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S. HRG. 98-1235

ARMOR-PIERCING AMMUNITION

HEARING

BEFORE THE
SUBCOMMITTEE ON CRIMINAL LAW
OF THE
COMMITTEE ON THE JUDICIARY
UNITED STATES SENATE
NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

S. 555

A BILL TO STOP THE PROLIFERATION OF "COP-KILLER" BULLETS

MARCH 7, 1984

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ARMOR-PIERCING AMMUNITION

WEDNESDAY, MARCH 7, 1984

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
SUBCOMMITTEE ON CRIMINAL LAW,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:35 a.m., in room 226, Dirksen Senate Office Building, Hon. Paul Laxalt (chairman of the subcommittee presiding.

Present: Senators Biden and Kennedy.

Staff present: John F. Nash, Jr., chief counsel and staff director, Bill Miller, general counsel, Beverly McKittrick, counsel, and Frederick D. Nelson, counsel.

OPENING STATEMENT OF HON. PAUL LAXALT, A U.S. SENATOR FROM THE STATE OF NEVADA, CHAIRMAN, SUBCOMMITTEE ON CRIMINAL LAW

Senator LAXALT. The subcommittee will be in order.

On behalf of the Subcommittee on Criminal Law, I welcome all of you to this hearing on armor-piercing ammunition and in particular on the legislation introduced by Senator Moynihan, S. 555. Identical legislation was introduced in the House last year by Congressman Biaggi, who is also with us today. I want to welcome both of these distinguished Members of Congress to the hearing and invite them to participate as long as their schedules will permit.

The Reagan administration has also been actively interested in this issue and has recommended legislation that was recently passed by the Senate in the Comprehensive Crime Control Act of 1984. That, of course, is S. 1762. Representatives from both the Department of Justice and the Department of the Treasury are here this morning to testify on the general issues surrounding armor-piercing ammunition, as well as on the legislation proposed by Senator Moynihan and Congressman Biaggi and by the administration.

We are fortunate to have with us representatives from three municipal police departments to lend their expertise and experience to our deliberations. These are the men and women whose lives are daily on the line in the fight against crime. The provisions in S. 555 and in the Comprehensive Crime Control Act are intended to benefit directly the police of our Nation.

We shall also hear from spokesmen from several organizations who have been extremely interested in this legislation since it was first introduced. The National Rifle Association and the California Wildlife Federation speak for many of the sportsmen and gun owners in America. The Fraternal Order of Police and the New

York City Patrolmen's Benevolent Association represent the largest organizations of policemen in the Nation and in the Nation's largest city. I welcome you all to be with us this morning.

I shall also place into the record written statements from Congressman Norman D'Amours, from the Citizens Committee for the Right to Keep and Bear Arms, and from other organizations. I should note at this time the subcommittee will keep the record open until March 23 for written statements submitted by other qualified, interested parties and organizations.

I would like to take a moment to outline what I believe are the main issues presented to the subcommittee by S. 555. S. 555 contains provisions for mandatory prison sentences for criminals convicted of using or carrying armor-piercing ammunition during the commission of Federal felonies.

This approach to the problem is similar to the approach taken by the administration and recently approved by the Senate in S. 1762, the Comprehensive Crime Control Act. This approach, to my knowledge, is not controversial.

S. 555 also prohibits the manufacture, importation, and sale of certain armor-piercing handgun ammunition, and it is on this proposal and more specifically on the question of defining the ammunition in question that there is vigorous debate and disagreement.

Some ammunition, when used in the handguns that criminals often carry, will penetrate the soft body armor that is worn by more and more police officers today. Body armor is generally made of multiple layers of Kevlar fabric, which eliminates much of the bulkiness associated with older types of body armor.

The purpose of this legislation is to keep this handgun ammunition from the hands and guns of the criminals by making it unavailable to the general public. This prohibition approach assumes that the ammunition in question can be defined to an acceptable degree of precision so that ammunition that is legitimately used by sportsmen, hunters, and target shooters and that is made by hundreds of large and small manufacturers here and abroad will not be affected.

This problem of avoiding an overly broad sweep in the scope of the bill is a difficult one, to say the least, and one on which the subcommittee needs the assistance of our witnesses who are here this morning.

With this brief introduction in mind, I turn very happily to the first witness this morning, my good friend from the Empire State, Senator Pat Moynihan. Senator Moynihan, welcome.

