactive application of the holding would have a devastating effect on the administration of the civil addict program. Bye, In re (1974) 12 C3d 96, 115 Cal Rptr 382, 524 P2d 854.

When an outpatient in the civil addict program is returned to the rehabilitation center for alleged violation of the conditions of his release, due process requires that he be accorded: Written notice of the claimed violations; disclosure of evidence against him; the opportunity to be heard in person and to present witnesses and documentary evidence; the right to confront and cross-examine adverse witnesses (unless the hearing officer specifically finds good cause for not allowing confrontation); a neutral hearing body such as the Narcotic Addict Evaluation Authority or a hearing officer or officers selected by the authority; and a written statement by the fact finder as to the evidence relied on and reasons for revoking outpatient status. The patient should also be represented by counsel if the authority determines that the matter comes within the ambit of guidelines set out in decisions of the California and United States Supreme Courts, and difficulty encountered by patients in procuring the attendance of witnesses may be resolved by permitting the submission of affidavits and other documents to the fact finder. Bye, In re (1974) 12 C3d 96, 115 Cal Rptr 382, 524 P2d 854.

3. Outpatient Status

Under Welf & Inst Code, § 3151, as implemented by § 3152, relating to rules for persons in outpatient status as narcotics addicts committed to the California Rehabilitation Center, periodic and surprise antinarcotic testing for all persons in such outpatient status is mandatory and not at the Narcotic Addict Evaluation Authority's discretion predicated on specific facts showing a need for such control in an individual case; and the "discretionary" clause of Welf & Inst Code, § 3152, qualifies only the immediately preceding language of the statute, i.e., "return to inpatient status at the California Rehabilitation Center or its branches." Marks, In re (1969) 71 C2d 31, 77 Cal Rptr 1, 453 P2d 441.

The Narcotic Addict Evaluation Authority did not abuse its discretion in declining an invitation of an outpatient committed to the California Rehabilitation Center as a narcotics addict to investigate Synanon's facilities and methods of operation as bearing upon suspension of his outpatient status, where the authority was composed of specialists in the field of narcotic addict rehabilitation fully cognizant of Synanon theories and practices and its opposition on the issue of antinarcotic testing, and where it suspended his outpatient status based on his refusal to take further compulsory prescribed antinarcotic tests which it had no discretion to waive, not for any particular condition of

Synanon life. Marks, In re (1969) 71 C2d 31, 77 Cal Rptr 1, 453 P2d 441.

The report of a Narcotic Addict Evaluation Authority's field agent that a narcotic addict outpatient's participation in the Synanon program would be in the best interest of both the outpatient and the community expressed but a personal opinion not binding on the authority, and necessarily subject to statutes prescribing rules for persons in outpatient status. Marks, In re (1969) 71 C2d 31, 77 Cal Rptr 1, 453 P2d 441.

The purpose of the California Rehabilitation Center program is not only to treat and cure addicts, but also to rehabilitate them; and although a narcotics addict may give every appearance of being cured of his addiction, it is within the constitutional power of the Legislature to require that a person once committed as a narcotic addict remain under supervision for a period sufficient to give reasonable assurance against relapse; and in appropriate circumstances, an addict's outpatient status can be suspended although he may not have actually resumed taking illegal drugs. Marks In re (1969) 71 C2d 31, 77 Cal Rptr 1, 453 P2d 441.

With regard to special proceedings for suspension of outpatient status of a committed narcotics addict, there is no statutory right to notice and hearing unless it is specifically granted by the Legislature; Welf & Inst Code, § 3151, makes no provision for notice and hearing in connection with the suspension of outpatient status by the Narcotic Addict Evaluation Authority, and in the absence of an express provision it is not for the courts to revise such a creature of statute as the Narcotics Addict Commitment Program. Marks, In re (1969) 71 C2d 31, 77 Cal Rptr 1, 453 P2d 441.

Restrictions to be imposed on an outpatient under the narcotic addict commitment program must be expressly made a condition to the grant of outpatient status. People v Myers (1972) 6 C3d 811, 100 Cal Rptr 612, 494 P2d 684.

Where the Narcotic Addict Evaluation Authority seeks to revoke the outpatient status of one committed to the civil addict program for reasons relating to resumed narcotic use or symptoms indicating an imminent danger thereof, due process does not require that the patient be accorded an in-community prerevocation hearing as in parole violation cases, provided he is promptly returned to the rehabilitation center and is accorded a revocation hearing as soon as reasonably possible. The authority's interest in removing such a patient to the center for immediate treatment is paramount, as progress toward rehabilitation is seriously jeopardized by a remission which is not immediately treated, and a revocation decision in the civil addict program is often a medical one, necessarily less subject to objective scrutiny by a lay hearing officer. Outpatients taken into custody for purported violations of other conditions of

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their status may nevertheless be accorded the same unitary revocation procedure when given the benefit of the prompt return policy. *Bye, In re* (1974) 12 C3d 96, 115 Cal Rptr 382, 524 P2d 854.

4. Requiring Testing as Condition of Probation or Parole

Although a waiver of antinarcotic Nalline testing is within the power of the Adult Authority under a statute vesting in that body the discretion whether or not to require testing as a condition of parole (Health & Saf Code, § 11722, subd (c)) and similar discretion is vested in the trial court with respect to conditions of probation (Health & Saf Code, § 11722, subd (a)), the Legislature has made testing mandatory for outpatients in the California Rehabilitation Center program, and the Narcotic Addict Evaluation Authority has no discretion to waive the requirement. *Marks, In re* (1969) 71 C2d 31, 77 Cal Rptr 1, 453 P2d 441.

The procedures actually followed by the Narcotic Addict Evaluation Authority in suspending the outpatient status of a narcotics addict committed to the California Rehabilitation Center reflected a necessary "sense of fairness", where he was given advance notice of the requirement that he submit to antinarcotic testing, and ample opportunity to do so, where formal charges were filed by his field agent and reviewed by the regional administrator, and written findings and conclusions were filed by the Narcotic Addict Evaluation Authority in support of its action, where he well knew that his refusal to participate in the testing program was the sole cause of his suspension, where the authority granted him an informal hearing in which its interpretation of the law was explained and he personally reiterated his position, and where the authority likewise heard at length from officers of Synanon and Synanon's attorney on behalf of him and others. *Marks, In re* (1969) 71 C2d 31, 77 Cal Rptr 1, 453 P2d 441.

Illegal Entry; Searches and Seizures

A parole officer who was attempting to take two other narcotics addicts into custody for violations of the conditions of their release from the rehabilitation center was required to comply with Pen C

§ 844, before entering the house where the persons sought were living, under § 3151, requiring peace officers to execute orders suspending the release of outpatients from the rehabilitation center in like manner as ordinary criminal process, and the officer's entry into the house without knocking or announcing his purpose was unlawful, where, though one of the persons sought had been directed, on his release, to report to the parole officer and had failed to do so, there was nothing to indicate that the officer knew anything which would justify noncompliance with Pen C § 844, before entering the house. *People v Meison* (1968) 261 CA2d 322, 67 Cal Rptr 750.

In a prosecution for possession of marijuana, a search of defendant's apartment by his parole officer without warrant was lawful, and the contraband found as a result was admissible, though the search could not be justified under the general rules applicable to searches by parole officers, defendant being an outpatient from the California Rehabilitation Center and, thus, not subject to suspension of his civil rights (§ 3151), where the parole officer had probable cause to arrest defendant and, incident thereto, to search his apartment. *People v Clark* (1968) 263 CA2d 87, 69 Cal Rptr 218.

In general, before breaking into a building to effectuate an arrest, a peace officer must fulfil the mandates of Pen Code, § 844, by knocking or employing some other means reasonably calculated to notify occupants of his presence, identifying himself as a peace officer, and explaining the purpose of his demand for admittance; § 844 provisions must be complied with in an arrest of a probation violator under Pen Code, § 1203.2, as well as parole violators and escapees under Pen Code, §§ 855 and 3061, and in return of outpatients under Well & Inst Code, § 3151. *People v Perales* (1970) 4 CA3d 773, 84 Cal Rptr 604.

An outpatient under the narcotic addict commitment program does not lose important constitutional rights through some type of vague or inherent limitation based solely on his "status." *People v Myers* (1972) 6 C3d 811, 100 Cal Rptr 612, 494 P2d 684.

§ 3152. Rules for persons in outpatient status: Supervision, testing, and counseling: Return to inpatient status

The rules for persons in outpatient status shall include but not be limited to close supervision of the person after release from the facility, periodic and surprise testing for narcotic use, counseling and return to inpatient status at the California Rehabilitation Center or its branches at the discretion of the authority, if from the reports of agents of the Department of Corrections or other information including reports of law enforcement officers as to the conduct of the person, the authority concludes that it is for the best interest of the person and society that this be done.

Added Stats 1965 ch 1226 § 2.

Prior Law: Former Pen C § 6517, as added by Stats 1963 ch 1706 § 11 p 3357.

Cross References:

Enrollment as inactive member of State Bar: B & P C § 6007.
Department of Corrections: Pen C §§ 5000 et seq.

Collateral References:

38 Cal Jur 3d Incompetent, Addicted, and Disordered Persons § 83.
25 Am Jur 2d Drugs, Narcotics, and Poisons § 74.

Law Review Articles:

Due process in parole revocation proceedings. 63 CLR 276.

Attorney General's Opinions:

49 Ops Atty Gen 9 (authority to temporarily hold and detain in city or county jail outpatient from rehabilitation center, on violation of conditions and terms of release).

51 Ops Atty Gen 173 (authority of law enforcement officers to take custody of person whose outpatient status has been suspended by Narcotic Addict Evaluation Authority, and to confine such person in city or county jail pending his return to California Rehabilitation Center).

NOTES OF DECISIONS

1. In General
2. Methods of Testing
3. Termination of Outpatient Status
4. Illegal Entry; Searches and Seizures

1. In General

Legislative directives of conduct were clearly inferable from the declared purpose of the statute granting power to the Narcotic Addict Evaluation Authority to grant, regulate, and suspend outpatient status, and the standards to guide it in the exercise of such power were sufficiently precise where, under Well & Inst Code, §§ 3000, 3151, and 3152, it appeared that the authority's powers were to be exercised upon an informed determination made in good faith, to promote the treatment and rehabilitation of the person committed as an addict, with due regard for the protection of the addict against himself and of the public in general, and in obedience to the several mandatory conditions prescribed. *Marks, In re* (1969) 71 C2d 31, 77 Cal Rptr 1, 453 P2d 441.

Conditions imposed by the Narcotic Addict Evaluation Authority upon release, to outpatient status, of a person committed either as an addict or a person in imminent danger of becoming addicted, which infringe personal liberties must reasonably relate to the narcotic addict commitment program's purposes of treatment and rehabilitation. *People v Myers* (1972) 6 C3d 811, 100 Cal Rptr 612, 494 P2d 684.

Though a parolee is a sentenced felon and in law

is deemed civilly dead for certain purposes under Pen Code, § 2600, the civil rights of an outpatient from the California Rehabilitation Center are not lost, except as curtailed by conditions deemed necessary to supervise his cure, his status being more analogous to that of a defendant placed on probation without imposition of a felony sentence. *People v Jasso* (1969) 2 CA3d 955, 82 Cal Rptr 229.

2. Methods of Testing

Under Well & Inst Code, § 3152, providing for periodic and surprise testing for narcotic use of outpatients committed to the California Rehabilitation Center as narcotic addicts, although specific tests are not specified, an outpatient is not free to prescribe the method of testing to which he chooses to submit; the decision to use various particular medical methods of testing are intended to be matters of medical expertise, discretion to determine which is vested in the Narcotic Addict Evaluation Authority; no abuse of discretion by it was shown in requiring compulsory Nalline and other medically accepted methods of antinarcotic testing, and in not recognizing the Synanon life style of residence as a test within the meaning of the statute. *Marks, In re* (1969) 71 C2d 31, 77 Cal Rptr 1, 453 P2d 441.

3. Termination of Outpatient Status

Under Well & Inst Code, § 3151, as implemented by § 3152, relating to rules for persons in outpa-

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tient status as narcotics addicts committed to the California Rehabilitation Center, periodic and surprise antinarcotic testing for all persons in such outpatient status is mandatory and not at the Narcotic Addict Evaluation Authority's discretion predicated on specific facts showing a need for such control in an individual case; and the "discretionary" clause of Welf & Inst Code, § 3152, qualifies only the immediately preceding language of the statute, i.e., "return to inpatient status at the California Rehabilitation Center or its branches." Marks, In re (1969) 71 C2d 31, 77 Cal Rptr 1, 453 P2d 441.

The Narcotic Addict Evaluation Authority did not act arbitrarily when it ordered the return to the California Rehabilitation Center of an outpatient who deliberately rejected and flatly refused to participate in the narcotics use testing program, provided and made compulsory as part of follow-up supervision of outpatients (Welf & Inst Code, § 3152), recognized of importance in a realistic, long-term effort to rehabilitate narcotic addicts, where a field agent's report to the authority disclosed that the outpatient refused to submit to further antinarcotic testing of whatever form and wherever administered. Marks, In re (1969) 71 C2d 31, 77 Cal Rptr 1, 453 P2d 441.

4. Illegal Entry; Searches and Seizures

A search and seizure were conducted in violation of defendant's rights under the Fourth and Fourteenth Amendments, where a parole agent, acting as a supervising agent under the Narcotic Addicts Commitment Law, proceeded on the theory that an outpatient's status was completely identical to that of a parolee, and, after arresting defendant some 30 to 100 feet from his home, for failure to report for narcotics testing and changing his address without approval, the agent searched de-

pendant's home. People v Jasso (1969) 2 CA3d 955, 82 Cal Rptr 229.

A parole agent acting under the Narcotic Addicts Commitment Law could not rely on defendant's being in a parolee's status, to justify a search of defendant's home, even though the agent's mistake was made in good faith, where the document entitled "Conditions of Release to Out-Patient Status," signed by defendant, did not contain any waiver of the constitutional protection against search of his residence and defendant did not consent to its search. People v Jasso (1969) 2 CA3d 955, 82 Cal Rptr 229.

Entry and search by a narcotics agent of the apartment of defendant, who was an outpatient from the California Rehabilitation Center, after defendant's arrest outside his apartment for failure to report for narcotics testing and for changing his address without approval, as well as the seizure of evidence on which two subsequent criminal actions were based, were illegal, and such evidence should have been suppressed on respective motions therefor, in the criminal actions, where the entry and search of the apartment were made on the erroneous premise that defendant's status as an outpatient was identical to that of a parolee. People v Jasso (1969) 2 CA3d 955, 82 Cal Rptr 229.

A search and seizure were conducted in violation of defendant's rights under the Fourth and Fourteenth Amendments, where a parole agent, acting as a supervising agent under the Narcotic Addicts Commitment Law, proceeded on the theory that an outpatient's status was completely identical to that of a parolee, and, after arresting defendant some 30 to 100 feet from his home, for failure to report for narcotics testing and changing his address without approval, the agent searched defendant's home. People v Jasso (1969) 2 CA3d 955, 82 Cal Rptr 229.

§ 3152.5. Right of outpatient to receive copy of crime reports pertaining to revocation proceedings: Disclosure of confidential information

In outpatient revocation proceedings, an outpatient or his attorney shall receive a copy of any police, arrest, and crime reports pertaining to such proceedings. Portions of such reports containing confidential information need not be disclosed if the outpatient or his attorney has been notified that confidential information has not been disclosed.

Added Stats 1978 ch 856 § 5, effective September 19, 1978.

Cross References:

Similar provisions respecting Parolee: § 1767.6

Collateral References:

Law Review Articles:

Review of Selected 1978 California Legislation. 10 Pacific LJ 414.

§ 3153. Halfway houses in large metropolitan areas as pilot projects: Rules: Control of earnings

The Director of Corrections is authorized to establish one or more halfway houses in large metropolitan areas as pilot projects in order to determine the effectiveness of such control on the addict's rehabilitation, particularly upon his release from the narcotic detention and treatment facility. Rules and regulations governing the operation of such halfway houses shall be established by the Director of Corrections and shall provide for control of the earnings of persons assigned to such halfway houses during their residence there, from which shall be deducted such charges for maintenance as the Director of Corrections may prescribe.

Added Stats 1965 ch 1226 § 2.

Prior Law: Former Pen C § 6518, as added by Stats 1963 ch 1706 § 11 p 3357.

Cross References:

Inapplicability of provisions respecting escape by person committed for treatment as actual or potential narcotic addict to unauthorized absence from halfway house: § 3002.

Establishment of branches of California Rehabilitation Center in halfway houses: § 3300.

Collateral References:

38 Cal Jur 3d Incompetent, Addicted, and Disordered Persons § 83.

25 Am Jur 2d Drugs, Narcotics, and Poisons § 74.

§ 3154. Participation in methadone maintenance project

A person released in an outpatient status from the California Rehabilitation Center may, with the approval of the Department of Corrections and the Narcotic Addict Evaluation Authority, voluntarily participate in a methadone maintenance project approved under Section 4351.

Participation in a methadone maintenance project shall not be construed to break the abstention from the use of narcotics for the purpose of Section 3200.

Added Stats 1971 ch 1486 § 1; Amended Stats 1972 ch 1255 § 18, effective December 15, 1972.

Amendments:

1972 Amendment: Amended the first paragraph by (1) adding "voluntarily" before "participate"; and (2) substituting "Section 4351" for "Sections 11655.6 and 11655.7 of the Health and Safety Code" after "under".

Note—Stats 1972 ch 1255, effective December 15, 1972, also provides: § 28.5. This act shall be known and may be cited as the Campbell-Moretti-Deukmejian Drug Abuse Treatment Act.

Collateral References:

38 Cal Jur 3d Incompetent, Addicted, and Disordered Persons § 84.

3. Outpatient Status

Under Welf. & Inst. Code, § 3151, action by at least one member of the Narcotics Addict Evaluation Authority, either orally or in writing, is necessary to order the suspension of outpatient status of the person committed to the California Rehabilitation Center, in the absence of any proba-

ble cause to believe that a new crime is or has been committed. Moreover, there is no statutory or other authority permitting members of the Narcotics Addict Evaluation Authority to delegate their decisional duty to order such suspension. People v Alesi (1979) 89 CA3d 537, 152 Cal Rptr 623.

§ 3155. Monetary payment upon release

In addition to any other payment to which he or she is entitled by law, each person who has been committed to the custody of the Director of Corrections pursuant to this chapter shall, upon his or her release, be paid the sum of two hundred dollars (\$200), from such appropriations that may be made available for the purposes of this section.

The director may prescribe rules and regulations (a) to limit or eliminate any payments provided for in this section to persons who have not been confined at least six consecutive months prior to their release in instances where the director determines that such a payment is not necessary for the rehabilitation of the prisoner, and (b) to establish procedures for the payment of the sum of the two hundred dollars (\$200) within the first 60 days of a prisoner's release.

The provisions of this section shall not be applicable if the person is released to the custody of another state or to the custody of the federal government, nor shall they apply to persons discharged pursuant to Section 3109 who subsequently, as a result of such discharge, are committed to state prison.

Amended Stats 1980 ch 822 § 6, effective July 29, 1980.

Amendments:

1980 Amendment: Added (1) "or she" and "or her" in the first paragraph; and (2) ", nor shall they apply to persons discharged pursuant to Section 3109 who subsequently, as a result of such discharge, are committed to state prison" in the last paragraph.

§ 3156. Promulgation and filing of rules and regulations: Availability

(a) Any rules and regulations, including any resolutions and policy statements, promulgated by the authority, shall be promulgated and filed pursuant to Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code, and shall, to the extent practical, be stated in language that is easily understood by the general public.

(b) The authority shall maintain, publish and make available to the general public, a compendium of its rules and regulations, including any resolutions and policy statements, promulgated pursuant to this section.

(c) The following exceptions to the procedures specified in this section shall apply to the authority: The chairman may specify an effective date that is any time more than 30 days after the rule or regulation is filed with the Secretary of State; provided that no less than 20 days prior to such effective date, copies of the rule or regulation shall be posted in conspicuous places throughout each institution and shall be mailed to all persons or organizations who request them.