Senator MOYNIHAN. Mr. Chairman, could Representative Biaggi join me?

Senator LAXALT. Of course.

STATEMENT OF HON. DANIEL PATRICK MOYNIHAN, A U.S. SENATOR FROM THE STATE OF NEW YORK; AND, HON. MARIO BIAGGI, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK

Senator MOYNIHAN. Mr. Chairman, I want first to thank you, sir, for your great courtesy in making these hearings possible. It was

very thoughtful of you to propose this hearing last month when the issue arose in connection with the omnibus crime control bill.

I have a statement, Mr. Chairman, which I would like to put in the record at this point and then briefly summarize the purposes.

Senator LAXALT. Surely. Without objection, so ordered.

Senator MOYNIHAN. Mr. Chairman, it seems to me that in your opening statement you made the essential case. I will speak briefly and then my colleague and friend, Mario Biaggi, will make some remarks. He is a former police officer who was shot 10 times in the course of his active duty and speaks with an authority in this matter that few Members of Congress can summon.

It is the case, Mr. Chairman, that about a decade ago the Du Pont Co. developed soft body armor from a fiber which, in multiple layers, effectively stops a lead bullet slug of the kind that is normally used for target shooting, for hunting, or self-defense purposes.

This body armor began to be used by police in the mid-1970's and now is worn regularly by about half the Nation's 525,000 law enforcement officers. One of the positive aspects of the increased use of body armor has been the involvement of entire communities in efforts to provide police with access to these protective devices. Citizens across the country have raised money to buy bullet-resistant vests for their local police at bake sales, raffles, and other fundraising events. It's a very common thing.

And it gives a sense of security to the police, in association with the community, that is important to them. But this security is threatened by bullets that have one single purpose, to kill cops. These bullets serve no purpose, but to penetrate body armor. The two vests you see here have been penetrated by such bullets. These bullets can be bought anywhere. You are going to hear later, Mr. Chairman, from Detective Richard Janelli of the Nassau County Police. He will describe cop-killer bullets that he has bought over-the-counter in Nassau County, where he is a police inspector. I have here the receipts he received for them.

Some of these bullets, in order to alert you to their uses, are sold in boxes marked, "for police use only," which is to tell a potential criminal that he can kill a police officer with them. The police do not need them and, further, do not use them. These bullets have no use in hunting, and no use in handgun sports, typically target practice. They also are not cheap. No one in a firing range would fire these rounds. Some of them cost \$1.50 apiece.

The only reason to have a round like this is to kill a cop. Mr. Chairman, the purpose of our legislation is very simple: to prevent their manufacture, sale, or importation. Some are domestically manufactured. Others are manufactured in Czechoslovakia and other foreign countries and are imported into the United States. Thirteen million rounds of Czechoslovakian 9-millimeter ammunition have already been distributed in this country.

And we feel that you can define these bullets. They are so elemental in their purpose. One type has a Teflon covering, which was developed by the Du Pont Co. When Du Pont found what the Teflon-coated bullets were being used for, they refused to continue to sell it to munitions manufacturers. The Teflon is a lubricant

that makes it possible to use an armor-piercing bullet without ruining the barrel of the gun.

The problem of defining such a bullet, it seems to us, is elemental. The Department of Justice has been provided funds to do so. We think it can be done.

And with that, Mr. Chairman, I would like to conclude and await questions from this distinguished and honorable committee and my colleague, Mario Biaggi.

[The prepared statement of Senator Moynihan and the text of S. 555 follow:]

PREPARED STATEMENT OF HON. PATRICK MOYNIHAN

Mr. Chairman:

I come before you today on behalf of the Nation's 528,000 law enforcement officers. We have but a single purpose: To ask, will the United States Congress enact legislation to protect them from armor-piercing handgun ammunition, capable of penetrating the standard bullet-proof vest now worn routinely by more than 250,000 of these officers? Or will Congress fail to act, for fear of offending the special interest groups that as a matter of orthodoxy will oppose any government restriction on any bullet?

The job of a law enforcement officer is to risk his life, every day, maintaining the peace and ferreting out criminal activities. Our job is to govern. If we do not address the serious danger posed to law enforcement officers by armor-piercing ammunition, commonly referred to as cop-killer bullets, and do not do so promptly, we should and shall be held accountable by the men and women who perform so valiantly at our behest.

Two years ago, I joined with my distinguished colleague in the House and fellow New Yorker, Mario Biaggi -- himself a former police officer wounded 10 times during his 23 year career -- and on behalf of the New York City Police Department, in introducing a bill to ban the manufacture, import, sale, and use of cop-killer bullets. The need to limit the availability of such ammunition was urgent then, and remains so today. The development of bullet-proof vests in the mid-1970s provided law enforcement officers with greater protection than ever before. These vests, made of layers of woven Kevlar, a synthetic fiber produced by the DuPont Company, have so far been credited with saving the lives of more than 400 officers. The FBI's most recent statistics document that the number of law enforcement officers killed in the line of duty by handguns declined 43 percent from 1974 (when such vests were first made available to police departments) to 1983. These vests, however, are rendered virtually useless by cop-killer bullets.

These small caliber, pointed bullets, usually made of brass or steel, differ from regular ammunition in two chief respects:

their rapid speed of travel, and their capacity to retain their shape on impact. Perhaps the best known version of this ammunition is the KTW bullet, manufactured by the North American Ordnance Corporation in Pontiac, Michigan. In a test conducted by the California State Police, this bullet, with an apple green Teflon coating to enhance its penetrating ability, was found capable of piercing four standard bulletproof vests (72 layers of Kevlar) and five Los Angeles County phone books placed behind the vests. The awesome power of the KTW bullet is not significantly greater than other types of armor-piercing ammunition. In fact, a 1982 FBI study identified eight different bullets -- five domestically-produced and three imported -- that can easily pierce the standard vests worn by law enforcement officers (18 layers of Kevlar).

I submit that these bullets have absolutely no commercial value. Armor-piercing bullets were first designed for use by law enforcement officers themselves, shooting at cars and barricades, but since then they have been strictly prohibited by most police departments. In fact, there is not one single police department in the country known to sanction officially the use of this ammunition. With good reason: Armor-piercing handgun ammunition is too unpredictable for police use. It often ricochets off the objects toward which it is fired, significantly increasing the chance of bodily injury to other law enforcement officers and innocent bystanders. Some types of armor-piercing ammunition are so volatile that they damage irreparably the barrel of any handgun from which they are fired. As Captain John Sibley of the Rochester (Minnesota) Police Force observed:

There can't be any other reason for such bullets in a handgun except to shoot police officers.

Every major law enforcement organization in the United States shares this sentiment. The National Fraternal Order of Police, the International Association of Chiefs of Police, the International Union of Police Associations, the International Brotherhood of Police Officers, the National Association of Police Organizations, and the Federal Law Enforcement Officers Association, in addition to hundreds of State and local police groups and the National Association of Counties, strongly support a ban on cop-killer

bullets and have urged Congress to act on this legislation. While some individual law enforcement officers may advocate the use of armor-piercing handgun ammunition, they do not speak for the overwhelming number of police who are outraged about the lack of restrictions on cop-killer bullets.

Armor-piercing handgun ammunition is of no use to hunters and sportsmen. Standard ammunition can be used to achieve the same objectives, and in a safer and more certain fashion. Animals shot with armor-piercing projectiles die slow deaths, usually from loss of blood, because the bullets typically pass through the body cavity without fragmenting on impact. Indeed, for this reason, many States explicitly forbid the use of such bullets for shooting game.

The legislation Congressman Biaggi and I proposed in the 97th Congress, and introduced in this Congress as S. 555 and H.R. 953, would direct the Department of the Treasury to determine which bullets, when fired from a handgun with a barrel 5 inches or less in length, are capable of penetrating the equivalent of 18 layers of Kevlar, the standard composition of most police vests. The Department then would publish its findings in the Federal Register, and 60 days after publication those bullets so identified would be banned from further manufacture, import, sale, and use - except when authorized by the Secretary of the Treasury for public safety or national security purposes. The Secretary of Treasury could allow domestic manufacturers to continue testing armor-piercing bullets, and authorize the sale of such bullets to local law enforcement agencies or foreign governments.

A licensed importer, manufacturer, or dealer who violated this act would be subject to a fine of not more than \$10,000, imprisonment for not more than 10 years, and the revocation of his Federal license. In addition, a person using or carrying an illegal bullet during the commission of a Federal felony would be subject to a mandatory sentence of not less than 1 year nor more than 10 years for a first offense, and not less than 2 years nor more than 25 years for a second or subsequent offense.