Added Stats 1978 ch 774 § 5.

Collateral References:

1 Am Jur 2d Administrative Law §§ 92, 93, 116, 126.

Law Review Articles:

How courts interpret regulations. 35 CLR 509.

Philosophy of administrative law making. 42 St BJ 661.

[From the Cleveland Press, Monday, February 8, 1982]

POLICEMAN SHOT IN HEAD IN COLUMBUS DRUG BUST

COLUMBUS (UPI).—A Columbus narcotics detective was shot in the head last night during a drug bust on the city's northeast side, police said.

Charles K. Sealy, 30, was reported in stable condition today in the intensive care unit of Grant Hospital with a gunshot wound to the back of the head.

Homicide Lt. Ralph Casto said Earl F. Jetter, 32, was charged with attempted murder and three counts of trafficking in marijuana in the incident, which occurred about 9:15 p.m. when Sealy and two other narcotics officers went to the suspect's house to make a drug buy and arrest the seller.

Sealy, with the other officers as backups, went to the door to make the purchase, Casto said, "but during the conversation, something that occurred caused (Sealy) to attempt to make the arrest without notifying the others for help."

He said shots were fired and Sealy apparently was hit with gunfire from a .22 caliber revolver.

He was able to run from the scene as the other officers converged on the house. Jetter, who was not injured, then surrendered to police, Casto said.

I KILLED TROOPER, MAN SAYS

MASON, Mich.—A defense attorney called it a "chilling story of disregard for human life." The prosecutor said he had never seen anything like it in his 13 years as a lawyer.

In a move that stunned lawyers, police officers and courtroom spectators, Juvonne Littlejohn took the stand at his preliminary hearing Thursday and admitted firing the shots that killed a state trooper last week.

Littlejohn, 24, and his half-brother Dennis Wynn, 28, both of Detroit, are charged with armed robbery and first degree murder in the Feb. 9 shooting death of Trooper Craig Scott.

Littlejohn's court-appointed attorney, Paul Decocq, said he was "taken aback and not sure where we're going from here." He said he would recommend that Littlejohn stand mute at his arraignment and proceeded with the trial.

Wynn's court-appointed attorney, Thomas Rasmusson, called Littlejohn's testimony the "most chilling story I've ever heard of disregard for human life."

"I've gotten confessions to murder before, but never in a courtroom," said John Boggs, a state police detective involved in the case.

At the end of the day-long hearing Mason District Judge Thomas Roberts ordered both men to stand trial in Ingham County Circuit Court on both charges. Roberts ordered the men held without bond in the county jail until the arraignment Wednesday.

Earlier in the day, Sylvia Ann Slater, 18, of Detroit, testified she was in the car with Littlejohn, Wynn and two juveniles when Scott stopped the car on U.S. 127 between Jackson and Lansing.

Scott had handcuffed Wynn and was arresting him for driving without a license when Littlejohn got out of the car and began shooting.

"He said something like he couldn't let his brother go to jail" and then shot the trooper, Miss Slater said. After the shooting, Wynn told Littlejohn, "You're supposed to have got him before he put the cuffs on," she said.

After the judge asked Littlejohn if he understood what he was about to do, Littlejohn testified that he was high on marijuana at the time and did not want his brother to go to jail.

"Weed makes me paranoid," he said. "I went to the policeman point blank. I was high and confused and I just went to shoot."

Littlejohn said he was within three feet of Scott when he fired at the officer and knew to aim the gun at areas not protected by Scott's bulletproof vest.

"I was aware that police wear vests," he said. "I had a brother who was a security guard."

Scott died a few hours later at a Jackson hospital. Authorities said he had been struck five times and suffered three wounds.

The five were arrested shortly after the shooting.

Littlejohn said he did not know the car was stolen, saying someone had let him borrow it in Jackson. He said he stole the gun, but refused to say when or how.

Mr. SAWYER. Do you have any reports of use or experience of law enforcement people who use these bullets?

Mr. KLEIN. Yes, I have, Mr. Sawyer. This information deals particularly with KTW. There are other cartridges that have similar characteristics.

KTW's use in law enforcement has been primarily in the European sector. We sell to a number of government agencies outside of the United States who use the ammunition extensively. One use that I can cite was in the train takeover in Holland.

Actually the Dutch Government gained entry into the train using KTW ammunition. But there are several other governments who are using it extensively.

Mr. SAWYER. Here in the United States, are you aware of any that are used?

Mr. KLEIN. I am aware of a number of police officers in the United States who are using the ammunition. I can cite an example which leads me to believe that there is a use here. We know an FBI agent in Houston, Tex., who has a particular problem with terrorists. The FBI does not authorize him to use such an ammunition, and yet this type of ammunition is being used by these special people who have very significant threats that they must go up against.

I don't think they should be denied the right to have access to this ammunition. With all of the media hype that has been given I don't know of a police department in the United States that would go out on a limb at this point and say "Yes, we are using KTW extensively," because it would be a never ending snowball from that point on.

Mr. SAWYER. I understand that this publicity is of recent origin. I just wondered if you had any reports on the utilization by police agencies before that or after that, but particularly before?

Mr. KLEIN. The situation with the United States, it had been ongoing ever since I have been involved with the program, the program being producing KTW.

Mr. SAWYER. But, do you have any letters or reports from them?

Dr. KOPSCH. There are two cases in Detroit; one was a hostage situation. The policeman had his usual 2 seconds and the prosecutors had months to decide whether the policeman did the right thing. This man had 2 seconds to decide to do anything about the man with the gun who was holding an innocent woman as a hostage, and he decided three things could happen, he could kill the man, the man could kill him, or the man could kill the poor hostage woman.

So he shot the man in the head with a KTW.

Mr. SAWYER. He could have shot him in the head with anything, couldn't he? It didn't seem to make much difference.

Dr. KOPSCH. He happened to have a KTW up in the chimney, as the British would say.

There was another chap in Detroit who was shot, and it so shattered the bone that the surgeon stayed up all night putting his bones back together, and putting in an arterial graft. He is now a one-armed criminal.

Concerning this shocking power which you mentioned, the LEAA in their relative incapacitation index found that our high velocity bullets, even though they don't expand, produce enough incapacitation in tissue as they pass through. Like a full jacket military load,

our .38 special bullets had more stopping power than a bunch of .38 special bullets which were on the market, and the .357 Magnum. They were expanding bullets which expanded and delivered all of their energy at a relatively low level. LEAA found that our relative incapacitation index was higher with a .38 special than many of the commercial .357 Magnum loads.

Mr. SAWYER. When you sell these to law enforcement people, what is the particular intended use of the bullet? Criminals don't run around with these vests, do they?

Dr. KOPSCH. We developed them to get people out of cars, because in Lorain County you are issued .38 specials and if it is fired in an oblique direction it bounces off the windshields and it does not get through car doors.

If I were an honest policeman, I would be corked off at the shells I was issued if they did not get through car doors because overall the FBI indicates that roughly 20 percent of the crimes involve automobiles, where a guy is shooting out from inside of a car or being barricaded by a car door.

Mr. SAWYER. Did you hear Congressman Biaggi say that they don't allow shooting at cars any more?

Dr. KOPSCH. He said moving cars, sir. I believe the Honorable Congressman said moving cars.

Mr. SAWYER. He said moving cars, did he?

Dr. KOPSCH. We don't think our bullets will stop a car.

Mr. SAWYER. I think that he said fleeing cars, to be specific.

Dr. KOPSCH. The Army figures if you are going to stop a car, you hit him with a high explosive shell. We are not so simplistic that we think small arms bullets will stop a car. We want to get the guy out of the car.

Mr. KLEIN. Congressman Sawyer, while it is a sad illustration when Trooper Scott was recently killed in Michigan, he shot into that car five times and never penetrated the skin of the car once. It was five times.

Dr. KOPSCH. That was after he was mortally wounded.

Mr. KLEIN. He was down at that point.

Mr. SAWYER. Has this publicity had an impact on the sale of your bullets, do you know?

Mr. KLEIN. It could have impacted the sale of our bullets, but it has not to a great degree because we have complied with Mr. Powis' request. However, after the television program, we were getting between 15 and 30 inquiries a day from buyers who wanted to buy KTW ammunition.

Mr. SAWYER. Do they have any sporting use, do you know?

Mr. KLEIN. The only sporting use that I could see for KTW would be the utilization of KTW on big game such as elephants or something like this, for handgun hunters.

Dr. KOPSCH. Wild boar and buffalo have been shot in this country with it, where the hunter gets it from a friendly policeman and goes out and shoots a wild boar or the American bison. Those are big game animals in this country.

Mr. KLEIN. There has been an incident, I should say an instance where KTW, with our knowledge, was used by a sportsman and taken to Africa where he took an elephant with a handgun using KTW.

Mr. SAWYER. I suppose you could probably use them on a rhinoceros, too?

Dr. KOPSCH. On a white rhinoceros, one guy used one. He had done everything in 12 hunts in Africa, and he just needed a few bullets for a specialized long-barreled pistol to kill a white rhino with and so I supplied him with the bullets. I said, "Why don't you leave the rhinos alone, I like animals", and it is people who get me corked off, and he wanted to kill a white rhino.

Mr. SAWYER. Well, I appreciate your testimony. Those are all of the questions I have.

Mr. KLEIN. I would like to say one thing.

When Mr. Caruso was here, he indicated that the New York City police wanted the edge, so to speak, and to the best of my knowledge New York does not have a bullet-proof vest or did not buy a bullet-proof vest which falls into the confines of H.R. 5437. Their bullet-proof vest has substantially a lesser number of layers than what is spelled out in 5437.

Mr. SAWYER. I know the vests they use in my area of Michigan work very well but they do not work under all circumstances. Strangely enough I understand that they are more likely to fail with a .22 than they are with a .45.

Mr. KLEIN. I think Mr. Davis can fill you in better than I. It is a larger sectional area of the bigger caliber bullets so it is stopped easier by the fiber, while the .22 is a small bullet and tends to squirm its way through.

Mr. HUGHES. One of the things you say in your statement, Dr. Kopsch, is that you maintain some degree of control over distribution of the KTW bullets.

I wonder if you could just enlighten me on how you do that. In fact you indicate that they are sold to law enforcement and other authorized people. How do you maintain that control?

Dr. KOPSCH. On each and every order blank, sir, I am speaking historically, and Mr. Klein can speak of the contemporary, but historically we had an exemption blank which BATF recommended to us in format. The man was perjuring himself if he lied and it had a penalty clause in there, a \$10,000 fine, a maximum of 5 years in jail for lying, where he certified that he was a sworn officer of such and such a rank of such and such a department in such and such a county and State. Otherwise we wouldn't fill his order.

We found this effective in several cases when some joker would write in and say "I am buying it for a police officer," and we would say, "I wasn't born yesterday, fill in the exemption blank." When he wouldn't fill in the blank, we sent him his money back.

Mr. HUGHES. When you say "perjury," are you saying that in the States where they are distributed that is done?

Dr. KOPSCH. This penalty clause was referred to us by the Bureau of Alcohol and Firearms. This would have had national impact, and in other words, it did not rely on the State code, and it could have been prosecuted and with perjury could have been prosecuted under the United States Code.

Mr. HUGHES. Was there any effort at all that you determined whether or not the applicant, that is a person filling out the form and sending it to you, in fact was a police officer or did you take the representations that were contained on the form?

Dr. KOPSCH. Many of them would send in Xerox copies of their ID card, and letters on departmental stationery, using their official titles as well as filling out their exemption certificate. As I say, I asked for chapter and verse of breaches in our security system, including from the Honorable Representative, and I have gotten no names and no dates.

You and I know that the criminal gets submachine guns and high explosives and all of this contraband and he doesn't register. But for some reason he won't tell you where he got it. We have not picked up any leaks that we can put our fingers on.

Mr. HUGHES. Do you want to add anything to that?

Mr. KLEIN. When we took over the production and distribution we took a little different tack. We ran the same thing that Dr. Kopsch just described to you by BATF and we got a little bit different reading from the local people, so what we decided to do in North American Ordnance Corp., was to go to federally licensed dealers, and through gun shops.

Now I would like to point out that there are not many true police-supplying shops, supplying ammunition and firearms to police in the United States. Most of the police buy their guns and ammunition through local gun dealers.

It is my feeling that it is better for someone looking eyeball to eyeball with someone to determine their credentials and their credibility when buying ammunition.

We also implemented a program whereby with every order that a dealer would send us, he had to sign what we called our statement of understanding and compliance, which said basically that he understands that it is a police-only product, that he agrees to dispense the ammunition consistently with police-only policy and he agrees to screen and verify the credentials of all potential customers, and to sell KTW ammunition only to sworn police officers or bona fide police product dealers.

He also had to retain a photocopy of all KTW purchasers' identification, credentials or to record the badge number and department or agency which employs the purchaser.

We also had the right, with 7-days' notice, if someone told us a dealer was not complying with our policy to go in and inspect the man's ammunition dispensing record which is mandatory by BATF. At that point we had, I believe, a very workable system.

Mr. HUGHES. Was there any effort to try to spot check any of the dealers or did you just rely basically on the good faith of the dealer in carrying out what in essence was the understanding?

Mr. KLEIN. I spot-checked some dealers, and I also cut one dealer off in California.

Mr. HUGHES. I wonder if you could provide for the record copies of the documents that you used. Without objection that will be made a part of the record. Why don't you leave that with us if you would and if you have other documents that you require the dealers to sign, if you could furnish those to the subcommittee, I would appreciate it.

Mr. KLEIN. This was the only document that we had other than their Federal license.

[The document referred to follows:]



NORTH AMERICAN ORDNANCE CORPORATION

"STATEMENT OF UNDERSTANDING AND COMPLIANCE"

_____, 1982

I _____ certify that I am an officer of _____
 (NAME) (PURCHASING COMPANY)

_____, _____; FFL#- _____
 (CITY) (STATE) (ZIP CODE)

I acknowledge that our company has ordered KTW Metal Piercing ammunition under our purchase order number _____ of ____/____/82. I understand and agree to dispense KTW ammunition consistent with the policy of "POLICE USE ONLY." I agree to screen and verify the credentials of all potential customers and to sell KTW ammunition only to sworn police officers, military policemen, security agents, or bonafided police product dealers. I agree to retain a photocopy of all KTW purchasers' identification credentials or to record the badge number and the department or agency which employs the purchaser.

I agree that North American Ordnance Corporation personnel have the right, with seven (7) days notice, to inspect _____ ammunition distribution records with respect to the sale of KTW ammunition.
 (PURCHASING COMPANY)

Finally, I agree not to sell KTW ammunition to parties who do not fit the above description or comply with the criteria set forth in this statement.

 (SIGNATURE)

Mr. HUGHES. In essence I gather from your testimony that it is your intent to restrict the distribution of KTW ammunition to the authorities?

Mr. KLEIN. It is not our intent in the future. It is what we are doing now. After Mr. Powis called me and asked us to do it, we did it.

Mr. HUGHES. From your vantage point that is precisely what you have done. You have set up standards and procedures that you feel you are reasonably assured of keeping this information out of the hands of the criminal element?

Dr. KOPSCH. Out of civilian hands. There is no legitimate civilian use for it. You were out of the room when I mentioned it, but to your cynical prosecutor's mind it might appeal to you, we can't be plea bargained.

Mr. HUGHES. I saw that in your statement and I share your concern over plea bargaining these days. It has turned into a method to dispose of cases and comply with the administrative court's directive to move cases, and as a result, justice is not always done. But I saw that in your statement.

Mr. KLEIN. The only distribution of ammunition of KTW now is to police agencies only and to U.S. State Department-approved governments.

Mr. HUGHES. Do you have a position on H.R. 5437, and have you read the legislation and have you established a position on it?

Mr. KLEIN. Yes, sir, I believe I covered my position in my testimony. H.R. 5437 provides no provision for law enforcement equipment manufacturers to use the ammo, and there is no provision in H.R. 5437 for export to friendly governments.

I believe H.R. 5437 leaves the decision regarding the bullets in question up to the discretion of the agency director and if he is changing every 4 years then the police community is going to be on a roller coaster, so that the law enforcement community is not going to have a clear guideline from which to work.

Mr. HUGHES. I understand that. Putting H.R. 5437 aside, if in fact the Bureau of Alcohol, Tobacco and Firearms and the Justice Department, and the other experts are able to identify the characteristics of these armor-piercing bullets and definite legislation that in fact would describe them with sufficient certainty to prohibit their sale or distribution to civilian authorities; you would have no problem with that legislation?

Mr. KLEIN. I would have no problem with legislation that would limit the sale to police agencies and allow us to export to U.S. State Department-approved countries.

I would like to comment that if you embark on such a venture, what is going to happen, when you establish a criteria from which to work.

It could turn out to be an octopus for, let us call the Winchesters and Remingtons, and Federals. If you have a cartridge which is borderline on the bullet-proof vest test criteria penetration of the vest could vary from lot to lot of powder which the manufacturer is using.

Powder will vary probably 10 to 15 percent from lot to lot, so if you have on the test sample, a test which is conducted with criteria

A and they load the same cartridge 2 months later with a different lot of powder, it could very well fail the test.

Mr. HUGHES. How much does powder vary, what percentage?

Mr. KLEIN. Ten or 15 percent, because of the humidity variant. If you have a hot primer you are going to get a faster buildup of pressure and hence more velocity.

Dr. KOPSCH. There is wall thickness which varies the volume which is contained in the round, and this has an important effect on your pressure and developed velocity.

Mr. HUGHES. Does it vary also from manufacturer to manufacturer?

Dr. KOPSCH. There are specifications and they try to hold the specifications constant. Their degree of success is somewhat less than 100 percent.

Mr. KLEIN. Another prime example, you take a Colt gun which notoriously has a tight bore and compare it to another model, you may get a higher velocity out of a Colt than you do out of a Ruger or Smith & Wesson.

Mr. HUGHES. I appreciate your testimony, and frankly the legislation before the committee is for purposes of discussion, for purposes of hearings, to have some vehicle to take testimony on and it is rather obvious that it is a very complex area. I am not really sure we can evolve criteria that would be rational, but certainly I think it is important for us to take a look at the issue. It has generated a lot of interest, as you said in your testimony, and it would be happier to not have the issue occur. The publicity you received is something you didn't invite and you didn't need.

Mr. KLEIN. The most positive steps were taken by Mr. Powis by calling the people who were involved and asking them to do one thing, to sit down and talk about it. That did yield something and it yielded something from Winchester and it yielded it from North American Ordnance, and I am sure it is going to yield it from the other companies who produce a similar product.

Mr. HUGHES. We are indebted to you and you have been most helpful to us today. We appreciate your traveling to Washington to share your views with us on this most important issue. Thank you.

Mr. Davis, please proceed.

TESTIMONY OF RICHARD C. DAVIS, PRESIDENT, SECOND CHANCE BODY ARMOR, INC.

Mr. DAVIS. Up until the recent outburst of KTW publicity there were only a relative handful of gun expert-type people who knew about the existence of armor-piercing handgun ammo.

I am probably in a position to be more sensitive than anyone to reports of KTW or other armor-piercing ammo being used by criminals to penetrate vests. In spite of news stories—it just hasn't happened.

Since 1925 Winchester-Western has produced a .357 magnum metal piercing. It is not quite as effective as KTW, but it will still penetrate almost any soft-body armor. Yet I know of no case where a cop was shot with it. You would need a second chance model Z9 (36 layers) to stop it. The model Y has 18 layers and the model Z has 26 layers of Kevlar.

KTW makes eight handgun rounds, our model Y or Z will stop four of them. The other four can be stopped with a one-tenth of an inch K-30 insert.

The nice thing about armor-piercing rounds is that because they do not expand, they generally cause far less damage than lead or hollow point style bullets. My general feeling is that there is approximately a hundred times greater chance of the policeman being killed by a head shot due to this vest publicity than there is by a criminal seeking out exotic armor-piercing ammo and then deliberately shooting a policeman with it.