The stipulation in the testing procedures, to focus on bullets for handguns with a barrel length of five inches or less, was not

arbitrary. In 1981, Joseph Albright of Cox Newspapers studied data on some 14,268 handguns confiscated from criminals. His study, widely acknowledged as the most comprehensive of its kind, revealed,

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.

Mr. Albright also found that the 15 handguns predominantly used by criminals all had barrel lengths of four inches or less.

The vest thickness prescribed in the testing procedures of my legislation also was carefully chosen. The vast majority of police vests worn today consists of 18 layers of kevlar. This is the same vest thickness used in the FBI's 1982 demonstration project, a study which showed these vests capable of stopping any conventional handgun bullets (including the .44 magnum, the most powerful standard handgun ammunition), but unable to defeat eight types of specially-designed armor-piercing ammunition.

Let me make clear what this bill does not do. Our legislation would not limit the availability of rifle ammunition with armor-piercing capability. We recognize that soft body armor is not intended to stop high-powered rifle cartridges. Time and again, Congressman Biaggi and I have stressed that only bullets capable of penetrating body armor and designed to be fired from a handgun would be banned; rifle ammunition would not be covered. To further clarify this intent in our legislation, both Congressman Biaggi and I would favor an amendment explicitly to exclude rifle ammunition.

In addition, our bill would not limit the availability of conventional handgun ammunition to law-abiding citizens for self-defense and sporting purposes. The legislation has been drafted so as to apply only to the narrow class of bullets capable of penetrating bullet-resistant armor when fired from a handgun. Gun owners who already have armor-piercing handgun ammunition in their possession would not be subject to criminal sanctions. Our sole objective is to keep those handgun bullets specially designed to pierce soft body armor out of the hands of criminals. Nothing more is intended; nothing less will suffice.

In the spring of 1982, the House Subcommittee on Crime conducted hearings on our legislation. At that time, the Administra-

tion raised some legitimate questions about the scope of our proposal. Officials from the Department of Justice and the Department of the Treasury, while agreeing with the thrust of our legislation, expressed concern about the adequacy of our definition of armor-piercing ammunition.

Since that time, the Department of Justice has tried to develop a legislative response to the threat of cop-killer bullets, one that incorporates these concerns. Funds were allocated at the beginning of 1983 for a joint project by the National Institute of Justice and National Bureau of Standards to formulate a legislative definition of armor-piercing ammunition. An initial draft version of the study's findings was forwarded to the Department in August, 1983. Following further revisions, a final draft proposal was sent to the Office of Management and Budget for review. In a letter to Congressman Biaggi of January 31, 1984, Robert A. McConnell, Assistant Attorney General, stated,

... I remain optimistic that we have now resolved the definitional problems which have plagued this legislation in the past and that we will have a proposal for submission to the Congress in the near future...

What, then, happened to this proposal? Quite simply, nothing. Someone, somewhere, in the Administration decided that the Department of Justice's proposal was unacceptable. As a result, the Department of Justice has not released any findings, although some details of its proposed legislation were made available to me and Congressman Biaggi. The main difference between the Justice Department's proposal and our legislation seems to be the device used to test the penetration capacity of armor-piercing bullets. The Justice Department proposal substitute a metal plate for the 18 layer Kevlar vest included in our testing procedures.

The response of the Department of the Treasury since the House hearing has been deeply disappointing. Treasury officials have done nothing to assist the Justice Department in its efforts to produce a legislative definition of armor-piercing handgun ammunition. Instead, Robert E. Powis, Deputy Assistant Treasury Secretary for Enforcement, permitted the National Rifle Association to circulate a letter, from Mr. Powis, dated April 7, 1983, to members of the Senate. In this letter, Mr. Powis wrote the NRA,

There has been little significant progress in the development of a regulatory definition for armor-piercing ammunition that would not also include a wide range of ammunition commonly used for sporting purposes.

This letter, an almost exact reiteration of Mr. Powis's testimony before the House Subcommittee in 1982, was sent the same day that Robert A. McConnell, Assistant Attorney General, wrote to Mr. Donald E. Fraher, Legislative Director of Handgun Control, Inc. to inform him that,

In an effort to develop a precise legislative definition of armor-piercing bullets, the Department of Justice has funded a research project now being carried out by the National Institute of Justice and the National Bureau of Standards. It is hoped that this research effort will produce a workable definition of armor-piercing ammunition. Once the results are in, we expect to offer legislation banning armor-piercing handgun ammunition.

Was Mr. Powis unaware of the Justice Department's work on a legislative solution, or simply uninterested in its results?

Mr. Powis also asserted in his letter to the NRA that the Department of the Treasury was controlling the distribution of specially designed armor-piercing ammunition, through voluntary compliance agreements. How, I must ask, could the Department of Treasury limit the availability of armor-piercing handgun ammunition, if it considered it impossible to differentiate such bullets from standard ammunition? I might add that the NRA also sent a second letter to members of the House, dated June 10, 1983 in which it averred,

Federally licensed firearms dealers no longer stock armor-piercing bullets for purchase by police officers as they once did. There are no importers that the Treasury Department does not have a voluntary compliance agreement with limiting the sale directly to police departments.

I, for one, have doubts about the existence of any such "voluntary compliance agreements" with domestic manufacturers, Federally licensed firearms dealers, and importers. Last week I wrote Mr. Powis, requesting documentation of all these voluntary compliance agreements before today's hearing. I have not received a response. Several police witnesses will appear before the Subcommittee this morning to respond to the Treasury Department's assurances about controls allegedly placed on the distribution of cop-killer bullets. In particular, Detective Richard Janelli, of

the Nassau County Police Department, will testify to the availability of armor-piercing hand-gun ammunition in gun shops throughout his Department's jurisdiction. Permit me to mention that last September the Nassau County Police arrested a suspected bank robber in his residence. During a search pursuant to the arrest, police discovered both domestically-manufactured and imported armor-piercing handgun ammunition.

Some opponents of our legislation, primarily the NRA, contend there is no need to restrict the availability of armor-piercing handgun ammunition. This type of bullet, it is argued, poses no danger to law enforcement officers. Could the NRA be unaware that a Canadian police officer and a Florida Highway Patrolman were shot and killed with KTW ammunition in Broward County, Florida in 1976? Had not the NRA spoken with law enforcement officers who are well aware of stocks of armor-piercing handgun ammunition available in local gunshops?

Writing in the August 15, 1983 edition of The Firing Line, the official publication of the California Rifle and Pistol Association, Inc., Warren Cassidy, Executive Director of the NRA stated,

Clearly, ammunition designed to cut through armor is not used by hunters or competitive shooters. The ammunition is for specialized law enforcement and military uses only. The NRA understands this.

The NRA, then, does recognize the distinction between specially designed armor-piercing bullets and standard ammunition. Nevertheless, the NRA seems unable to go one step beyond, and recognize that a legislative definition can encompass one type of bullet without including the other. Instead Mr. Cassidy charges in his article that the legislation sponsored by myself and Congressman Biaggi would ban virtually all types of sporting ammunition.

Yet Mr. Cassidy and other NRA representatives cannot document what types of standard handgun ammunition would be outlawed by our bill. When pressed for specifics, they argue that our legislation would ban 90 percent of all rifle ammunition, a type of ammunition not addressed by our legislation. Even if the NRA were able to identify standard handgun bullets that would be outlawed under S. 555, I would contend, as did former Associate

Attorney General Rudolph W. Gialiani, in his letter to Congressman Biaggi on February 1, 1983, that

... any further delay is a tragic mistake. If legislation bans some bullets which are not strictly armor-piercing -- if it is in some sense overinclusive -- that is a small price to pay when the safety of law enforcement officers and others hangs in the balance.

Let there be no mistake. Any effort to ban armor-piercing handgun ammunition will be opposed by the NRA on narrow ideological reasons, no matter how carefully we define the ban. The NRA would have us wait to enact such a ban until dozens, perhaps hundreds, of law enforcement officers wearing vests are shot dead by these wholly unnecessary bullets. In the meantime, domestic manufacturers and importers and Federally licensed firearm dealers would continue to pedal cop-killer bullets, at the potential expense of every law enforcement officer wearing a vest. My question is, "why must we wait until then?"

I would like to mention and commend the efforts of Handgun Control, Inc., an organization that has assisted local officials here in Washington, D.C., as well as elsewhere in providing soft body armor to police officers who previously had no access to these vests. Handgun Control has joined with law enforcement organizations in vigorously supporting legislation to ban cop-killer bullets, and in so doing has performed an important public service.