If a pure and simple killing of a policeman is the desired effect, this can be much more easily accomplished with a high-powered rifle from a distance, or with a sawed-off shotgun in the face from close range. It has been our experience that the vast majority of cop killings are the unplanned result of a small-time criminal being suddenly confronted with capture. What we call: "The cornered rat syndrome."

In the month right after the sensationalistic NBC "KTW expose" there were four vest-wearing officers—two in Chicago, Ill., one in Detroit, Mich., and one in Columbus, Ohio, killed by head or neck shots. After the orgy of publicity quieted down we had 2 policemen: Mr. Mike Chappell of Sand Springs, Okla., and Mr. Steve Hunt of Viburnum, Mo., shot. Both officers were wearing their Second Chance vests and both were hit in the chest. They became our saves 247 and 248 in our brochure instead of a name on a police station wall.

Everyone in law enforcement has to realize that vest publicity of any kind kills cops. Somebody talks, somebody else dies.

There was an additional matter since this testimony was written. About 10 days ago when they had a repeat of the "That's Incredible" show, a show I turned down four times and begged them not to put on. Four days after "That's Incredible"—a nice story about all of the vests and how wonderful they were—4 days later Trooper Jacobs of New Jersey State Police was shot in the face and he is just barely alive now and he, too, has lost an eye. Three days after that, 1 week after "That's Incredible" publicity story about vests, Detroit police officer Creen was shot to death with a handgun in the head, from an ambush and his partner was wounded in the shoulder. I think it was to be a head shot.

I wish Congressman Biaggi were here. He should be taken to task about certain things he said in the beginning of his statement which I felt were somewhere between stupidity and treason. I tried to cooperate with him in the past before he made the statement and before they had the story on television and again begged them not to have any publicity. That is all I asked.


On numerous occasions I had several half-hour conversations with Biaggi or his agent, Mr. Floyd, and continually stressed the fact that he should not have publicity.

Given a \$5 million Government study you could confirm this: Every time there is a little rash of publicity, cops get killed, shot in the head. It is sort of tantamount to reviewing the D-day invasion. A news reporter, if there are any still here, on June 1, 1944, suddenly heard about the plan to invade, and knew about the plan to invade Normandy, would he have some kind of obligation to print

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the truth, and to let the people know? I don't think he does. I don't think there is a holy obligation to inform the general public and the crazies among them that policemen are wearing body armor. So I am open to any questions you have. Mr. HUGHES. Thank you very much, Mr. Davis. [Statement of Mr. Richard C. Davis follows:]

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 **SECOND CHANCE BODY ARMOR, INC.**

P.O. Box 578 • Central Lake, Michigan 49622

PHONES:
Area Code 616 → 544-5721
Toll Free 800 → 253-7090
TWX: 810 → 291-1950

Comfortable, Lightweight, Concealable Body Armor

March 22, 1982

Up until the recent outburst of KTW publicity there were only a relative handful of 'gun expert' type people who knew about the existence of armor piercing handgun ammo.

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If a pure and simple killing of a policeman is the desired effect, this can be much more easily accomplished with a high-powered rifle from a distance, or with a sawed-off shotgun in the face from close range. It has been our experience that the vast majority of cop killings are the unplanned result of a small time criminal being suddenly confronted with capture. What we call: "The cornered rat syndrome."

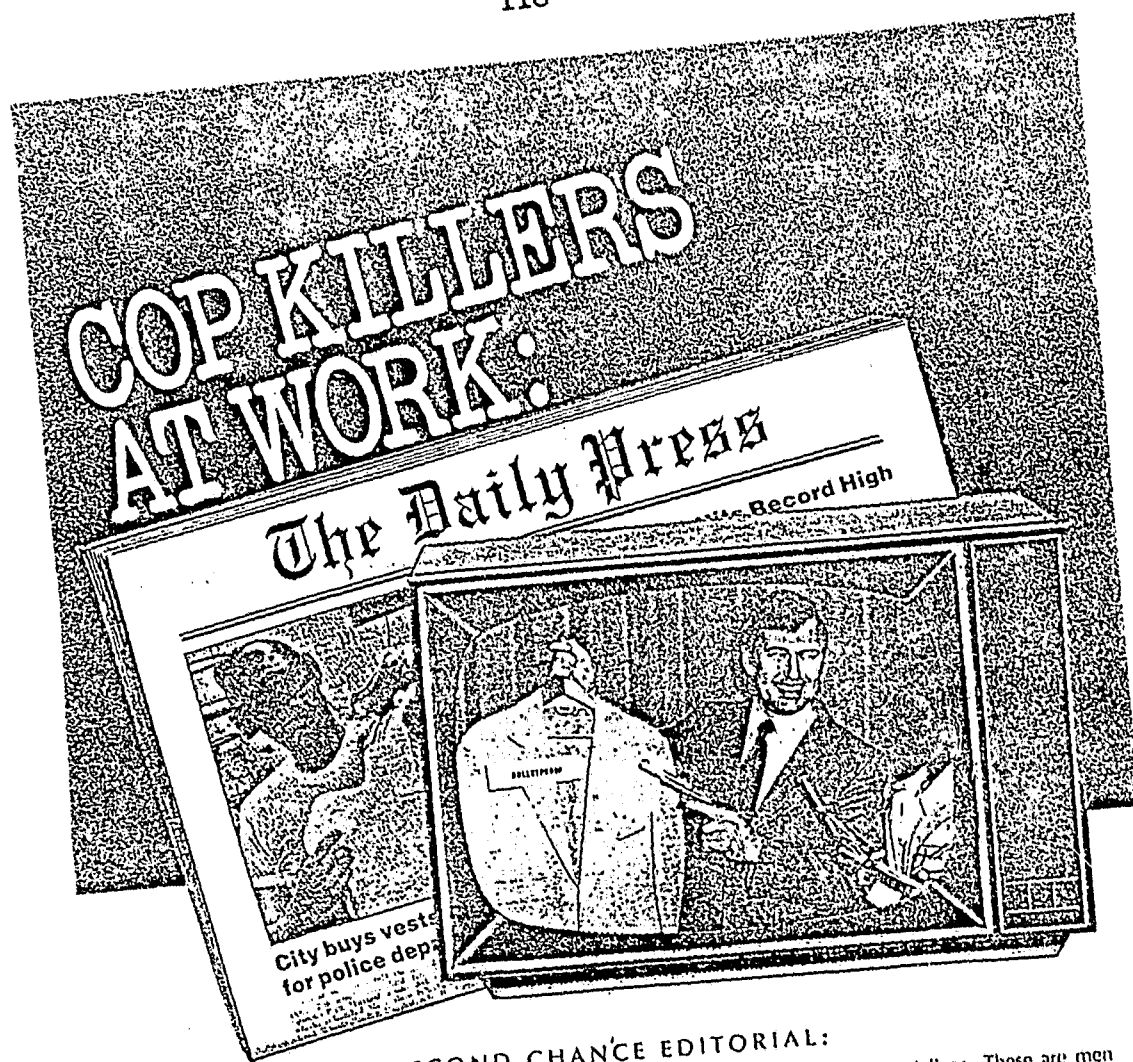
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Everyone in law enforcement has to realize that vest publicity of any kind kills cops! Somebody talks, somebody else dies!

Sincerely,

R. C. Davis
Richard C. Davis
President

RCD/dk
"If They See the Armor, They Shoot for the Head!"
"SECOND CHANCE" has saved more American policemen than all other body armors combined



SECOND CHANCE EDITORIAL:

Second Chance invented* the concept of everyday concealable body armor in 1972, and since that time, we have tried to avoid any kind of publicity. We also have tried to orientate all those affiliated with body armor to the same philosophy.

Freedom of the press must be respected, however, we do not believe the general public has the need to know about the technical details of any police operation, and body armor in particular.

What can Second Chance do -- not much except to keep on saving cops and avoiding reporters.

Traditionally, most cop killers have been people with limited intelligence shooting in panic at the chest. Lately, there is a dangerous new wave of other people who have been and will continue to be partially responsible for taking law enforcement officers' lives. These are men and women of the news media. These are also some Second Chance 'imitators'. These are sometimes unthinking fellow officers.

These people, with just a few lines of type or seconds of time devoted to body armor in the press or on TV, are continually reinforcing the street punks with the knowledge that lawmen wear concealable body armor. There is someone reading or listening to these 'news announcements' that will remember this information when he is confronted by a lawman . . . and, shoot for the officer's head.

Some will miss. Some won't . . .

Richard C. Davis
Inventor-President

SECOND CHANCE

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Mr. HUGHES. First of all, let me just tell you that Mr. Biaggi is a very distinguished member of this institution and a much decorated police officer.

Mr. DAVIS. I wasn't accusing him of doing it deliberately.

Mr. HUGHES. Treason is a betrayal of the country.

Mr. DAVIS. To risk the life of the President is perhaps just as bad.

Mr. HUGHES. Let me just suggest to you that I can assure you that Mr. Biaggi is a very patriotic, God-fearing American, who does his very best for police officers. We may disagree with him from time to time on the method he uses, but nobody could question his loyalty to the country and his efforts to do what he thinks is best for all of us.

Let me ask you, what is the state-of-the-art with body armor? I must assume that research continues in trying to find ways to find body armor that is more protective?

Mr. DAVIS. We have the best armor. It is still effective for your .22's, and some .44 Magnums. I wouldn't say that if we were on television, but we have inserts which will stop all of the ammunition. They are light enough that a guy could probably wear that if KTW became a national epidemic.

There has never been a single policeman shot with KTW through a vest.

Mr. HUGHES. Mr. Biaggi testified that there were law enforcement agents, one from Canada and one from Florida, from the State Highway Patrol that were killed by armor-piercing bullets in 1976.

Mr. DAVIS. They were shot in the head and neither one had vests anyway. The impact of armor-piercing ammo is very small, and unless the impact is directly on the heart or directly on the spinal cord, it is almost certain that the man is going to survive that.

Mr. HUGHES. There was testimony before you, and you were here I presume when the testimony was given, but it was to the effect that police officers generally do not find armor-piercing ammunition to be of assistance. They don't use the ammunition.

Mr. DAVIS. At this point they don't. I actually have sold them to policemen, and we require a copy of their ID card and turned down Federal agents because their agency would not let them make copies.

Ten years ago there was no such thing as concealed body armor. Now we have States buying thousands at a time. I will tell you a prediction for the next 10 years. It has actually started. You had the case of Brink's robbery up in New York and the criminal elements had the vests on. Someone else was selling them openly to the public in New York, and they, in effect, were able to turn the tables. In that case the criminals had the vests and the policemen did not, and the police died.

There have been several other cases with less publicity. There is one case, one of the 10 most wanted had a vest and he survived one shoot-out.

Probably in the next 10 years that will continue. Du Pont also recently, that is 3 days ago, sponsored a fashion show showing stylist clothing for general citizens. I frankly doubt or it is dubious that they would stop anything more than a New York City police

bullet. But this is being pushed to be sold to the general public. They have a seminar for clothing manufacturers. It is a legal problem here, and no one knows how far it is going to go. I think you are going to see more use of concealed body armor by the criminal element.

After you get a few cases like the New York State case, you are going to see policemen and perhaps whole departments as they are now, issuing body armor. You will see them issuing armor-piercing ammo. It is a thing I don't like at all, for all of the disadvantage armor piercing has, but if enough policemen lose gunfights because of body armor in the wrong hands, you are going to see policemen clamoring for it.

Mr. HUGHES. Instead of seeing that scenario, that is, where the police officer finds he is at a disadvantage because the criminal is wearing a body armor, the criminal knows when he is going to commit a crime and the policeman doesn't have the benefit of that.

So the policeman finds it is too hot, and it is uncomfortable in the squad car or for some other reason he doesn't wear the armor, it gives the edge to the criminal. Instead of having the scenario where the policeman ends up buying armor-piercing bullets because the criminal is wearing body armor, would it make sense to try to identify some criteria where some legislation would be passed that would penalize the criminal element for possessing or purchasing armor-piercing ammunition?

The approach by the authors of the legislation is to ban the distribution of that ammunition to the criminal element.

Mr. DAVIS. If you banned it all today, and just locked John Klein and Mr. Kopsch up today and he raised those 30 million Czech steel rounds, over 30 million rounds, it is impossible to recall. You couldn't recall that. Then I am saying in 5 or 10 years from now there will be a cry from the policemen to reinvent it because you will have criminal elements using body armor which will resist the ammo.

Mr. HUGHES. Is the armor-piercing ammunition of any value, in your judgment, to agencies other than law enforcement and perhaps military?

Mr. DAVIS. Yes, it is. Again I have sold, and I have a Xerox copy, I sold to several hundred individual policemen and several departments, again for the reason previously stated, a lot of these departments don't want to be identified because the roof would fall on them publicitywise.

We have records of every bullet we have ever sent out, and I am not anxious to let anyone get them. But it would be only under BATF subpoena. A lot of police departments have it and they lock them up into armories. I know there are some departments, who are using KTW right now.

Mr. HUGHES. Thank you.

Mr. SAWYER. Maybe you could put out a defective vest that criminals could buy.

Mr. DAVIS. All of my competitors do that, sir.

Mr. HUGHES. I was going to ask you a question. I was wondering about this Kevlar material, where they make sport jackets that look fairly decent and didn't involve wearing a vest.

Mr. DAVIS. Yes, for several reasons it is not practical for police work because the uniformed policeman doesn't wear a sport jacket. A few detectives wear jackets, but they are not the ones being killed. The detective knows when he is going after the guy and he takes the shotgun with him. The policemen being killed are suddenly confronted by a criminal. In some cases their first reaction is when the gun went off, "Why is someone shooting me?", if he was originally stopping and giving him a ticket for a noisy muffler.

One company is making sport jackets, I feel their market is angled toward the criminal element, who will wear something like that.

Mr. SAWYER. Maybe you were not here when I mentioned it before, but I had one case, which may have involved a Second Chance vest, where a police officer alone in a Chrysler saw a fellow in a military tunic, sort of marching down the center of one of our streets.

Mr. DAVIS. I remember that one.

Mr. SAWYER. He was apparently drunk or crazy. The officer rolled down his window and pulled up along side. The fellow started pounding him on his chest and he suddenly realized he had a great big hunting knife and he was stabbing him in the chest. Fortunately, he had his vest on. I examined the vest subsequently, and it effectively stopped this hunting blade, too.

Unfortunately he got knicked above it a little so there was some blood on it, but he really wasn't hurt. He finally managed to get his gun out and shot the fellow. Of course, there was nothing else he could do, and he was lucky he had a vest on. But that was one instance.

Mr. DAVIS. There have been a lot of incidents like that. There are 253 at last count.

Mr. SAWYER. He had not the slightest warning, that this could happen. He just thought he was dealing with some drunk or something. It so happened that the fellow was a mental patient who apparently had become imbued with the idea that the Russians were invading us and he was out on patrol or something of that kind. He thought the police officer was one of them.

Mr. DAVIS. That was a happy ending. On the other hand, suppose that man had seen "That's Incredible" before he walked away. If the man had seen the press story about the concealed body armor, he might have shoved the knife into the policeman's throat or in his eyes.

That is why I am overly touchy by seeing policemen die from excessive publicity. I have turned down no end of shows, and Eric Severeid in his farewell address, the last speech he made, he said perhaps we shouldn't be saying, we, the news people, shouldn't be saying whether or not the President is wearing a bulletproof vest.

Now he is gone, but on the other end of the spectrum, the National Enquirer a year ago wanted to do a story about our vests and how wonderful they are, and we politely explained to them why they shouldn't do it, and thank God, they didn't.

Mr. SAWYER. Is that the National Enquirer? I thought that they never turned down publishing anything?

Mr. DAVIS. I was amazed myself. They declined to print it, and yet other much higher minded papers have done stories about this,

and every one is after publicity. I don't think anyone wants to see policemen get killed, but it is a thing we are trying to get across.

Publicity does indeed kill policemen. It has happened over and over again, and it will happen every time that someone gets a story off the press and it can happen.

Mr. SAWYER. There are 14 different police departments operating in my area and some of them are fairly sizable with 350 or 400 police officers. They have great difficulty getting officers to wear vests because they are hot in the summer.

Mr. DAVIS. We have a new model, sir. I was told by some people in the government of the State of Michigan how to make vests, and with all pretext of modesty aside, that's like telling Edison how to make light bulbs. They told me to make the vests quite a bit different for them. But they have since switched their ordering to be more reasonable and do it my way.

The one I have on here is a new one, it is a little bit different.

Mr. SAWYER. Do you have one on now?

Mr. DAVIS. Yes, it is crazy town out there.

Mr. SAWYER. You don't have much confidence in this committee, do you?

Mr. DAVIS. No.

Mr. SAWYER. The chairman is really a pretty good natured guy.

Mr. DAVIS. How about all those .32s out there? Here is one of the little pearls of wisdom I can give you, in the late sixties, well-meaning people banned in effect the Saturday night specials, and they banned these in 1968 and about early 1970 the ban began to take effect.

There were previous Government studies about policemen getting killed, and they are killed by .38's down to .22's. In the early 1970's, the supply of Saturday night specials started drying up, and now we are not getting policemen killed with .25's and .32's, but being shot with .38's and .367's.

The criminal element doesn't want to carry expensive guns, but if he has to, he will do it. It is a business expense.

Many policemen would call me in the early seventies to buy a vest, and they would tell me how they confronted a criminal the night before. He comes around and click, he has some Mongolian .32 there, and everything is out of whack and it didn't work. The policeman calls and asks for a vest. You don't get that any more. You get the 16 men we saved with magnums. We have had 10 of those in the last few years, and it is just another thought there of getting that.

We should require the criminals to carry .25's and cheap guns, they'd love it, and it would be a lot easier to stop the bullets.

Mr. HUGHES. Mr. Davis, you have made a number of statements about the publicity. I have the same perception about the television programs and the other media bringing to the attention of criminals and others, information about KTW, and a host of other issues. They are all great duplicators. But is it totally fair to criticize the media?

I am not sure, because some of the publications that advertise these things make it clear they are armor-piercing bullets. Some of the publications that go to the sporting minded people have stories about armor-piercing bullets. Here, for example.

Mr. DAVIS. What magazine was that?

Mr. SAWYER. That is Gun World, December 1981.

Mr. DAVIS. I am not too happy with that either.

Mr. SAWYER. Firing Line has an article on KTW armor-piercing ammunition, and he describes the bullet as the armor-piercing ammo.

Mr. DAVIS. I am not too happy with that at all, and I don't think that they should. I would pull advertising out of magazines where they have it.

Mr. SAWYER. The point I make is that, you know, certainly the gun publications have pointed out the usage of the armor-piercing ammunition.

I also notice your own letter at the bottom, you make a reference to "If they see the armor, they shoot for the head." That suggests just precisely what you have just described as something that we should not be promoting or suggesting. I am not so sure.

Mr. DAVIS. That is not for criminals in the street, that is our stationery which goes to policemen and not to the general public at all.

Mr. SAWYER. Just to law enforcement?

Mr. DAVIS. Yes.

Mr. SAWYER. You don't have any civilian customers?

Mr. DAVIS. No, we turn them down.

Mr. SAWYER. How do you turn them down, by letter?

Mr. DAVIS. We require police ID on our order forms, and we have dumped at least six dealers that I know of. One was selling over \$100,000 a year of our equipment and I dismissed them as a dealer because they were also selling to the general public.

Mr. SAWYER. This letterhead hasn't gone to anything but law enforcement people?

Mr. DAVIS. Very seldom, not a person gets it. This one here, on the rulings of the committee I felt a little uneasy. I think that I told the Secretary here, I didn't want to have the general press hear the testimony.

Mr. SAWYER. I understand that. Let me just say, that I think that there is something to it, but we have to give the criminal element a little more credit. They have a way of finding things out and their intelligence is often as good as the law enforcement intelligence. They have a way of finding out where they can buy things and how they can buy them and how much it costs and the best way to buy weapons or ammunition or what have you.

Mr. DAVIS. Yes, there are some cases where they are markedly intelligent. But, in most cases intelligent criminals are not out shooting cops. That is one of the stupidest things a criminal can do. The intelligent criminals are out working credit card scams and other things.

Mr. SAWYER. How would you characterize the criminals that just robbed one of the Brinks' trucks?

Mr. DAVIS. Yes.

Mr. SAWYER. They had body armor as a matter of fact, and in fact one of the vests was taken off one of the perpetrators of that offense a few months ago and he actually had a vest that still had a bullet in it.

Mr. DAVIS. The bullet was in his pocket, and it wasn't our vest.

Mr. SAWYER. The point I am trying to make is, I wouldn't know how to characterize that particular criminal.

Mr. DAVIS. That was a very intelligent criminal to rob an armored car or a large payroll, or a bank with a lot of money at the right time is a very intelligent thing.

While these cases make the big headlines, the vast majority of police killings go over with something in the order of \$100, a man caught with half a pound of marihuana and he starts shooting.

The real tragedy is that the average cop killer, if at the last second instead of pulling the trigger, just threw the gun down and gave himself up, and if he did that, in general he would probably serve less than 6 months for the crime he was originally pulling off. Even if he did a lot of time, his lawyer can say "This man had a chance to kill the policeman and he didn't."

Mr. SAWYER. I think that you make that point very well, and you indicate the vast number of cop killings are unplanned. You have given us some things to think about and we appreciate your testimony. It is really a complex area and I am not so sure that there is something that we can or should be doing, but certainly I think you will agree we should look at the issue at this point.

We tried to make some rational decisions about what has been happening.

Mr. DAVIS. I wish that all this publicity would go away. Frankly, the best thing to do legislatively, and I think there are a couple of bills in the House to this effect, but get a bill that if a man carried a loaded firearm while committing a violent crime, he gets 5 years, discharging the firearm is 10 years and if he hits someone 15 years, and if he killed someone it is 20 years.

I myself have been shot. Back in 1969 I was shot twice with a .25 automatic. If it would have been a larger gun, it would have killed me. That's another story there, but if it was a larger caliber gun I would probably have been shot dead.

Of the people who shot me, only one got 6 months time, in Ionia, Mich., and it was just a mild prison term, 6 months for shooting a man twice in the commission of armed robbery. I think the guy should have been doing 5 or 10 years for that. This goes on 5 or 10,000 times.

Mr. HUGHES. That is one of the options and possibly we could add 5 years if they had armor-piercing bullets, but I am not sure the average criminal thinks in terms of how many years he is going to get.

Thank you, Mr. Davis. Your testimony has been helpful.

We will adjourn.

[Whereupon, at 5:20 p.m., the subcommittee adjourned.]

ADDITIONAL MATERIAL

LOS ANGELES POLICE DEPARTMENT,
Los Angeles, Calif., December 9, 1981.

Mr. G. R. DICKERSON,
Director, Bureau of Alcohol, Tobacco and Firearms,
Washington, D.C.

DEAR MR. DICKERSON: Thank you for your letter dated November 3, 1981, and the accompanying material regarding handgun bullets capable of penetrating body armor worn by law enforcement officers.

The Ordnance Unit of the Los Angeles Police Department has test fired the .38 caliber KTW bullet. The measured velocity was 1051 feet per second. The bullet penetrated the front panel of a Safariland M-3 LAPD (Specification M-13) body armor vest and continued through 3½ inches of "duxseal", a substance with a density close to that of human bone.

Because of the significant hazard to our officers posed by ammunition with these capabilities, we have requested that legislation be introduced in California which would control its possession and sale. However, this type of ammunition is available throughout the country. Legislation on a national level is urgently needed to control the ammunition. This needless risk of injury or death for both state and Federal law enforcement officers can be eliminated through our combined efforts.

Thank you again for your concern and assistance.

Very truly yours,

DARYL F. GATES,
Chief of Police.

STATEMENT OF HON. FRANK J. GUARINI

Mr. Chairman, I would like to take this opportunity to commend my colleague, Mr. Biaggi, for his dedication and determination toward the goal of outlawing armor-piercing bullets. These bullets are capable of penetrating the bullet-proof vests worn by an estimated 50% of our law enforcement personnel nationwide.

Currently, federal law does not restrict the sale of any type of ammunition. Although the manufacture of these so-called "cop killer" KTW bullets contend that this ammunition was originally designed for police and military use, there has been no attempt to limit the availability to the public. Furthermore, not one single police department in the United States uses or endorses the use of the KTW bullet.

It makes absolutely no sense to risk the lives of our nation's dedicated police officers by allowing the manufacturing of this kind of deadly ammunition to continue.

Tests have shown that the most powerful of these bullets can penetrate up to 72 layers of kevlar, the protective material used to make bulletproof vests. The most popular soft body armor used by police is made of only 18 layers of kevlar. And, what is even more discouraging is that the KTW bullet is manufactured by the same firm that also makes the bulletproof vests.

The bill has the support of numerous law enforcement organizations in my district and in my state including the Jersey City Police Superior Officers Association.

I join with my colleague in support of this worthwhile and urgently needed piece of legislation, and will work with him toward the goal of preventing the further production and sale of ammunition that has no legitimate or useful place in our society.

STATEMENT OF MICHAEL K. BEARD

Mr. Chairman, my name is Michael K. Beard and I am President of the National Coalition to Ban Handguns. I am writing on behalf of the more than 30 national organization and 100,000 individuals that comprise the Coalition.

The Coalition joins with numerous law-enforcement and policeman's organizations to support the "Law Enforcement Officers Protection Act of 1982" introduced in Congress by Rep. Mario Biaggi (D.-N.Y.) and Rep. Joseph Minish (D.-N.J.) The Act, which consists of three House bills, H.R. 2280, H.R. 5437 and H.R. 5392, would allocate federal funds to identify and ban a certain class of handgun ammunition which can penetrate commercially-available body armor. These bullets are known colloquially as "cop-killer" bullets.

According to statistics provided by the Justice Department, 104 law-enforcement officers were murdered in this country in 1980. Although tragically high, this figure represents a significant decline from previous years, a decline which may officials attribute to the growing acceptance among police and peace officers of bullet-proof vests as a viable form of self-protection.

The progress achieved through the use of bullet-proof vests is mitigated by the proliferation of handgun ammunition with friction-reducing coatings such as teflon, precisely the type of ammunition described in the legislation. Allowed to continue unchecked, the practice of selling such ammunition to the public—ammunition that is of no use to police or military—is nothing short of reckless.

Objections have been raised to the effect that a ban on a certain class of handgun ammunition would interfere with the legitimate purposes of sportsmen. Opponents have suggested that the ban would indiscriminately restrict usage of certain rifle

and shotgun bullets useful for hunting. This would not be the case. The study would be undertaken so as to *minimize* impact on hunters, and identify for the purpose of a ban only those bullets most likely to be used in handguns against law-enforcement officers.

It should be noted for the record that NCBH recognizes the clear distinction between the effort to ban cop-killer bullets and the effort to ban handguns. The humanitarianism underlying the Law Enforcement Officers Protection Act of 1982 is such that support for the legislation should cut across partisan lines and encompass those on both sides of the handgun-control debate. At stake are the lives of the men and women assigned to protect us.

Thank you.

METROPOLITAN WASHINGTON COUNCIL OF GOVERNMENTS,
Washington D.C., May 5, 1982.

Hon. WILLIAM J. HUGHES,
Chairman, House Subcommittee on Crime,
Washington, D.C.

DEAR CONGRESSMAN HUGHES: I am writing to you today in my capacity as Chairman of the Police Chiefs Steering Committee of the Metropolitan Washington Council of Governments to express our concern over a product which has received considerable publicity over the past few months, and which we feel represents a significant hazard both to the members of the law enforcement community and to the public in general. This product is the armor piercing bullet.

This type of ammunition, although it has been commercially available for the past seven or eight years, has not been widely recognized for its unique and distinctive properties. Recent television and news media coverage has brought to light the properties of this high power ammunition, especially its piercing capabilities. We have a number of concerns regarding this type of ammunition, and one of them is the concern that it is capable of piercing all brands of body armor currently on the market. Our personnel have been encouraged to purchase and use body armor as a matter of routine personal security. However, in light of the availability and ever-increasing awareness of the KTW, and other armor piercing ammunition, we feel that this is providing a false sense of security to our personnel. They are assuming a margin of safety that simply does not exist in the presence of this type of ammunition.

It is the belief of our Committee that this type of ammunition is not appropriate for general public consumption, that it has no obvious recreational application, nor is there any other conceivable need which the public might have to purchase this type of ammunition. It goes without saying, that we also believe the primary market for this ammunition is and will continue to be those persons who intend to put it to illegitimate use.

It is with these concerns in mind that I write to you today, to urge that the Subcommittee on Crime, under your Chairmanship, move as rapidly as possible to achieve passage of H.R. 5437—legislation which would permanently remove this product from the market.

We are communicating our concerns simultaneously to the Congressional Delegation of the Metropolitan Washington Area, in the hopes that some definitive action may be taken to remove this ammunition from the market.

Thank you very much for your time and any future consideration which you may be able to give to this issue.

Sincerely yours,

COL. CARROLL D. BURACKER,
Chairman, Police Chiefs Steering Committee.

SHERIDAN POLICE DEPARTMENT,
Sheridan, Wyo., May 22, 1982.

Hon. WM. J. HUGHES,
Chairman, House Subcommittee on Crime,
Washington, D.C.

DEAR SIR: I am writing in regard to a recent "report" concerning the sale, manufacture and use of the KTW bullet and ammunition.

The majority of these "reports" have been biased, slanted and sparsely factual. The sensationalism and yellow journalistic tactics used by these "reporters" is astounding.

A gullible and un-knowing public may swallow this nonsense but I don't intend to stand still about this issue. In our department we receive, on a near daily basis, teletypes describing the murder and ambush of officers all over the United States. I would have no problem whatever showing you the fact that most of the officers killed, were killed with readily available means, none of which has been the "killer bullets" manufactured by KTW. Automobiles, various garden tools, and firearms are used.

The nonsense written and televised about "bulletproof" vests go hand in hand with the rest. Well meaning communities and administrators supply police personnel with these garments and that is well and fine. Study upon study is printed and reported about these ballistic garments. And each of them contradicts the other. Depending upon whose viewpoint/opinion/fact you read. The truth of the matter is this: Ballistic vests do little good hanging in a locker and that is where a lot of them are. Another truth is this: the overwhelming majority of these vests will not stop a "PLUS-P" or hyper-velocity projectile of .38 caliber or larger. This Plus-P ammunition is available over the counter most places. Nor will any of these garments defeat high power rifle ammunition. Due to my desire to become a good officer and stay alive at the same time I have spent a considerable amount of time and money finding out about this particular segment of police equipment.

I am amused somewhat, by the tactics of those who decry the KTW and its inventors. For some reason these people were asleep for several years. In addition to this these same people are neatly asleep over the fact that ballistic cloth "fashion wear" is now the rage. It has been available for quite some time. Now all of our best dressed criminals can dress for the occasion, in a neatly tailored "bulletproof" vest.

To continue, those departments not using hyper-velocity ammunition or heavy caliber revolvers, these custom fit, fashionable vests and pants pose a serious threat.

For a long time there has been available various "metal piercing" projectiles, for both rifle and pistol/revolver. Marketed by large ammunition companies this ammo does not come under fire. For the purpose it was designed for it mostly fails. But, it will still easily penetrate all ballistic vests short of those with ceramic inserts. The KTW round on the other hand, does what it was designed to do. That is go through metal.

In our situation with the recent judgments against police officers who shoot felons I cannot but voice my opinion for the KTW round. This cartridge will stop a vehicle without shooting the driver or occupants. For a roadblock situation it is about all we have available. I feel it would be a very serious mistake to take this tool from the police departments.

The only thing that I can see, that has been done by recent "disclosure" of the KTW round is this: It has advised those criminals not smart enough or truly inquisitive enough, about a very good police tool. Not to mention that fact that in a recent article about the KTW round an author went so far as to report a subject buying KTW "bullets" C.O.D. A clear violation of the 1968 Gun Control Act. Not a word was mentioned about this serious violation.

I am strictly AGAINST any legislation that would take the KTW product off the market, police or otherwise!

Sincerely,

JERRY NELSEN,
Sheridan Police Department.

COMMITTEE ON THE JUDICIARY,
HOUSE OF REPRESENTATIVES,
Washington, D.C., June 24, 1982.

Hon. WILLIAM HUGHES,
Chairman, Subcommittee on Crime,
Washington, D.C.

DEAR BILL: I am enclosing, for your information, a copy of a resolution of the State of Michigan Commission on Criminal Justice regarding armor-piercing ammunition. I hope that we, as a Subcommittee, will continue to attempt to resolve this problem.

Sincerely,

JOHN CONYERS, Jr.,
Chairman, Subcommittee on Criminal Justice.

RESOLUTION PERTAINING TO THE BAN OF TEFLON-COATED BULLETS

Whereas, certain types of bullets are capable of piercing all forms of "bullet-proof" vests and can penetrate many materials previously considered bullet resistant; and

Whereas, the piercing capabilities of these bullets pose a serious threat to law enforcement officers and to all the citizens of this state; and

Whereas, the purported advantages of these bullets are minimal in comparison to the substantial and serious threat they create; now therefore be it

Resolved, That the Michigan Commission on Criminal Justice strongly urges the legislature to pass appropriate legislation to ban in this state the manufacture, sale, and possession of all exploding bullets, teflon-coated bullets, or bullets which are composed of less than 75% lead or aluminum; and be it further

Resolved, That copies of this resolution be transmitted to the Governor and to all members of the Michigan Legislature; and be it further

Resolved, That this resolution be brought to the attention of appropriate federal officials.

ARMOR-PIERCING AND EXPLODING BULLETS

WEDNESDAY, MAY 12, 1982

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON CRIME,
COMMITTEE ON THE JUDICIARY,
Washington, D.C.

The subcommittee met, pursuant to call, at 1:30 p.m. in room 2141, Rayburn House Office Building, Hon. William J. Hughes (chairman of the subcommittee) presiding.

Present: Representatives Hughes, Kastenmeier, Glickman, and Sawyer.

Staff present: Hayden W. Gregory, chief counsel; Eric E. Sterling, assistant counsel; Deborah K. Owen, associate counsel; and Phyllis Henderson, clerk.

Mr. HUGHES. The Subcommittee on Crime of the House Judiciary Committee will come to order.

The Chair has received a request to cover this hearing in whole or in part by television broadcast, radio broadcast, still photography or by other similar methods. In accordance with committee rule 5(a), permission will be granted, unless there is objection. Is there objection?

Hearing none, such coverage will be permitted.

This afternoon we are continuing our investigation into various types of sophisticated handgun ammunition and proposals to restrict their availability.

Most of the American people first learned about exploding bullets in connection with the attempted assassination of President Reagan. These bullets are designed to rupture on impact, to disperse within the target, which increases the disabling effect of the ammunition and its potential stopping power. Other types of bullets are designed to achieve high velocities in order to penetrate metal target silhouettes. Depending upon design, some of this ammunition can penetrate metal, armorplate, masonry or stone, or bulletproof vests, for that matter.

The Subcommittee on Crime is extremely concerned with the danger to the Nation's police officers posed by the potential for uncontrolled distribution of exploding and armor-piercing ammunition. Three bills, H.R. 2280, H.R. 5392, and H.R. 5437 have been referred to the Subcommittee on Crime that propose various approaches to be taken when considering armor-piercing ammunition.

On March 30 of this year, we heard from several distinguished witnesses regarding this controversial issue. Representative Mario Biaggi, who has sponsored two of the bills before the subcommittee, has been the leader in alerting the Nation to the potential problem

posed by armor-piercing bullets. Mr. Biaggi gave informative testimony in March, and we continue to receive his assistance on this most complicated issue.

The Department of the Treasury and its experts in the Bureau of Alcohol, Tobacco and Firearms discussed various technical issues raised by the proposed legislation. We benefited a great deal from the testimony of the inventor, and by the manufacturer, of KTW armor-piercing ammunition, Dr. Paul Kopsch and Mr. John Klein, and the testimony of a manufacturer of soft body armor worn by many police officers.

Unfortunately, we ran out of time on March 30 due to several unavoidable, unforeseen delays, and several of our invited witnesses were unable to testify at that time. They very graciously accommodated us and agreed to testify at a later date. We are very pleased that Norman Darwick, executive director of the International Association of Chiefs of Police; "Pete" Shields of Handgun Control, Inc.; and Edward Murphy, counsel for the International Brotherhood of Police Officials, who patiently waited for us on March 30, are able to join us here today. We do apologize for that delay last time.

Before our original hearing, the National Rifle Association had requested to testify. They sent a representative on March 30 but, since then, have decided that they do not want to testify in person. Instead, they have asked that their written statement submitted in March be made a part of the record which, without objection, is so ordered.

[The statement of the National Rifle Association follows:]

TESTIMONY OF NEAL KNOX, EXECUTIVE DIRECTOR, NATIONAL RIFLE ASSOCIATION
INSTITUTE FOR LEGISLATIVE ACTION

Mr. Chairman and members of the Judiciary Subcommittee on Crime, I appreciate the opportunity to testify on behalf of the 2.2 million members of the National Rifle Association in opposition to H.R. 2280, H.R. 5392, and H.R. 5437. I am particularly qualified to comment in these areas, for I was formerly the editor of two technical firearms magazines and have served as a court consultant on firearms matters.

Initially, I would like to stress the fact that since its development, some 13 years ago, the KTW armor piercing bullet has on no occasion penetrated soft body armor and wounded a law enforcement officer. It would not be known to criminals had it not been so heavily publicized, as a result of this bill.

Secondly, the KTW bullet is but one example of a large class of projectiles, which when combined with a given cartridge/gun combination, have the ability to penetrate soft body armor worn by policemen and dignitaries. It is in light of these facts that I would like to express our opposition to the specific legislation under consideration.

H.R. 2280 and H.R. 5392 authorize the Secretary of Treasury to conduct a federally funded study of handgun ammunition "to determine the capacity of handgun bullets to penetrate bulletproof vests".

Mr. Chairman, authorizing a \$500,000 study of the ballistic resistance of soft body armor is not only unnecessary, but is wasteful and redundant. H.R. 2280 and H.R. 5392 seek to spend a half million tax dollars to duplicate federally-financed research begun over a decade ago.

Supporters of H.R. 2280 and H.R. 5392 insist that a new Federal study is necessary to determine which types of handgun ammunition penetrate soft body armor. Mr. Chairman, I urge you to read and review the exhaustive ballistic resistance data already compiled and published on the protection levels afforded by each type of body armor. The KTW bullet was extensively tested in these tax payer funded studies and its properties are well known by the experts in the ballistics field.

Taking into account the total cost of the development grants, the U.S. taxpayer has already spent well over \$3,000,000 to develop design, and test body armor.

Authorizing another study to obtain ballistic resistance data on body armor, data which is already publicly available, is not only expensive but is a nonproductive use of the taxpayer's scarce tax dollars. The details on the federally funded research are attached to my testimony for the record.

Mr. Chairman, the most disturbing legislation proposed on this issue is H.R. 5437, as introduced by Congressman Biaggi. H.R. 5437 as drafted, would institute a ban on the manufacture, sale, or importation of any bullet which, when fired from a handgun with a barrel less than five inches in length, will penetrate 18 layers of Kevlar, the key ingredient in soft body armor.

Mr. Chairman and Members of the Subcommittee, the definition of "restricted handgun bullet" as contained in H.R. 5437 would impact on a large class of conventional handgun and rifle ammunition used by sportsmen all over the country. Not only would this legislation ban the manufacture and sale of KTW ammunition, it would ban many cartridges such as the common .30-30 Winchester. The .30-30 cartridge is currently factory chambered in specialized hunting and silhouette competition handguns; when fired from one of these handguns with a barrel of five inches or less will penetrate 18 layers of bullet resistant Kevlar.