While the Congress has yet to act upon this legislation I am encouraged by the response our bill has elicited from State legislatures. Since we first offered our legislation nine States (Kansas, Oklahoma, Alabama, Rhode Island, Illinois, California, Florida, Texas, and Indiana) and the District of Columbia have outlawed cop-killer bullets. Six more States (Minnesota, Louisiana, Montana, New Jersey, Maine and Virginia) have increased existing penalties for criminal possession or use of such bullets, and many others currently have legislation pending. The Administration also included, in the crime package approved by the Senate last month, criminal sanctions for the use of armor-piercing ammunition. In addition, Winchester-Western, one of the Nation's largest ammunition manufacturers, has stopped producing armor-piercing bullets, and the DuPont Company has stopped selling Teflon to

manufacturers of the KTW bullet, after determining the ammunition was being distributed to the general public.

Unfortunately, these efforts cannot provide law enforcement officers the protection they so deserve. We must do everything possible at the Federal level to prevent the criminal use of armor-piercing handgun ammunition. Certainly, as Mr. Edward Murphy, Legislative Counsel to the International Brotherhood of Police Officers, pointed out in his testimony before the House Subcommittee on Crime, there is ample precedent for Federal legislation to ban this type of lethal ammunition:

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 in fighting 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 controlling their availability. This method, while not completely effective, has at least provided officers with an instrument to combat their availability and use.

Police officers are pleading for this additional protection. How long can we ignore these pleas?

As sentiment against cop-killer bullets continues to build across the country, it is incumbent on the U.S. Congress to address the issue.

98TH CONGRESS
1ST SESSION

S. 555

To stop the proliferation of "cop-killer" bullets.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 22 (legislative day, FEBRUARY 14), 1983

Mr. MOYNIHAN (for himself, Mr. BIDEN, Mr. HEINZ, Mr. KENNEDY, Mr. INOUE, Mr. PELL, Mr. BRADLEY, and Mr. METZENBAUM) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To stop the proliferation of "cop-killer" bullets.

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

SHORT TITLE

4 SECTION 1. This Act may be cited as the "Law En-
5 forcement Officers Protection Act of 1983".

6 SEC. 2. (a) Whoever, being a licensed importer, manu-
7 facturer, or dealer under chapter 44 of title 18, United States
8 Code, imports, manufactures, or sells a restricted handgun
9 bullet, except as specifically authorized by the Secretary of
10 the Treasury for purposes of public safety or national secu-
11 rity, shall be fined not more than \$10,000 or imprisoned not

1 more than ten years, or both, and the license of such person
2 shall be subject to revocation under such chapter.

3 (b) Whoever—

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

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

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

22 SEC. 3. (a) The Secretary of the Treasury may prescribe
23 such regulations as may be necessary to carry out this Act,
24 including regulations requiring appropriate persons to provide
25 samples of bullets for testing under this Act.

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

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

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

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

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

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Senator LAXALT. I thank the Senator. I noticed during the time the Senator was testifying that my distinguished friend and colleague, Senator Kennedy, came in. Did you have an opening statement, Senator, that you would like to make preparatory to the questioning?

**OPENING STATEMENT OF HON. EDWARD M. KENNEDY, A U.S.
SENATOR FROM THE STATE OF MASSACHUSETTS**

Senator KENNEDY. Well, thank you, Mr. Chairman. I just want to commend Senator Moynihan and Congressman Biaggi for introducing this legislation. I am very hopeful that we will get action on this important proposal. As the chairman of this subcommittee remembers, when the Senate was considering the changes in the existing laws relating to the interstate sales of handguns and Saturday night specials, I offered an amendment at that time to ban the production of these bullets. And I was reminded at that time that Treasury was reviewing this whole issue and that they were going to make recommendations to the Judiciary Committee about how this could effectively be achieved. So I withdrew my amendment.

That was 2 years ago. And over that period of time there have been many policemen who have been shot and two who lost their lives while we find bureaucrats doing more studies about how to stop this kind of a terrible situation.

I feel that the recommendations that are made by Senator Moynihan in this legislation, which I welcome the opportunity to cosponsor, makes a great deal of sense. I am hopeful that we can get the legislation out and get it passed. And I will certainly join with the Senator from New York in attaching it to any appropriate piece of legislation that comes along in the U.S. Senate, if we are not able to get it successfully out of the Judiciary Committee, in order to give an opportunity for other Members of the Senate to speak on this issue.