In addition, there is a large class of conventional handgun ammunition which would be banned by H.R. 5437 if signed into law. Mr. Chairman, I have a list of the handgun ammunition to which I refer, but would request that this Subcommittee meet in Executive Session, rather than identify this ammunition in an open forum.

At this juncture I would like to point out that H.R. 5437 would require the Secretary of the Treasury to identify, through ongoing ballistic tests, those "restricted handgun bullets" as defined in the legislation. In order to inform the bullet manufacturers as to which "bullets" they could not legally manufacture, the results of those tests would of necessity be published—thereby giving the criminal element in our society, an ongoing and complete compilation of those bullets which will defeat soft body armor.

Mr. Chairman, I do not believe we need to provide this service to the street criminal. There is no simple penetration indexing test which will define armor piercing ammunition or any law which would preclude ordinary "non-restricted" handgun ammunition from being fired from handguns with barrels over six inches.

Any federal legislation which seeks to ban KTW or any other specialized armor piercing ammunition faces an impossible task. There are any number of factors which separately or in combination affect the penetration capabilities of ammunition, including, but not limited to: type of body armor, condition of body armor, type of ammunition and caliber, barrel length, bullet shape, mass, velocity and gun design—to mention but a few. Additionally, bullets can and are handloaded which achieve the required characteristics required to pierce soft body armor.

Mr. Chairman, the cartridge handloaders, of which there are thousands, are placed in a particularly difficult position by H.R. 5437. Every time an individual handloads a handgun cartridge he must determine, under penalty of a federal felony, whether the cartridge is a "restricted handgun bullet". That determination can, under H.R. 5437, only be made by the Secretary of the Treasury with very sophisticated testing equipment. Therefore, the handloader is subjecting him or herself to federal felony prosecution if he happens to manufacture what turns out to be a "restricted handgun bullet".

In fact, Mr. Chairman, NILECJ federal testing procedures in the Ballistic Resistance of Police Body Armor actually call for the following test methods, and I quote: "It should be noted that handloaded ammunition may be required to achieve some of the bullet velocities required. . ."

In short, Mr. Chairman, given the \$3 million tax dollars already expended in this field and the overly broad and unenforceable aspects of H.R. 5437, the National Rifle Association is opposed to all existing legislation on this issue.

All such legislation attempts to control criminal behavior by controlling an object, and it cannot have the desired effect. It is already against the law to shoot a police officer; it is against the law for convicted criminals to possess firearms; yet another law will have no effect, particularly since this law is designed to solve a problem that is not a problem. To repeat, no police officer wearing body armor has ever been wounded by a bullet designed to penetrate body armor. I will admit, however, that I am now concerned that criminals will begin arming themselves with higher-powered guns—as a result of all of the publicity surrounding this bill.

Thank you for providing this opportunity for me to present the views of the National Rifle Association.

BODY ARMOR HISTORICAL: FEDERALLY FUNDED RESEARCH

Calendar year 1972 (fiscal year 1973).—Based on information concerning the properties of Du Pont's new aramid "Fiber B" NIJ conceived the possibility of fabricating a new lightweight body armor for VIP's and police. Program justification was based on rising incidence of police fatalities by firearms and shootings of Governor Wallace and Senator Stennis. Based on an IACP conducted study of calibers of confiscated handguns and NBS test data JIJ (then NILECJ) issued a Standard for Police Body Armor (NILECJ-0101.00) based on the threat levels which were apparent.

Calendar year 1973.—Interagency agreement with U.S. Army (Edgewood Arsenal) No. LEAA-J-IAA-005-4 (initial funding \$508,084 incrementally increased a total of \$1,090,584 by 1975) to develop and test lightweight body armor including medical assessments of potential blunt trauma injuries.

Calendar year 1974-75.—Based on Army results purchase and inspect 5,000 items and distribute to 15 cities who volunteer to test for wearability and comfort. Conduct symposia to explain program. Cost in contrast to Aerospace Corp. J-LEAA-025-73, approximately \$1,440,000. Develop revised standard by LESL (NILECJ-0101.01).

Calendar year 1978 to Present.—Technology Assessment Program Information Center with IACP for testing commercial items, \$135,000 for conformance with NIJ standard, under Grant No. 78-NI-AX-0016. New grant No. 81-IJ-CX-0071 (10/1/81-3/31/83—\$600,000 total).

Total grant and contract dollars expended

NBS.....	\$350,000
IACP.....	135,000
Army.....	1,090,584
Aerospace.....	1,440,000
Total.....	3,015,584

Mr. HUGHES. We are very pleased that Associate Attorney General Rudolph W. Giuliani is able to testify about the views of the Department of Justice.

As became clear at our last hearing, this is a very, very complex issue. We are very pleased that we are able to have the views today of some very distinguished participants and observers of our criminal justice system. They will help us, I am sure, to understand the implications of the legislation that has been referred to us.

The first witness, as I indicated, is the Honorable Rudolph W. Giuliani, the Associate Attorney General. Mr. Giuliani has extensive experience as a prosecutor, both in the courtroom and in management and administration.

On behalf of the subcommittee, we again welcome you, Mr. Giuliani. The subcommittee has your statement which, without objection, will be made a part of the record, and you may proceed as you see fit.

TESTIMONY OF RUDOLPH W. GIULIANI, ASSOCIATE ATTORNEY GENERAL, U.S. DEPARTMENT OF JUSTICE, ACCOMPANIED BY CARY H. COPELAND, ATTORNEY, U.S. DEPARTMENT OF JUSTICE

Mr. GIULIANI. Mr. Chairman and members of the subcommittee, I appreciate this opportunity to discuss the threat posed to law enforcement and other officials, including the President, by the availability of handgun ammunition capable of penetrating soft body armor.

With your consent, Mr. Chairman, and if this can be done, I would prefer to substitute my present statement which I am about

to make for the written statement that has been submitted. Is it possible to do that?

Mr. HUGHES. Do you want to substitute the one that we received?

Mr. GIULIANI. Yes.

Mr. SAWYER. Did you change your opinion?

Mr. GIULIANI. No. I think I have changed the emphasis in it a bit.

Mr. HUGHES. Sure, we will do that. That is no problem.

Mr. GIULIANI. As you know, the Department of Justice developed a soft body armor now used by about half of the Nation's law enforcement officers. This new armor has saved the lives of an estimated 400 police officers during the past 7 years. We are, therefore, deeply concerned over the availability of armor-piercing handgun ammunition.

By way of background, early body armor was so heavy and awkward that it was inappropriate for routine police work. In 1971, the Justice Department became aware of a new synthetic fiber, Kevlar, developed to replace steel cords in automobile tires. The Department pioneered the development of a prototype vest made from Kevlar and tested this vest in 15 cities. The results exceeded expectations. In addition to offering ballistics resistance, the new vests were light, flexible, and could be worn unobtrusively under normal street clothes and uniforms.

By 1975, dozens of manufacturers had entered the body armor market. We have brought with us today examples of several different types of armor, including some of the early armor, and will exhibit them for you at the conclusion of my statement.

Our technicians have known from the beginning that soft body armor can be pierced by particular types of ammunition. Body armor is designed to stop those bullets most commonly used by criminals. Although our experts were not surprised by the network news program earlier this year about the ability of the KTW bullet to penetrate multiple thicknesses of soft body armor, we were deeply disturbed that such information was so widely distributed to the public and, in essence, creating a shopping list for professional criminals. We fear that publicity surrounding the KTW will encourage assassins and other criminals to search out these particularly dangerous classes of ammunition to use in their endeavors.

In short, recent publicity has increased the likelihood that law enforcement officials will be attacked with armor-piercing ammunition. In addition, this publicity may encourage a fatalistic attitude among police officers, resulting in reduced use of body armor. On this point, it is a constant problem for police administrators to insure that body armor issued to officers is indeed worn. Too often, officers to whom body armor was issued have been killed or seriously injured because the armor was left in a dressing room locker.

Publicity about armor-piercing handgun ammunition, together with the absence of any statutory safeguards, may cause some police officers to decide that it is useless to wear armor when ammunition is available that will defeat it. This indirect effect of armor-piercing ammunition to reduce use of armor could cause more deaths than the use of armor-piercing bullets against officers wearing the armor.

Because we feel the publicity about armor-piercing ammunition increases the risk to those who use armor, I will avoid discussing specific handgun rounds capable of penetrating armor. Suffice it to say that there are a number of handgun bullets in addition to the KTW capable of penetrating body armor.

Because an early draft of a proposed Department armor-piercing bullet bill was disclosed and published in a firearms publication, it is no secret that our initial legislative proposals in this area were similar to H.R. 5437 introduced by Congressman Biaggi. As the Treasury Department has indicated in its testimony before this subcommittee, however, our continuing study of this issue revealed that there are some problems with the broad ban on armor-piercing handgun ammunition proposed in that early draft proposal and in H.R. 5437.

First, to date, we have been unable to describe armor-piercing handgun ammunition in a way which reaches all rounds capable of defeating soft body armor without being overinclusive. The simple fact is that some bullets with legitimate use will defeat soft body armor. Moreover, in certain handgun calibers, a ban on armor-piercing bullets would effectively deprive firearm owners of the use of their weapons by rendering illegal virtually all available ammunition.

For some, this indeed might be a desirable social objective and an objective of the Federal criminal law; for others, it is not. The passage of this legislation, which we regard as vital to the safety of law enforcement officials, should not be delayed, however, as that debate goes on.

A second problem with H.R. 5437 is that it would produce unjust results. A particular round fired from a revolver with a 4-inch barrel, for example, might not penetrate body armor; whereas the same ammunition fired from a revolver with a 6-inch barrel might defeat the same armor. This is so because the longer barrel increases projectile velocity, thus enhancing penetration power.

We believe, for example, that it would be impossible to justify imposition of a minimum mandatory prison sentence under H.R. 5437 when it could be proved that the ammunition, although classified as armor-piercing under the definition in the bill, would not penetrate soft body armor when fired from the handgun in which it was loaded.

In addition to these difficulties, others were discussed by the Treasury witness, including the cost of testing all commercially available ammunition, the problem posed by ammunition which can be fired interchangeably from handguns and long guns and other problems.

Given the fact that we are aware of no instance in which an armor-clad law enforcement official has been attacked with armor-piercing handgun ammunition, we cannot justify legislation banning all ammunition capable of penetrating the type of soft body armor worn by law enforcement officials. Nevertheless, because we see no legitimate reason for private use or possession of handgun bullets, such as the KTW, that are designed specifically for armor penetration, we will continue to work with the Department of the Treasury and with this subcommittee and others to develop a workable definition of such bullets. In this connection, if there is to be a

margin of error and speculation, in being overinclusive or underinclusive, we should err on the side of protecting the lives of law enforcement officials and other potential victims of armor-piercing bullets. Our clear objective is to prevent criminals from having access to handgun bullets designed to penetrate armor.

In the meantime, however, as this debate goes on and as we search for a workable definition, we believe that immediate action is needed, and have submitted to you a stopgap legislative proposal which would provide a meaningful disincentive to the use of armor-piercing bullets during the course of Federal crimes.

Our proposal would establish a minimum mandatory prison sentence of 5 years for the use of armor-piercing handgun ammunition during the course of a Federal crime of violence. By contrast with other similar proposals, our bill would provide for imposition of this minimum mandatory sentence where it can be proved that the ammunition would penetrate type IIA body armor, the most popular armor for law enforcement use, when fired from the firearm in the possession of the defendant. Our proposal makes clear that the minimum mandatory sentence is to be served consecutively with the sentence imposed for any underlying crime, that the sentence is not subject to probation or suspension, and that a person so sentenced is not eligible for parole.

Mr. Chairman, we believe that handgun ammunition designed to penetrate armor must be kept out of the hands of criminals, and we look forward to working with your subcommittee toward that end. We also believe that our mandatory sentencing proposal will fill a gap in existing law and fill it immediately by recognizing that certain types of handgun ammunition are particularly dangerous, and that use of such ammunition during the course of a violent crime should result in harsher penalties than would otherwise be applicable.

I will be pleased to answer any questions that you have. If you desire, I will ask Mr. Cary Copeland of the Department of Justice to demonstrate the armor that we brought with us.

Mr. HUGHES. We would appreciate that.

We have a vote in progress and we have about 8 minutes to get to the floor, so why don't we, at this point, recess. This is a good breaking point. We will recess for 10 minutes.

[Recess.]

Mr. HUGHES. The subcommittee will come to order. I apologize for the delay.

You were going to ask somebody to demonstrate the vest for us.

Mr. GIULIANI. Yes, Mr. Chairman. Mr. Cary Copeland with the Department of Justice can demonstrate the vests we have here and explain what they are.

Mr. HUGHES. OK.

Mr. COPELAND. Thank you, Mr. Chairman.

I will go through this very briefly and, if there are any questions, I will be glad to come back.

One of the first reactions we often get to displaying armor is that, even though it is relatively light, it is still somewhat bulky.

This is a 1934 style. It weighs in excess of 25 pounds. Just as an interesting historical note, John Dillinger owned a vest very much like this one, but was not wearing it the evening he came out of

the movie theater. This vest, this 1934 style, offers the same protection as this soft body armor that is manufactured today.

This modern vest weighs 4 pounds. We have equivalent protection in this 4-pound vest.

There are five different classifications of body armor recognized by the Justice Department's armor standard. The lightest is the type I vest. This is the lightest and it is also the least expensive and, also, of course, it offers the least protection. But this would protect an officer from the types of ammunition most commonly found on the street.

The next heavier vest is the IIA vest. This, again, is the one that offers protection equivalent to the old heavy vest. This is probably the most popular type of body armor. It is an intermediate soft body armor. This, according to the information we have, is the one that most police agencies use.

Mr. HUGHES. How much does that weigh?

Mr. COPELAND. This weighs 4 pounds.

The heaviest type of "soft body" armor is the type II vest. This particular vest weighs 5 pounds. This offers protection against, of course, the types of bullets that these others protect against, plus more powerful handgun rounds. All of these were designed initially to protect against handgun ammunition.

Finally, we get into the type of flak jacket that SWAT teams might wear. This is the type IV vest. This is a heavier vest, but it protects against high-powered rifle ammunition. This would be worn only in siege situations where there is a known threat, whereas the soft body armor is worn, of course, routinely by police officers as they go about their normal duties. This vest uses a boron carbide metallic substance for protection.

We also brought along—just to show you what the different product manufacturers are doing—a police jacket which has incorporated within it a type I vest. This actually could easily be mistaken for a normal jacket, but it does have this ballistics-resistant material, Kevlar, within the lining.

Finally, just to show you what these types of bullets that are designed for armor penetration can do, we brought along a vest that was used in Quantico in the February test that the Justice Department performed to verify that armor-piercing handgun ammunition would penetrate armor. This is a type II vest. It is the heaviest soft body armor available. We tested it against a number of different types of bullets and, of course, the results were largely, as the technicians had predicted, that the normal types of bullets were stopped, while the armor-piercing rounds were not.

This is the back of the vest to show what happens when we have the armor-piercing rounds, which penetrate not only the front panel of the vest, but the gelatin mold which simulates the officer's body and the back of the vest and, of course, leaves the jacket hole on the exit.

So that, in essence, is what we brought today by way of a demonstration.

Any questions?

Mr. HUGHES. Do the manufacturers custom tailor the vests to vary in not just only size, but also in the manner in which they fit, up under the arms, for instance?

Mr. COPELAND. Yes, sir. They come very much like suit jackets. You can get a 46 long, a 38 regular. It depends on the manufacturer, but for the most part, they are tailored to fit differing sizes of bodies comfortably.

Mr. HUGHES. Is it designed to fit males as well as females?

Mr. COPELAND. I think so. I can't answer that question. I am not an expert on what is available in the marketplace, but I would think that they would provide for both sexes, yes, sir.

The Federal Bureau of Investigation reports that several armor manufacturers produce body armor designed especially for women.

Mr. HUGHES. What is the cost, for instance, of the type II vest?

Mr. COPELAND. I don't have that information. We can supply that for the record. I think that the cost runs in the neighborhood of \$200, but that would just be my guess. We could supply that information.

The Federal Bureau of Investigation reports that the cost of body armor varies widely depending upon manufacturer and special features offered such as protection for the sides of the torso, trauma plates to distribute the impact of the projectile over a wider area, and so forth. Because of these factors, the cost of a type IIA vest varies from \$90 to \$250.

Mr. HUGHES. You said that you used a gelatin substance to simulate the human body in tests last February; is that correct?

Mr. COPELAND. That is correct.

Mr. HUGHES. Is that structured to "give" as the bullets strike the vest?

Mr. COPELAND. That is the idea. That is right, sir. You get different penetration characteristics depending on the backing. If you put it against, say, a wooden support, then you would have more penetration than you would if you had it against a backing which gives as the human body does. So we try to simulate and make it as close as we can to the conditions that would exist if a human were wearing the vest.

Mr. HUGHES. As I understand it, a lot of police officers do not wear the vest even though it is available because it is just not as comfortable as a regular coat or a suit. Is that the primary problem? It is a matter of weight, I gather.

Mr. COPELAND. I don't think it is so much a matter of weight. I think it is a matter of comfort. In the summertime they are hot. It is a matter, to a certain extent in some cases, of vanity. You look a little fatter than you look without it. So it is a combination of factors.

The FBI experts tell me that the biggest incentive or the most powerful force encouraging officers to wear vests are the wives of police officers. If it weren't for that, perhaps we wouldn't have as much wearing as we do. It is very much like the seat belt situation.

Mr. HUGHES. The same basic problem as seat belts?

Mr. COPELAND. Yes, sir.

Mr. HUGHES. OK. Thank you.

Does the gentleman from Michigan have any questions on the vests?

Mr. SAWYER. No, not specifically on the vests, although I did see a policeman's life saved by one of those type II vests.

At the beginning of the last hearing we had, I thought this seemed like a fairly simple issue. No one really needs Teflon-coated bullets, like no one needs the devastator bullets. However, the witnesses that we listened to suggested that the Teflon was really more of a gimmick than anything—that it only added about 5 percent to the penetrability of the ammunition and that it was really the substance from which the bullet was made and the width and shape of the bullet that were the primary factors controlling piercing.

Do you know if that is correct or not? It makes the issue a lot more complicated than it sounded at first.

Mr. COPELAND. Yes, sir. That is what our technicians report, that Teflon adds very little to the penetration characteristics, that as much as anything else, it protects the barrel of the weapon being used. The key ingredient here is the hardness of the bullet. Firing a hardened bullet through the barrel would wear it out if you didn't have some type of coating on the projectile. So I think that the coating serves more than one purpose, and it is a relatively minor factor in its penetration power.

Mr. SAWYER. Thank you.

Mr. HUGHES. Thank you.

One of the things that you put your finger on which gives me some concern also is how we define the characteristics of an armor-piercing bullet without being overly broad and catching within it ammunition that has legitimate sporting and other purposes. That is the thing that struck me about the testimony that we had at the first hearing, and you obviously have concluded from your own testimony that that is the single most important factor—and perhaps even obstacle—that we have to deal with. Am I correct in that?

Mr. GIULIANI. That is correct, Mr. Chairman. We think that is difficult and it will take time to develop a definition that is appropriate. During that period, however, we think there is something that can be done to protect against this phenomenon, and that would be to pass legislation setting a very stiff mandatory minimum sentence to discourage people, to discourage criminals, from using such bullets.

Mr. HUGHES. Is Justice working with the Department of Treasury on this issue?

Mr. GIULIANI. Yes. We have had a number of meetings in an effort to come up with a definition that would include however you define armor-piercing bullets and exclude what might be regarded as bullets that can be used for other purposes, legitimate purposes. We have been unable to come up with a satisfactory definition.

I don't believe that we should stop; I think that we should continue to try to do that, and we certainly will. But what we are urging today is that, in the interim—because that is going to take some time—that we pass some legislation that at least discourages criminals from using these bullets in the way of mandatory minimum sentences.

Mr. HUGHES. I am encouraged because I must say that I was a little bit disheartened to learn that Justice had not consulted with the Department of the Treasury before the first statement went to the Office of Management and Budget. Yet, Treasury is the agency that has the expertise in this area.

Mr. GIULIANI. I believe it does have expertise in this area. Of course, I think the FBI does also. We also have expertise in this area.

Mr. HUGHES. Well, it seems to me that Treasury, with their firearms experts, can offer a great deal of assistance to us.

You indicate that you feel that stopgap legislation is available. A mandatory minimum sentence is what you classify as a stopgap legislation. Yet, we still have to try to identify the characteristics of what is armor piercing, to see if we can come up with a definition that makes sense, that balances legitimate interests with not so legitimate interests. Treasury was candid that they weren't sure they had sufficient information at this point to make such a value judgment.

Having said that, I understand that Justice opposes a study to see if, in fact, we do have enough information, and if we don't have enough information, then begin to collect the information that we need to try to identify the ammunition that would fall within the definition of armor piercing that should be legitimately banned.

Mr. GIULIANI. I think there are two separate issues, and we are no less concerned about being overinclusive as to one than the other. Let us look at the mandatory minimum sentence. Suppose there is included in the mandatory minimum sentence ammunition that, under some circumstances, can be armor piercing and, under other circumstances, would not. The net effect of a mandatory minimum sentence would be that a criminal who used such ammunition would go to jail for 5 years, which we see as a desirable result however you come out on the debate as to whether it is armor piercing or not.

Being overinclusive in the sense of banning it completely is a more sensitive issue. So I don't think we pay much of a price for overincluding as armor-piercing bullets that, under other circumstances might not be. The net result is that people who illegitimately and illegally fire those bullets go to jail for 5 years. I see that as a desirable social result.

Mr. HUGHES. I understand that. But that was just only a very minor portion of my question. My question is: Don't you feel under the circumstances that we need to try to identify the ammunition that would fit within the definition of armor piercing, and then try to exclude that which would have sporting and other purposes and that which would have no legitimate sporting purposes?

Mr. GIULIANI. I certainly agree as to the legislation that would ban bullets. Of course, we should do that. As to the legislation that would impose a mandatory minimum sentence on those who use such bullets, I think our recommendation is that the approach that we use there is we shouldn't be terribly concerned with drawing that line because it really doesn't make much difference. If someone uses a weapon in the commission of a crime, we support mandatory minimum sentences just for that alone. So there really is an overlap there.

Mr. HUGHES. I understand and I find that attractive. But maybe I am not being precise enough. My question is: Shouldn't we be moving simultaneously in furthering our studies to try to identify the characteristics of the armor piercing to try to develop legislation that is well balanced, that does not deny legitimate uses, but

would ban those uses that would have no legitimate purposes, that type of ammunition, at the same time that we are considering the imposition of mandatory sentences?

Mr. GIULIANI. I certainly would agree with that.

Mr. HUGHES. Should we do both?

Mr. GIULIANI. Yes; I think we should do both. I think we should actually separate the two so that one doesn't await the other, because I am afraid that the study and the ability to define it for the purposes of banning it will take some time. I don't think we have to go through all of that in order to consider the question of mandatory minimum sentences.

Mr. HUGHES. I don't know why you would feel that way. I suspect that we could report out legislation that would order a study pretty rapidly.

Mr. GIULIANI. But by the time a study is completed, probably we are talking about who knows how long, in the meantime, mandatory minimum sentence could be in effect and maybe we could save some lives. There might be laws while we are waiting.

Mr. HUGHES. We are working on the assumption that the minimum mandatory sentence would only be triggered when the study was completed. I don't think that that necessarily follows.

There are two problems: No. 1, we don't have enough information. Treasury acknowledges that they don't really know whether they have enough data. So we should be getting sufficient data—that requires a study.

The second part of the problem is, to penalize those people that have within a handgun, used in the commission of a felony, ammunition that is "armor piercing," you have to define it.

Mr. GIULIANI. The definitions that have been provided so far are sufficient for the purposes of, in our view, imposing a mandatory minimum sentence, and that should not be delayed. A study has the tendency of taking a lot longer than any of us usually anticipate. We would prefer not to see that delay the imposition of mandatory minimum sentences, nor do we think that the whole issue of just precisely how you define it is as important in determining the mandatory minimum sentences as it is in determining the ban.

Mr. HUGHES. My time is up. The gentleman from Wisconsin.

Mr. KASTENMEIER. Thank you, Mr. Chairman.

I just have two questions in the sense that maybe it is just another question put another way than the chairman has put his. But assuming one can define armor-piercing ammunition—to state what you state on page 8 of your printed testimony—"We cannot recommend legislation * * * so clearly impinging upon the interests of legitimate gun owners." What legitimate interests of the gun owners is there in defined armor-piercing ammunition?

Mr. GIULIANI. There is no legitimate interest in armor-piercing ammunition. The problem is—and maybe you could separate that into two ends of the spectrum. There is ammunition that is clearly armor piercing and ammunition that was designed for that purpose, and there is ammunition that isn't. The problem that we are having with the whole issue of banning is in that middle area where, under certain circumstances it can be armor piercing if used in a certain weapon, and others it can't be. That is the defini-

tional problem that the Treasury Department has had, we have had, and we are working with them to work that out.

What we are urging is that, while we are doing that, let us at least have a mandatory minimum sentence in effect so that we have some deterrent.

Mr. KASTENMEIER. My second question is to ask you briefly to sort of restate the differences between your proposal and that of Mr. Biaggi's. I guess that is perhaps one of the major proposals before us. Do I understand, first, that his reaches State offenses as well as Federal offenses, and yours reaches Federal offenses only; his reaches all forms of weapons, and yours is handguns only, which might involve armor-piercing ammunition, and so forth? What are the different features? How do the features in the administration-recommended bill differ from, let us say, Mr. Biaggi's bill?

Mr. GIULIANI. Ours would reach only Federal offenses committed with a firearm that contains an armor-piercing bullet. I am not sure as to the reach of his.

What was the second question, Mr. Kastenmeier?

Mr. KASTENMEIER. Well, you indicated that it goes to handguns only, I believe.

Mr. GIULIANI. That is right. Ours would apply only to handguns.

Mr. KASTENMEIER. I guess, inferentially, I should conclude that his reaches all weapons that might be—

Mr. GIULIANI. I am not sure of that.

Mr. KASTENMEIER. I am not sure either, but that is all right.

His does not have a minimum mandatory sentence feature as yours does?

Mr. GIULIANI. Yes, it does.

Mr. KASTENMEIER. It does?

Mr. GIULIANI. What we are urging is that, in essence, they move along separate time tracks, and that the mandatory minimum sentence provisions be considered and passed as soon as possible. Meanwhile, we will try to work out a definition that meets and adequately defines that middle area that we were talking about.

Mr. KASTENMEIER. The reason I asked is that, in the concluding page of your remarks, you state that " * * * the legislation that we have proposed today—although modest by comparison with some other bills * * * " et cetera. I'm just wondering, in what respect was it more modest than other bills.

Mr. GIULIANI. It was particularly modest in the sense that we are not proposing that you now pass a ban on so-called armor-piercing bullets because we can't define it. Whereas some of this legislation would impose such a ban.

Mr. KASTENMEIER. Thank you, Mr. Chairman.

Mr. HUGHES. The gentleman from Michigan.

Mr. SAWYER. I am a supporter of a mandatory minimum penalty for the use of a gun in connection with a crime. I was a prosecutor in a State that had such a law. If we stop the plea bargaining, I think it will have some significant effect. But I am not so sure what we add by having an additional mandatory penalty for using these bullets. What do we add by adding that offense?

Mr. GIULIANI. I am not sure I understand the question, Mr. Sawyer.

Mr. SAWYER. Well, let us assume there is a Federal law like the one we have in the State of Michigan that creates a mandatory additional sentence for use of a gun in connection with a crime other than the mere possession of the gun. What do we add to its deterrent effect by imposing a penalty for using armor-piercing bullets?

Mr. GIULIANI. You, hopefully, persuade those who are considering committing crimes with handguns and bullets not to use armor-piercing bullets that can go through the kind of protection being worn by law enforcement officials.

Presumably, if it has that effect, then they would be using bullets that didn't pierce armor.

Mr. SAWYER. But do you think that if we had a law imposing, as we do in Michigan, a mandatory minimum sentence, which is not subject to parole or probation, of 2 years for the first offense and 5 years for subsequent offenses, some who would take the chance of breaking the law would be concerned about the prospect of an additional couple of years for using armor-piercing bullets?

Mr. GIULIANI. It really gets to the whole question of whether mandatory minimum sentences deter at all. In fact, they do—I think they do.

Mr. SAWYER. Well, I think that they do, too. But don't you get enough deterrence with the mandatory sentence for using the handgun? If a criminal ignores that, I can't conceive of him saying, "I won't load it with armor-piercing bullets because I might get another year for that." That really seems unlikely.

Mr. GIULIANI. I think professional criminals make exactly those kinds of calculations. I think that is how sometimes they calculate that they would commit a State crime rather than a Federal crime, that they will embezzle x amount of money as opposed to more than that. I think those calculations are made, not by all, but by some. And deterrents never work totally, they work percentages. I think that it can have an effect on the percentage of people that might consider using armor-piercing bullets.

In any event, it is better than the situation that we have right now.

Mr. SAWYER. I am not so sure it is that much better. How long would it take to get a definition where we could prohibit the interstate movement of these things? I don't see why the experts can't give us a workable definition. It would strike me that, if there is no workable definition, it would be pretty hard to prosecute someone for just having them in a gun. It seems to me that we have to have something that is definable, and just to say that the bullet would go through a particular type of vest would be insufficient. I, for example, would not know what kind of a bullet would go through a particular type of vest, either. That could present a problem in getting a conviction if we couldn't define it. And, if we could define it, why not prohibit the manufacturer's shipment of them at all?

Mr. GIULIANI. I think there will be substantial problems in coming to a definition that will be satisfactory in determining that middle area of a bullet that, under some circumstances are armor piercing, and others it is not, for the purposes of banning it. That is going to take some time.

While that is going on and whatever studies are being studied, there should be something in effect that offers the hope of some deterrence. We presently have none.

Mr. SAWYER. Is there any legitimate use for steel or steelclad bullets other than for the military to comply with some conventions? Sportsmen don't use steelclad bullets or steel bullets, at least not on this continent. They might on some African game or something, but they don't on this continent that I am aware of.

Mr. GIULIANI. I am aware of none, either.

Mr. SAWYER. It seems to me, after listening to the earlier testimony, that the Teflon aspect was more of a gimmick than a major ingredient. The shape would be pretty hard to address, it would strike me, without trespassing on a lot of legitimate ammunitions. But, steel, brass or something of a hardness greater than lead, or lead with a normal copper coating, should be fairly easy for somebody to define. I don't really know who has any legitimate need for having that kind of a bullet, unless they are in the military under the Geneva Convention or something. But that wouldn't be involved here anyway.

Mr. GIULIANI. It sounds reasonable to me, Mr. Sawyer, but I am not an expert in this area, and that would just be one area. There would be other armor-piercing bullets that would have to be included in the generic description. As a practical matter, working out a definition that is satisfactory to everyone that is involved in this is going to take more time than I think we should really take in getting some kind of remedy for this problem.

Mr. SAWYER. But if there is no legitimate purpose for a bullet, either in a long gun or handgun, how are we hurting anybody by just prohibiting it?

Mr. GIULIANI. If there is no legitimate use for a bullet, then there is no countervailing reason for not making it illegal to possess it, manufacture it, to ship it or to do anything else with it.

The problem before you is how do you define what does and does not have a legitimate use. How do you put that into a category that applies generally?

Mr. SAWYER. Couldn't your experts in the FBI and Treasury Department or maybe some sporting people tell you if there is any legitimate use for it? I hunt a lot, and I never heard of any legitimate use for either devastator bullets—which are prohibited, as far as I know, for use on any game—or the steelclad or harder-than-lead bullet. If that is so, maybe we could refine the definition by getting into things like shape, but I can see where that gets pretty sticky.

Mr. GIULIANI. I don't know the definitive answer to that, but if there is no legitimate use for it, then there is no problem.

Mr. SAWYER. I am sold on the mandatory minimum on the use of a gun in connection with a crime. But I am not so sure you add anything to it by imposing a penalty of an additional year for loading the gun with a certain kind of bullet, particularly when you have problems defining the bullet.

Mr. GIULIANI. That raises the question of whether the mandatory minimum in any case will work. The mandatory minimum sentence works or doesn't work based on your assessment of whether someone calculates—

Mr. SAWYER. But I just flat out don't agree with you. I agree that a mandatory minimum does work if it isn't plea bargained. But the offender who is going to break the first law isn't going to pay any attention to the second restriction. So we just disagree on that.

Mr. GIULIANI. It is 3 years, not one more year. And the person who is going to go into a store and do a bank robbery with a knife rather than a gun is making that calculation that, "I can save myself time if I use a knife rather than a gun." That same person is going to calculate that, "I will save myself time by not using X kind of a bullet rather than Y."

These all rest on percentages and how things affect people—what do we lose by imposing substantially more time for someone who would use a bullet that would penetrate a vest worn by a law enforcement official? I think we lose nothing if I am wrong, and we lose law enforcement officials if you are.

Mr. HUGHES. Have we changed the minimum? I understood it was a 5-year minimum.

Mr. GIULIANI. The minimum we are recommending is a 5-year mandatory minimum, consecutive to any other sentence.

Mr. HUGHES. Three plus the two, I see.
The gentleman from Kansas.

Mr. GLICKMAN. No questions, Mr. Chairman.

Mr. HUGHES. One of the things that troubles me—and I share your desire to move on so that we can develop a rational response to this whole area of armor-piercing bullets—is that part of the theory behind deterrence is that criminals are on notice as to what the forbidden action is. How in the world are you going to serve notice on those that would use ammunition that a certain type of ammunition is armor piercing and, therefore, carries a 5-year minimum sentence?

Mr. GIULIANI. By using the definition that is presently in the bill.

Mr. HUGHES. Let me read the definition to you. The definition, as I understand it, that armor-piercing ammunition means ammunition which, " * * * when or if fired from any handgun used or carried in violation of subsection (a)"—which means any handgun, basically—"under test procedures is determined to be capable of penetrating bullet-resistant apparel or body armor meeting the requirements of type IIA of standard * * *" so and so. How are we going to put the criminal element on notice that particular type of ammunition is armor-piercing when we acknowledge up front that great deal of ammunition is armor-piercing that has other legitimate purposes?

Mr. GIULIANI. But it doesn't have other legitimate purposes. The reason we are troubled by whether it has other legitimate purposes or not is because we are banning it, we are doing an outright ban on it. It doesn't have other legitimate purposes. At least that is no longer an issue when it is being used in the commission of a crime.

Mr. HUGHES. A lot depends upon the size of the barrel of the handgun, it depends upon how much powder, it depends upon the structure and the shape and the weight of the missile. There are so many factors—the wrapping has some impact upon whether it is armor-piercing.

As I understand it, some vests' capabilities vary by 10 percent. So you might have an armor-piercing bullet for one type of vest, but just for a little different vest where there might be a 10-percent variance, it would not be armor-piercing.

Wouldn't you be engaged in a lengthy trial on that side issue if you got into that?

Mr. GIULIANI. I don't think so. I think all those issues don't make very much difference when a person has used a weapon and a bullet that could pierce armor in the commission of a crime. I think those are substantial and difficult issues if you are talking about banning the armor-piercing bullet itself and trying to decide whether it can be manufactured, whether it can be shipped. Once someone has actually committed a crime with the gun and with the armor-piercing bullet, I think all of those distinctions don't make a legal difference, you would have a constitutional basis for doing it, and I don't think a jury would be terribly concerned one way or the other if we could demonstrate that it actually could pierce one of those vests worn by a law enforcement officer. I think that, if we could demonstrate that, most sensible juries would convict pretty quickly.

Mr. HUGHES. Under the terms of the bill that you propose, does the defendant have to fire the weapon or just possess?

Mr. GIULIANI. All he has to do is possess it in the commission of a Federal crime.

Mr. HUGHES. As I read your bill, it would seem to me that a police officer who might be accused of using excessive force and happens to have armor-piercing ammunition might be chargeable, in terms of your legislation.

Mr. GIULIANI. If that is the case, then we will take a look at it and deal with that problem. That was not the intent.

Mr. HUGHES. Something more basic about the legislation gives me some concern. That is that it is almost as if we have the cart before the horse. I share your belief that we have to move expeditiously, but it seems to me that, in order for us to move expeditiously, we have got to do a good job of determining just what is armor-piercing. We haven't done that to date. Yet, under your approach, we would develop legislation that would provide a penalty for a definition that is not as exact as we would like to have it. That gives me some difficulty.

Mr. GIULIANI. I guess that our view on it is that it is going to take time to study and to come to a precise definition. We think we can come to a definition that is satisfactory enough to impose substantial penalties on people who would commit Federal crimes using bullets that can pierce armor, that we should not wait for an elaborate and statutorily ordered study. No matter how you try to confine these things, they always take more time than people anticipate.

The general definition that has already been provided is sufficient for the purposes of imposing punishment, on a legal or constitutional basis, on those who would use such bullets in the commission of Federal crimes. I don't think we lose anything as a society by not having as precise enough a definition as we might like to impose penalties on those who carry around guns that contain bullets that can go through vests like that.

On the upside, I think we gain a lot by putting people like that in jail.

Mr. HUGHES. How much of a problem is it? How many instances have been reported to the Justice Department of criminals before the Federal bench that have been charged with carrying or using a handgun used in the commission of a Federal felony that had such ammunition?

Mr. GIULIANI. I don't know the answer to that. I am not sure if such statistics have been kept. I would seriously doubt that there are such statistics.

Mr. HUGHES. Then that being the case, if you are not aware of any cases—and I am not aware of any either—why shouldn't we be very careful and cautious in developing in law a standard that will meet the constitutional requirement that it be reasonable, precise and exact?

Mr. GIULIANI. It depends on who you want to be careful and cautious about. We are urging you to be careful and cautious about the lives of law enforcement officials, and if we are going to err on one side or the other of this, we should err on the side of having a mandatory minimum sentence in effect for whatever deterrent value that it has.

As I said, if I am wrong about that, then some people who have committed Federal crimes with guns that have bullets in them that can go through armor are going to be sitting in jail where they belong; and if I am right about that, we are going to have some effect, at least, on the use of those bullets to pierce armor that protects the lives of law enforcement officers.

I don't really see the great concern over whether we precisely define it one way or the other when we are dealing with people who could conceivably be convicted Federal felons committing Federal crimes carrying weapons with armor-piercing bullets. I don't really see the great concern or the great need for being so concerned about whether we precisely define it or not. I can see that for the purposes of whether we ban it or not, but I think we gain something by adding a mandatory minimum sentence that we don't have in effect right now.

Mr. HUGHES. I think that we should be concerned enough that we are in fact advancing law enforcement and not detracting from it. For instance, if we just passed your legislation, as I have indicated, I suspect that we would make police officials that use a handgun in the discharge of their responsibility who are accused of using excessive force perhaps in the category of a felon with a minimum 5-year penalty.

Mr. GIULIANI. But as I said, Mr. Chairman, we will correct that. It was not our intent. We will correct that.

Mr. HUGHES. The second thing that I would like to follow up on with my colleague from Michigan is, how long would it take us to determine, for instance, whether or not there is really any sporting or other value to certain types of missiles, such as steel bullets? Isn't the common characteristic the hardness of the bullet as well as the shape?

Mr. GIULIANI. I don't know how long it would take. If you isolated various types of ammunition and just asked the question as to

that ammunition, does it have a legitimate purpose or not, I don't know how long it would take you.

Mr. HUGHES. Let me just give you a couple of assumptions. Let us assume that we find that there is little, if any, sporting purpose to steel bullets. Let us assume that all of the armor-piercing bullets are steel. Would it be, in your judgment, in the public interest for us to ban all steel bullets?

Mr. GIULIANI. Could you repeat that?

Mr. HUGHES. What I said, simply, is if we find—which shouldn't take too much effort—that there is no legitimate sporting value to a steel bullet, and we find that all the armor-piercing bullets that give us difficulty are steel, would it be in the public interest for us just to outlaw steel bullets?

Mr. GIULIANI. Of course, it would, yes. We would urge you to do that.

Mr. HUGHES. How long would it take us to find that out?

Mr. GIULIANI. I don't know. I suspect it will take you longer than you anticipate, and it also might not cover categories—probably will not cover categories of armor-piercing bullets that also should be considered and possibly banned. So you might just solve a part of the problem by doing it that way.

Mr. HUGHES. Any more questions?

The gentleman from Michigan.

Mr. SAWYER. Again, other than waterfowl shooting where steel shot is used because of lead poisoning problems, I am not aware of any hunting and/or target load that is not basically a lead bullet coated with nothing stronger or harder than copper or some carrier like that.

It just strikes me that we might not have to name everything we prohibit if we name those that are permissible. There may well be others, but I am not aware of others. I am aware of a magnesium load that they use to shoot pigeons in downtown areas because they powder into dust when they hit a wall of a building or something, but the police are the ones that use those, so we wouldn't have a problem there.

It seems to me that, if we hit the hardness factor of the bullet, we are perhaps dealing with the most common trait of the bullets and perhaps getting 90 percent effective. While the diameter of the bore and the shape of the bullet and maybe a little Teflon have marginal effects, I would suspect that the principal effect is the hardness factor.

Mr. GIULIANI. If you are correct, and I have no reason to believe that you are not, then I agree with you. If we ban even 60 or 70 percent, that would be a great advance over where we presently are.

Mr. SAWYER. If we limit the prohibition to those cases that are Federal, right away we exempt about 90 percent of the cases which are not within Federal jurisdiction. Notwithstanding all the publicity, street crime is really not handled much by the FBI or Federal prosecutors or Federal courts. It is handled by State and local police, sheriffs, and courts. I would rather prohibit the manufacture and transportation that would maybe get only 70 percent of the problem but would spread it across 100 percent of the spec-

trum, rather than get 100 percent of the problem and 10 percent of the spectrum, which would be along the line you are suggesting.

Mr. GIULIANI. Mr. Sawyer, we are urging you to do both, not one exclusive of the other. We are urging you to immediately pass a mandatory minimum sentence that would have some effect. By no means will it solve the problem. I haven't said that and I am not suggesting that. We hope that that will become a model for the States to follow.

We are also urging you to, as quickly as possible, come up with a suitable definition. If it can be done as you suggest, then we would be fully in favor of that and support that.

Mr. SAWYER. Thank you.

I yield back.

Mr. HUGHES. I am just looking over the legislation and I was trying to think of problems that could come up.

It would seem to me, for instance, that under the definition of "a crime of violence," you would cover an act of violence committed on an Indian reservation if, in fact, the individual had in his possession a weapon that had armor-piercing ammunition by definition.

Mr. GIULIANI. That is correct. And I don't see the concern over worrying about someone going to prison for 5 years if he is in possession of such a bullet that can go through the type IIA vest—or she is in possession of that—and use it in the commission of a Federal felony.

Mr. HUGHES. So you would be inclined to cover that type of an act of violence, not just an act of violence of a bank robbery or whatever?

Mr. GIULIANI. That is correct.

Mr. HUGHES. OK. Thank you very much.

Mr. GIULIANI. Thank you, Mr. Chairman.

Mr. SAWYER. I have just one more little problem. I haven't had any experience with those things for about 5 or 6 years, but the last time I was familiar with one of those vests, they would not stop certain handguns fired with regular load. This could create another problem of definition here if we went your route.

Mr. GIULIANI. Mr. Sawyer, they have advised me that—I don't know the answer to the question. I was going to get the answer for you. They advised me that I should answer that for you privately.

Mr. SAWYER. While I am not against giving criminals an extra 5 years, it seems to me that we must be a little more careful.

Thank you. That is all I have.

Mr. HUGHES. Thank you very much. We appreciate your testimony. We look forward to working with you in trying to develop legislation that makes sense and is balanced.

Mr. GIULIANI. Thank you very much, Mr. Chairman.

Mr. HUGHES. Our next witness is Norman Darwick, the executive director of the International Association of Chiefs of Police. Mr. Darwick has been actively involved in law enforcement since 1955, and has served in various positions with the International Association of Chiefs of Police since 1966.

Mr. Darwick, we welcome you. We apologize for not being able to take your testimony at the last hearing but we are just delighted to have you with us today.

Without objection, your statement will be made a part of the record, and you may proceed as you see fit.

**TESTIMONY OF NORMAN DARWICK, EXECUTIVE DIRECTOR,
INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE**

Mr. DARWICK. Thank you, Mr. Chairman. I appreciate this opportunity to appear before the House Subcommittee on Crime to express the beliefs of the International Association of Chiefs of Police regarding ammunition specifically designed to penetrate bullet-resistant apparel.

As you know, the IACP is a professional membership organization consisting of approximately 13,000 police executives. We were established in 1893 to further professionalism in law enforcement.

Ammunition specifically designed to penetrate bullet-resistant apparel is being manufactured and sold in different forms worldwide. Public awareness of this ammunition has been negligible until recently. Congressman Mario Biaggi first introduced his legislation to identify and ultimately ban these types of bullets in 1981. However, it was not until January of 1982 that television's NBC Magazine focused national attention on this serious danger.

In December of 1978, the International Association of Chiefs of Police completed a comprehensive study entitled "A Ballistic Evaluation of Police Body Armor." In so doing, threat levels were devised and the armor needed to protect the wearer were identified.

Currently, we think that approximately 50 percent of the law enforcement officers in the United States wear bullet-resistant vests—although probably not in the summertime. Earlier, we discussed the fact that they are hot. These vests are composed of a lightweight protective material called Kevlar. The vests are now capable of resisting the penetration of handgun ammunition, and are credited with saving the lives of nearly 400 police officers across the Nation.

Specifically, between 1975 and 1978, 255 police officers wearing bullet-resistant vests were shot in gun battles. The soft body armor saved the lives of 250 of those 255; the 5 who lost their lives were shot in unprotected areas. In addition to members of the law enforcement community, the use of bullet-resistant apparel by politicians and other high-level Government officials has grown in recent years due to their increasing exposure and vulnerability to acts of violence.

However, the security that bullet-resistant apparel provides has now been violated, and a real and immediate threat has been posed to the lives and safety of persons relying on such protective equipment.

Unofficial tests have shown that certain calibers of the Teflon-coated KTW bullet can penetrate up to 72 layers of Kevlar. The most popular soft body armor worn by police officers is composed of only 18 layers of Kevlar. In a test conducted by the Los Angeles Police Department of a .38-caliber KTW bullet at a measured velocity of 1,051 feet per second, the bullet penetrated the front panel of the department's body armor and continued through 3½ inches of "Duxseal"—that is the gelatin that was discussed earlier—a substance with a density similar to that of human flesh.

Currently, Federal law does not restrict the sale of any type of ammunition. Despite the fact that manufacturers of ammunition specifically designed to penetrate bullet-resistant apparel claim their bullets are for police and military use only, there has not been any attempt to legally prevent their availability to the public.

To our knowledge, no one wearing bullet-resistant apparel has been shot with ammunition specifically designed to penetrate this type of armor to date.

Mr. Floyd of Congressman Biaggi's staff told me a few minutes ago that they think that they may have identified a Federal officer who was shot in about 1975 with armor-piercing ammunition while wearing a vest.

However, as long as the manufacture and sale of the ammunition remains unregulated, the potential for such a tragedy is real. Dedicated police officers who daily risk their lives for the welfare and protection of our citizens must themselves be protected from such a threat. The International Association of Chiefs of Police currently can find no legitimate use, in or out of law enforcement, for this type of ammunition. For example, the Washington Metropolitan Police Department specifically prohibits an officer from carrying this type of ammunition, either on or off duty. Officers in the District of Columbia may only carry all lead, hollow-point-plus P.38 special ammunition.

In conjunction with this belief, the association has proposed a study to laboratory test ammunition to determine the following:

One, the types and calibers of ammunition that are specifically designed to penetrate bullet-resistant apparel; two, to determine the physical composition of such ammunition; and third, to determine the entities involved in the manufacture and sale of the ammunition.

We strongly urge the adoption of legislation that would prohibit the manufacture and sale of ammunition that poses such a serious threat to the law enforcement community and others requiring protection.

Unfortunately, however, we think that there is not sufficient information or data available to address this very serious matter in a scientific manner. As previously stated, there are several manufacturers of ammunition specifically designed to penetrate bullet-resistant apparel. We cannot positively identify how many manufacturers there actually are or how many different varieties of these projectiles exist. The KTW, as it is called, is only one of several.

We had a conversation yesterday with the British Home Office regarding another matter, and it appears that they have conducted a comprehensive study as it relates to armor-piercing ammunition that is manufactured overseas.

Further, although there has been unofficial testing of certain projectiles, there is no data as to which calibers of different projectiles will penetrate bullet-resistant vests. Therefore, we strongly support the concept of a study to determine these factors proposed by H.R. 2280.

We have, in fact, offered the services of the IACP to conduct such a study. Presidential Counselor Ed Meese contacted us and asked about a mechanism which is already in place and its capability to

do such a study. We have also discussed this possibility with the National Institute of Justice. The results would establish suitable and workable recommendations for a course of action that will lead to a solution to this dangerous problem.

Although the IACP fully supports the concept of H.R. 5437, limiting and regulating the manufacture, sale, and purchase of ammunition specifically designed to penetrate bullet-resistant apparel, further research is required. Section 4, paragraph 3, defines "restricted handgun bullet" as "* * * a bullet that, as determined by the Secretary of the Treasury, when fired from a handgun with a barrel 5 inches or less in length, is capable of penetrating body armor." We think that a precise definition of such a projectile would be beneficial to incorporate into the bill.

Thank you for this opportunity. I will be happy to answer any questions that you might have.

[The statement of Mr. Darwick follows:]

STATEMENT OF NORMAN DARWICK, EXECUTIVE DIRECTOR, INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

Thank you, Mr. Chairman. I appreciate the opportunity to appear before the House Subcommittee on Crime to express the beliefs of the International Association of Chiefs of Police regarding ammunition specifically designed to penetrate bullet-resistant apparel.

The IACP is a professional membership organization consisting of more than 13,000 members in 63 nations. The association was established in 1893 to further the science of police administration and promote professionalism in law enforcement. It is comprised of chiefs of police and other law enforcement personnel, although command personnel make up over 70 percent of its membership.

Ammunition specifically designed to penetrate bullet-resistant apparel is being manufactured and sold in different forms worldwide. Public awareness of this ammunition has been negligible until recently. Congressman Mario Biaggi first introduced his legislation (H.R. 2280) to identify and ultimately ban these types of bullets in 1981. However, it was not until January 1982 that television's "NBC Magazine" focused national attention on this serious danger.

In December 1978, the International Association of Chiefs of Police completed a comprehensive report entitled "A Ballistic Evaluation of Police Body Armor." In so doing, the bullet, the caliber and the armor needed to protect the wearer were identified.

Currently, an estimated 50 percent of all United States law enforcement personnel wear bullet-resistant vests. These vests are composed of a lightweight, protective material called Kevlar (a registered trademark of E. I. du Pont de Nemours and Company). The vests are now capable of resisting the penetration of handgun ammunition, and are credited with saving the lives of nearly 400 police officers across the Nation. Specifically, between 1975 and 1978, 255 police officers wearing bullet-resistant vests were shot in gun battles, the soft body armor saved the lives of 250 of those 255 officers; the five who lost their lives were shot in unprotected areas. In addition to members of the law enforcement community, the use of bullet-resistant apparel by politicians and other high-level Government officials has grown in recent years due to their increasing exposure and vulnerability to acts of violence.

However, the security that bullet-resistant apparel provides has now been violated, and a real and immediate threat has been posed to the lives and safety of persons relying on such protective equipment.

Unofficial tests have shown that certain calibers of the Teflon-coated KTW bullet can penetrate up to 72 layers of Kevlar, the most popular soft body armor worn by police officers is composed of only 18 layers of Kevlar. In a test conducted by the Los Angeles Police Department of a .38 caliber KTW bullet at a measured velocity of 1,051 feet per second, the bullet penetrated the front panel of the department's body armor and continued through three and one-half inches of "Duxseal," a substance with a density similar to that of human flesh.

Currently, Federal law does not restrict the sale of any type of ammunition. Despite the fact that manufacturers of ammunition specifically designed to penetrate bullet-resistant apparel claim their bullets are for police and military use only,

there has not been any attempt to legally prevent their availability to the public. Indeed, these packaging labels are merely a ludicrous ploy to gain market acceptability, since no enforcement of the regulation is possible.

To our knowledge, no one wearing bullet-resistant apparel has been shot with ammunition specifically designed to penetrate this type of armor to date. However, as long as the manufacture and sale of the ammunition remains unregulated, the potential for such a tragedy is only too real. Dedicated police officers who daily risk their lives for the welfare and protection of our citizens must themselves be protected from such a grave threat. The International Association of Chiefs of Police currently can find no legitimate use, in or out of law enforcement, for this type of ammunition. In fact, the Washington Metropolitan Police Department specifically prohibits an officer from carrying this type of ammunition either on or off duty. Officers may only carry all lead hollow-point plus p.38 special ammunition.

In conjunction with this belief, the association has proposed a study to laboratory-test ammunition to determine the following:

The types and calibers of ammunition that are specifically designed to penetrate bullet-resistant apparel;

The physical composition of such ammunition; and

The entities involved in the manufacture and sale of the ammunition.

Concurrently, the IACP strongly urges the adoption of legislation that would prohibit the manufacture and sale of ammunition that poses such a serious threat to the law enforcement community.

Unfortunately, however, I do not believe there is sufficient information or data available to address this very serious matter in an educated manner. As previously stated by myself and several other sources, there are several manufacturers of ammunition specifically designed to penetrate bullet-resistant apparel. However, no one can positively identify how many manufacturers there actually are or how many different varieties of these projectiles exist. The "KTW" as it is called, is only one of several. Further, although there has been unofficial testing of certain projectiles, there is no data as to which calibers of different projectiles will penetrate bullet-resistant vests. Therefore, the IACP strongly supports the concept of a study to determine these facts, as proposed by H.R. 2280. The IACP has in fact delivered a proposal to conduct such a study to Presidential Counselor Meese just last week. The results would establish suitable and workable recommendations for a course of action that will lead to a solution to this dangerous problem. Although the IACP fully supports the concept of H.R. 5437, limiting and regulating the manufacture, sale, and purchase of ammunition specifically designed to penetrate bullet-resistant apparel, further research is required. Section 4(3) defines "restricted handgun bullet" as " * * * a bullet that, as determined by the Secretary of the Treasury, when fired from a handgun with a barrel five inches or less in length, is capable of penetrating body armor." A precise definition of such a projectile would be beneficial to incorporate into the definitions of the bill.

Thank you. I hope this information has been helpful. I will be happy to answer any questions you might have.

Mr. HUGHES. Thank you very much.

The gentleman from Michigan.

Mr. SAWYER. I have no questions right now. Thank you.

Mr. HUGHES. Mr. Darwick, are you aware of any statistical information currently being collected tying the use of these bullets to any crimes?

Mr. DARWICK. No, sir, I am not.

Mr. HUGHES. If I understand the thrust of the Justice Department testimony, they would move legislation that would impose a mandatory minimum sentence for persons carrying a weapon that has armor-piercing ammunition in it during the commission of a violent offense, a Federal offense, and then moving additional legislation which would ban the manufacture of armor-piercing bullets at a later date when additional information is received.

How do you feel about that approach?

Mr. DARWICK. Well, I just had the opportunity to review quickly the legislation that they are proposing. Without giving it a lot of thought, it doesn't appear to me to address the issue. The fact that

it deals only with Federal crimes doesn't provide much protection at the State and local level. The time element that was discussed as it relates to the need for a study certainly would be lengthened if we waited for each State to adopt legislation which created a mandatory sentence for commission of a felony at the State level.

I think that we could complete the study faster than we could expect 50 State legislative bodies to adopt this type of legislation.

Mr. HUGHES. I was really uncertain as to what Treasury was testifying to when they were here. You heard the testimony. I had a very difficult time trying to find out whether they had enough information to make some intelligent conclusions as to what is armor-piercing and what has sporting or other legitimate purposes. I asked them to report back to us on the question of whether they have enough information so we can decide whether we want them to get additional information.

It seems to me that the first order of business would be to try to define the characteristics of what is an armor-piercing bullet. If we find that certain ammunition has no legitimate sporting or other purposes and it could cause harm to individuals, then we ought to be looking at banning the manufacture and distribution of that type of ammunition. Does that seem to make sense to you?

Mr. DARWICK. That is our position, Mr. Hughes.

Mr. HUGHES. I don't think we have heard back from the Department of the Treasury. I hope that they can conclude their investigation expeditiously. Then they can report the information they have available for us.

In any event, it seems that we have got to take inventory of what information we have, and then make a concerted, crash effort to try to determine the characteristics of what is an armor-piercing bullet, and what ammunition does have legitimate sporting purposes, so that we don't tamper with the rights of people who have a legitimate use for certain types of ammunition. I am persuaded by the commonsense of that particular approach.

I commend you for the position that you have taken. I think it is a responsible one.

Mr. DARWICK. Thank you, sir.

Mr. HUGHES. Thank you very much. We are grateful for your testimony.

Mr. HUGHES. Our next witness is Mr. Pete Shields. Since 1975, Pete Shields has worked with Handgun Control, Inc., and has served as its chairman since January of 1977. Mr. Shields is the author of "Guns Don't Die, People Do," published by Arbor House.

We apologize to you, too, Mr. Shields, for any inconvenience in rescheduling this particular hearing. We have your prepared statement which, without objection, will be made a part of the record, and you may proceed as you see fit.

TESTIMONY OF NELSON T. "PETE" SHIELDS, CHAIRMAN,
HANDGUN CONTROL, INC.

Mr. SHIELDS. I am Nelson T. "Pete" Shields, chairman of Handgun Control, Inc., a national citizens' lobby founded by victims of handgun violence like myself, and now numbering more than 650,000 concerned Americans.

I welcome the opportunity to testify today in support of H.R. 5437, Congressman Biaggi's bill to restrict the availability of armor-piercing handgun bullets.

This legislation has justifiably garnered broad support because it is about keeping our Presidents, our public officials and our law enforcement officials alive in the face of growing crime and violence in our society.

Since that awful day over a year ago when President Reagan was shot, our President has been forced to wear a bulletproof vest during public appearances, as more than half of our Nation's law enforcement officers now do. Now it has come to light that there are armor-piercing bullets, which can be purchased in our Nation's regular gun stores, that are so powerful and so tough that they completely negate the protective value of these vests—vests which a Congressional Research Service study gives partial credit for the 28-percent reduction in firearms-related deaths of law enforcement officers between 1974 and 1979.

I congratulate Congressman Biaggi on responding to this obvious danger to our President, our public officials and our law enforcement officers. It is obvious from the many statements of support from law enforcement officials throughout our country that this legislation is not only welcomed, but considered absolutely necessary and long overdue.

The provisions of H.R. 5437 are straightforward. It would prohibit the importation, manufacture and sale of armor-piercing handgun bullets—handgun bullets because handguns are the primary weapons of criminals who confront our police daily, and of the would-be assassins who have shot down so many of our Nation's leaders. Armor-piercing handgun bullets are not needed in legitimate hunting and sporting activities. Let us face it, they are made for only one purpose, and that is to shoot people.

The bill would define such armor-piercing bullets by testing them against the standard body armor worn by our President and most law enforcement officials. I understand that secret tests by the FBI and others have already cataloged several armor-piercing handgun bullets that penetrate these vests with ease—in fact, penetrate several layers of these vests. That has been demonstrated to you today.

This legislation would, however, give the Secretary of Treasury authority to make exceptions to these restrictions for purposes of public safety or national security. This is an appropriate and necessary feature, despite the fact that the law enforcement community has consistently said they do not use such bullets because of the obvious danger to law-abiding citizens if such powerful bullets were used in confrontations with criminals in our crowded communities.

Despite what Mr. Giuliani has just said to you, I understand there are tens of millions of such armor-piercing handgun bullets already available in this country. Thus, I urge this committee to take prompt action on this life-saving legislation. Do not wait for 100 percent complete cataloging of all such assassin bullets before implementing these restrictions.

Mr. Giuliani just said before you today, and I quote, "There is no legitimate purpose for armor-piercing bullets." He also said, "There are handgun bullets that everyone would agree are clearly armor-

piercing." Why do we wait? Let us ban those now while they are studying the fuller picture and the complete picture of every single bullet. Let us get ahead with banning those that everybody agrees right now are a danger to the lives of our Presidents and our law enforcement officers. I agree with Mr. Sawyer on the point he made on this subject.

Mr. Chairman, when Congressman Biaggi testified on March 30, you heard his comments of disbelief with regard to the NRA's—the National Rifle Association's—opposition to this legislation. I, likewise, cannot believe their position. But more importantly, I cannot believe that the sportsmen and hunters who make up a large part of that membership are truly in favor of the indiscriminate availability of such assassin and cop-killer bullets in our society. I cannot believe the responsible members of the NRA, as Congressman Biaggi put it, " * * * are willing to sacrifice the lives of our police officers," as the NRA leadership apparently is.

I can only hope that the recent change in leadership of the NRA will mean a change in that position. Thus, in the name of today's living President, all future Presidents and all those dedicated policemen who daily risk their lives to protect us, I urge this committee and your colleagues in the entire House to pass H.R. 5437 as expeditiously as possible.

Thank you.

[The statement of Mr. Shields follows:]

TESTIMONY OF N. T. "PETE" SHIELDS, CHAIRMAN OF HANDGUN CONTROL, INC.

Mr. Chairman, I am Nelson T. "Pete" Shields, Chairman of Handgun Control, Inc., a national citizens' lobby founded by victims of handgun violence and now numbering more than 650,000 concerned Americans.

I welcome the opportunity to testify today in support of H.R. 5437, Congressman Biaggi's bill to restrict the availability of armor-piercing handgun bullets.

I especially welcome the opportunity to testify in support of this legislation on this very special and tragically memorable day—the first anniversary of the day President Reagan, Press Secretary James Brady, Agent Timothy McCarthy and Officer Delahanty were shot down by a would-be assassin with a handgun. Thank God they all lived.

This legislation has justifiably garnered broad support because it is about just that: keeping our Presidents, our public officials and our law enforcement officials alive—in the face of growing crime and violence in our society.

Since that awful day a year ago, our President has been forced to wear a bulletproof vest during his public appearances as more than half our nation's law enforcement officers now do. Now it has come to light that there are armor-piercing handgun bullets, easily purchased in our nation's gun stores, which are so powerful and tough that they completely negate the protective value of these vests—vests which a Congressional Research Service study gives partial credit for the 28 percent reduction in firearms related deaths of law enforcement officers between 1974 and 1979.

I congratulate Congressman Biaggi on responding so rapidly to this obvious danger to our President, our public officials and our law enforcement officers. It is obvious from the many statements of support from law enforcement officials throughout our country that this legislation is not only welcomed but considered absolutely necessary and long overdue.

The provisions of H.R. 5437 are straightforward. It would prohibit the importation, manufacture and sale of armor-piercing handgun bullets—handgun bullets because handguns are the primary weapon of criminals who confront our police daily and of would-be assassins who have shot down so many of our nation's leaders. Armor-piercing handgun bullets are not needed in legitimate hunting and sporting activities. Let's face it, they are made to shoot people.

The bill would define such armor-piercing bullets by testing them against the standard body armor vests worn by our President and most law enforcement officers. I understand that secret tests by the FBI and others have already cataloged

several armor-piercing handgun bullets that penetrate these vests with ease—in fact penetrate several layers of such vests.

This legislation would, however, give the Secretary of Treasury authority to make exceptions to these restrictions for purposes of public safety or national security. This is an appropriate and necessary feature despite the fact that the law enforcement community has consistently said they do not use such bullets because of the obvious danger to law-abiding citizens if such powerful bullets were used in confrontations with criminals in our crowded communities.

I understand that some tens of millions of such armor-piercing handgun bullets are already available in this country. Thus, I urge this committee to take prompt action on this life-saving legislation. Do not wait for a 100-percent complete cataloging of all such "assassin" bullets before implementing these restrictions. In the name of today's living President, all future Presidents and all those dedicated policemen who daily risk their lives to protect us, I urge this committee and your colleagues in the entire House to pass H.R. 5437 as expeditiously as possible. Thank you.

Mr. HUGHES. Thank you, Mr. Shields.

The gentleman from Michigan.

Mr. SAWYER. Mr. Shields, how long have you held your present position?

Mr. SHIELDS. I have been involved in the handgun control movement since my son was murdered in San Francisco in 1974. I have been chairman of Handgun Control since 1976.

Mr. SAWYER. Were you the one who made the decision to air certain rather vicious films in five Congressmen's districts, one of them being mine, as a matter of fact?

Mr. SHIELDS. Mr. Sawyer, we produced several films. Our political action committee produced films to inform the people of various congressional districts where their members stood on the issue of handgun control.

Mr. SAWYER. Did you ever see those films?

Mr. SHIELDS. Yes, sir. My wife was one of the people who was filmed in those films.

Mr. SAWYER. Are you familiar with my record?

Mr. SHIELDS. I am familiar with your record as of that time.

Mr. SAWYER. Do you know anything about my background or my position on guns, or the fact that the NRA endorsed my opposition at the time?

Mr. SHIELDS. As I understand it, sir, you have endorsed the NRA's bill, and/or had received money from the National Rifle Association.

Mr. SAWYER. Not until you showed your films, and then I did, and I was very grateful to you.

For anyone who didn't see those films, there were some five of them shown in my district. I can only speculate that I was selected because I had a very close race the time before. You didn't pick Congressman Ashbrook, you didn't pick Congressman Volkmer or anyone like that. You picked me—a former prosecutor, an enforcer of mandatory sentencing and gun control, and no big advocate of handguns either.

There were five different films that came on television showing a mother or grandmother and sitting on a table beside her was a framed picture of either a boy or a young man. And the woman would say, "Two years ago, we lost our John, and we lost him to some crazy man with a handgun. While your Congressman, Harold

Sawyer, may be a nice man, he is the kind of person who is putting the handguns into the hands of the person who killed our Johnny."

Fortunately, in my district, I was very well known as a very effective and tough prosecuting attorney and it blew up in your face. But that is as vicious as anything I have ever seen NRA do. I am just glad to have a good look at you. Thank you.

Mr. SHIELDS. I am glad to be here, sir, and I am glad to hear you say that you are for tough handgun control. I hope you are.

Mr. SAWYER. Well, if anything talks me out of it, it is the kind of vicious stuff that you have been putting out, just like that kind of stuff has turned me off of a lot of NRA's positions.

Mr. SHIELDS. I should say, if I may, Mr. Chairman, that those pictures on the bedside tables, on the table beside the women who were in the films, were their dead children who had been shot in the indiscriminate availability of handguns to criminals and felons and drug addicts in the society, which every commission who has ever studied the issue of violence in America has recommended that we reduce the easy access to handguns in our society. The legislation which, to my knowledge, you had endorsed, sir, would have driven the situation in the other direction, it would have made guns easier to get in society.

Mr. SAWYER. The only false part of it was the fact that Congressman Sawyer had anything to do with putting those guns in the hands of the people who are doing the killing. That I frankly say, Mr. Chairman, I somewhat resent.

Mr. HUGHES. Let me just say to the witness that I understand it is a very difficult subject. I have people in my district now who claim that I am the enemy of all the sportsmen—the No. 1 enemy in the Congress. We get carried away on this whole gun abuse issue, and it is unfortunate.

But let me just say to the witness that I have worked with Hal Sawyer as my ranking minority member for just a short while, and I can assure you that his position on handgun abuse, like his position on everything I can think of that has been before my committee, has been rational, well taken, and well thought out. Hal Sawyer is an enemy of the criminal element, without question, and that includes those that would use a handgun in the commission of a felony, those that use drugs, those that violate our criminal laws in any way. I just regret that he was targeted in that way. If the purpose was to get his attention, I think you have done that.

We thank you for your testimony. You have been most helpful. Again, we apologize for the inconvenience in having you today.

Mr. SHIELDS. Thank you.

Mr. HUGHES. Thank you so much.

Our final witness today is Edward Murphy, legislative counsel with the International Brotherhood of Police Officers, one of the largest independent police unions in the country. Mr. Murphy has represented police officers, independently and collectively, on a wide range of job-related concerns.

Mr. Murphy, we welcome you. Again, we apologize to you for not taking your testimony in March after you patiently waited all day. We are delighted to have you with us today. Your statement, without objection, will be made a part of the record, and you may proceed as you see fit.

**TESTIMONY OF EDWARD MURPHY, LEGISLATIVE COUNSEL,
INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS**

Mr. MURPHY. Thank you, Mr. Chairman.

The International Brotherhood of Police Officers is pleased to have this opportunity to present our views to the committee on H.R. 5437 and related legislation.

The International Brotherhood of Police Officers is one of the largest independent police unions in the country. We represent police officers employed in the Federal, State, and local governments throughout the country. Our organization has long supported legislation which improves the working conditions of our Nation's police.

The growing number of police officers killed or maimed in the line of duty indicates that their profession is one of our Nation's most dangerous. The cost of these injuries and deaths, to the taxpayers and to the officers and their families is staggering. At a time when all levels of government suffer budgetary restraints, these injuries are a severe handicap to government's ability to fight crime.

Many deaths and injuries to police officers were accomplished by means of a handgun. The frequency with which police officers have been killed or wounded has convinced many Federal, State, and local governments to supply their police officers with bulletproof vests. These vests have provided a measure of protection to police officers against criminals who would use guns to further their unlawful ends. Most police-issued vests are made of the material Kevlar and is generally effective against the bullets fired by handguns and submachineguns. Our organization has supported the issuance of vests as a method of improving the safety of a police officer's job.

Recently, however, it has come to widespread public attention that these bulletproof vests are totally ineffective against a Teflon-coated steel bullet called KTW. The penetrating power of this and similar bullets makes them a danger to the public safety. The primary practical use of this bullet is to penetrate bulletproof vests. The bullets appear to have no practical use for hunters or sportsmen. Except in the hands of law enforcement personnel, the sole purpose of this type of bullet appears to be as an instrument to achieve an unlawful end.

This bullet with such horrifying destructive potential is readily available to the general public and can be purchased over the counter in gun shops. There have been reports that sales of the KTW and related bullets are growing rapidly following national publicity about the bullets' destructive capabilities and easy accessibility.

The IBPO believes that these bullets present significant danger to the safety of our Nation's police officers and to the public at large. The availability and publicity concerning these bullets could seriously deter the movement toward issuance of bulletproof vests. It would be very difficult for us to convince the towns and cities to supply bulletproof vests when the evidence has shown that they are vulnerable.

Strong measures must be taken now to protect our Nation's police officers from the dangers of these bullets. The IBPO strongly supports H.R. 5437 as a comprehensive, responsible, and necessary step to protect the safety of our Nation's police officers and insure their continued capacity to fight crime.

This legislation introduced by Congressman Biaggi prevents the manufacture, importation and sale or use of certain classes of restricted bullets such as the KTW. The Secretary of the Treasury is authorized to determine which bullets are restricted in accordance with the guidelines established by Congress. Basically, a restricted bullet would be one which, when fired from a handgun with a barrel 5 inches in length or less, is capable of penetrating body armor. Stiff penalties in this legislation serve as a strong deterrent to the production, sale, and/or use of this bullet or others with its destructive potential.

The Congress has adopted a policy of restricting the availability and use of certain types of firearms and weapons in order to assist police officers to fight crime. Congress has outlawed the sale of the short-barreled rifle, the sawed-off shotgun, machineguns and classes of weapons known as "destructive devices." Congress has provided a stiff deterrent to the sale or possession of such weapons as the means of controlling the availability. This method, while not completely effective, has at least provided police officers with an instrument to combat their availability and use.

Police officers have a very difficult and dangerous job. They are exposed to the unseen dangers every day. If we are serious about fighting violent crime, we must take steps to protect those who are on the front lines of this battle. We must provide protection for our police officers against known and preventable dangers. We, therefore, urge your favorable consideration of H.R. 5437, which protects the police from the dangers of these cop-killer bullets. We also support the legislation, H.R. 2280 and H.R. 5392.

We would like to thank Congressman Biaggi and members of this subcommittee for focusing attention on this problem. We again extend our thanks for the opportunity to present our views and will answer any questions which the committee cares to address to us.

[The statement of Mr. Murphy follows:]

PREPARED STATEMENT OF THE INTERNATIONAL BROTHERHOOD OF POLICE OFFICERS

The International Brotherhood of Police Officers (IBPO) is pleased to have this opportunity to present our views on H.R. 5437, legislation which would limit the use of certain restricted bullets.

The International Brotherhood of Police Officers is one of the largest independent police unions in the country. We represent police officers employed in federal, state and local governments throughout the country. Our organization has long supported legislation which improves the working conditions of our nation's police officers. We have played an active role in such legislation as Public Law 94-430, the Public Safety Officers Benefit Act of 1976.

Police officers with the mission of protecting public safety and the arrest of criminals are on the front lines of our judicial system. Increasingly, police officers have become a target of violent crimes. The number of police officers killed in the line of duty has more than tripled in the last two decades. Many of these deaths were accomplished through the unlawful use of handguns. The growing numbers of police officers killed or maimed in the line of duty indicates that their profession is one of our nation's most dangerous.

The cost of these injuries and deaths to the taxpayers and to the officers and their families is staggering. The cost of injury to the officer and his family needs no elaboration. At a time when all levels of government suffer budgetary restraints, these injuries are a severe handicap to government's ability to fight crime.

The IBPO has long supported efforts to improve the health and safety of our nation's police officers. Realistic measures must be taken to protect the safety of our police if they are to continue to fight crime effectively.

Actions can be taken by local governments to improve the health and safety of our nation's police officers. Realistic measures must be taken to protect the safety of our police if they are to continue to fight crime effectively.

Actions can be taken by local governments to improve safety through the use of modern equipment and thorough training and supervision. There are severe limits, however, to the ability of local governments to protect their policy and fight crime. The federal government has an important role to play in fighting crime and protecting those who labor in that endeavor. The Congress has traditionally faced up to that challenge.

Many deaths and injuries to police officers were accomplished by means of a handgun. The frequency which police officers have been killed or wounded has convinced many federal, state and local governments to supply their police officers with bullet proof vests. These vests have provided a measure of protection to police officers against criminals who would use guns to further their unlawful ends. Most police-issued vests are made of a material called Kevlar and is generally effective against the bullets fired by handguns and submachine guns. Our organization has supported the issuance of vests as a method of improving the safety of a police officer's job.

Recently, it has come to the widespread public attention that bullet proof vests provided by government are totally ineffective against a Teflon-coated green tipped bullet called KTW. The bullets are made of machine steel and nonferrous alloy which are harder than conventional lead slugs. These bullets do not deform much on impact and because they are coated with Teflon, they encounter less friction. According to literature printed by the manufacturer, a KTW slug fired from a .357 Magnum can pierce 1½ inches of cold rolled steel. Firearms specialists report that the bullet can shoot through concrete blocks, an automobile engine block, barricades or an armor plate. Most bullet proof vests used by police officers are made of 16-18 layers of Kevlar. A KTW fired from a .357 magnum will fly through 72 layers of Kevlar.

The penetrating power of this and similar bullets makes it a danger to the public safety. The primary practical use of this bullet is to penetrate bullet proof vests. The bullets appear to have no practical use for hunters or sportsmen. Except in the hands of law enforcement personnel, the sole purpose of this type of bullet appears to be as an instrument to achieve an unlawful end.

This bullet with such horrifying destructive potential is readily available to the general public and can be purchased over the counter in gun shops. There have been reports that sales of the KTW are growing rapidly following national publicity about the bullets' destructive capabilities and easy accessibility.

The IBPO believes that the KTW bullet presents significant danger to the safety of our Nation's police officers and to the public at large. The bullet provides criminals with a legal instrument of destruction whose primary purpose is to penetrate a police officer's protective armor. The easy accessibility provides a threat nationally to the public safety. The issue needs to be addressed comprehensively by this Congress.

The IBPO strongly supports H.R. 5437 as a comprehensive and necessary step to protect the safety of our Nation's police officers and insure their continued capacity to fight crime.

This legislation introduced by Congressman Biaggi prevents the manufacture, importation, sale, or use of certain classes of restricted bullets such as the KTW. The Secretary of the Treasury is authorized to determine which bullets are restricted in accordance with the guidelines established by Congress. Basically, a restricted bullet is one which, when fired from a handgun with a barrel 5 inches or less in length, is capable of penetrating body armor. Stiff penalties in this legislation serve as a strong deterrent to the production, sale or use of this bullet or others with its destructive potential.

The Congress has adopted a policy of restricting the availability and use of certain types of firearms and weapons in order to assist police officers fight crime. Congress has outlawed the sale of the short-barreled rifle, the sawed-off shotgun, machine guns, and classes of weapons known as "destructive devices." Congress has provided a stiff deterrent to the sale or possession of such weapons as the means of control-

ling their availability. This method, while not completely effective, has at least provided police officers with an instrument to combat their availability and use.

Police officers have a very difficult and dangerous job. They are exposed to unseen dangers every day. If we are serious about fighting violent crime, we must take steps to protect those who are on the front lines of this battle. We must provide protection for our police against known and preventable dangers. We, therefore, urge your favorable consideration of H.R. 5437, which protects police from the dangers of the KTW.

We would like to thank Congressman Biaggi and the members of this subcommittee for focusing attention on this problem. We again extend our thanks for the opportunity to present our views to this committee and will answer any questions which this committee cares to ask.

Mr. HUGHES. Thank you very much, Mr. Murphy. You heard the testimony of the Justice Department, I presume.

Mr. MURPHY. Yes, sir.

Mr. HUGHES. Is there anything you want to share with us in reference to their testimony?

Mr. MURPHY. I think our primary concern with the Justice Department position is that it would defer attention that could eventually resolve the problem. We do not think that requiring mandatory sentences will restrict the use of these bullets. We don't think that is an effective means to accomplish that end.

If the Justice Department can guarantee they can complete a study in any particular period of time, we would support the measure. We are concerned that it would be put on the back burner and the problem never addressed. It may be that it would be impossible to make a definition such that some bullets which have a legitimate purpose would not be excluded.

Mr. HUGHES. Which have a legitimate purpose would be excluded, you mean?

Mr. MURPHY. Would be excluded, that is right.

It may be impossible to make such a definition. We think that if in the worst possible case—if a few bullets were excluded which had a legitimate purpose—hunters still would have other bullets which they could use. However, the availability of these bullets could totally, or at least seriously, hamper the use of the bullet-proof vests.

Mr. HUGHES. Thank you.

The gentleman from Michigan.

Mr. SAWYER. I have no questions, Mr. Chairman.

Mr. HUGHES. Thank you very much, Mr. Chairman.

Mr. MURPHY. Thank you, Mr. Chairman.

Mr. HUGHES. I might just acknowledge the presence of our distinguished colleague, Mario Biaggi, the author of two of the bills before the Congress, since his name has been alluded to many times during the hearing. He has been one of the leaders in the battle against the criminal elements. We are delighted to have you with us today.

That concludes our testimony for today. The hearing stands adjourned.

[Whereupon, at 3:33 p.m., the subcommittee was adjourned.]

END