We hear a great deal in our society now about violence in our society and about how we are going to support our law enforcement officials. Well, I think the Senator from New York and the Congressman from New York have given a very clear way in which we can make some contribution to ensuring the preservation of life for those men and sometimes women who are the front line of defense for our communities. And I just want to thank the chairman, Senator Laxalt, for holding these hearings. And I welcome the testimony of our two witnesses here this morning and commend them for making a very important contribution to the preservation and well being of law enforcement officials in this society.

Senator LAXALT. I thank the Senator.

Senator Moynihan, in your written statement, I notice that you indicate that the bill is not intended to affect rifle ammunition even though it may be able to pierce soft body armor. I understand that many sporting pistols today are designed to fire rifle cartridges.

Does this mean that rifle ammunition that can pierce body armor when fired from handguns will also be banned by this bill?

Senator MOYNIHAN. Yes, Mr. Chairman. I do not want to play games with this subject. Any round that was designed originally

for handguns but could be fired from rifles and that will penetrate the armor of police officers and peace officers and kill cops, we are against; that is what this is for.

And that kind of round would not ordinarily be used by a sportsman. You have handled rifles in your day; so have I. You do not fire steel cased cartridges at game. It does not stop them, among other things. It goes right through them. It goes right through game, as it goes right through police officers.

Senator LAXALT. True. Senator, do you have any questions to ask Senator Moynihan before we go on to Congressman Biaggi.

Senator KENNEDY. Just to be the devil's advocate, there are those who say in terms of hunting that this is really a humane missile because what it does do is instead of another kind of a shell if it hits an animal, that may wound the animal, this effectively does the job, so to speak, and therefore puts the animals out of their misery and does it quick.

And, therefore, there is a compelling sporting interest for this kind of a round. That is the argument that I heard in our Judiciary Committee when I brought this measure up a little over a year ago.

I think you have answered it, but if there is anything further you want to add to that, because we will hear that argument made again. And I would just like to hear your response.

Senator MOYNIHAN. Well, Senator, I live in Delaware County, NY, where more deer are shot each year than in any other county in the State and more, I think, than in many other States in the Nation. And we know something about deer hunting in that part of the world, which is the main big game hunting that we do.

What would you do with a steel-jacketed round of that type which does not stop the deer, but just puts a bullet through him so he can bleed to death 24 hours later?

Now, I do not know that you get very far in the discussion of the humane way to kill animals, and I am not trying to get into that. But if you want to be specific, if you were a deer hunter in Delaware County, the last thing in the world you would ever do is put in your rifle an armor-piercing round because it will pierce the deer without stopping him. Now, it is just as simple as that. I do not want to speak to the relative humanity of the matter, but if you are trying to bring home some venison, a sportsman would never do so in that manner.

Senator KENNEDY. I just have a final question. As I understand it, there have been at least two officers who have been killed by these bullets.

Senator MOYNIHAN. Yes, sir.

Senator KENNEDY. And I think their families have some interest in being protected and I think their colleagues—I do not know the numbers that have been wounded, but I know that it has been significant, and I think that their families are entitled to have some protection as well and some consideration as these other interests which we hear so much about.

I thank the Senator.

Senator LAXALT. All right Congressman Biaggi, we would be pleased to hear from you.

STATEMENT OF REPRESENTATIVE MARIO BIAGGI

Mr. BIAGGI. Thank you very much, Mr. Chairman. I have a lengthy statement, which I would ask the permission of the Chair to have included in the record.

Senator LAXALT. Without objection, it will be so ordered.

Mr. BIAGGI. And I would like to make some observations. With relation to the humane aspect, I share the sentiments of my colleague from New York, Senator Moynihan. That is another question. But really the same thing applies to a police officer. We do not need armor-piercing bullets for law enforcement. We emphasize that.

What the police officer requires is a bullet that will stop the felon, and an armor-piercing bullet will not stop the felon. Moreover, it will pierce him quite readily and pose a danger to the civilians in the area. Oft-times we have seen innocent bystanders killed in this kind of exchange.

Before I go into my written comments, I have been involved in this thing for 4 years and some of the comments we get from representatives of the NRA is that no police officer has been killed. Let us assume that none have been, even though we know that two have been killed, both in Florida. One was a Florida highway patrolman. The other was visiting a Canadian police officer, who was killed in the same incident.

Is it necessary to wait until a police officer is killed before we pass legislation or do we share the horrible experience and oft-times hypocritical experience of participating in memorial services for law enforcement officials and wait for them to die before we shed those crocodile tears.

I say an ounce of prevention is worth considerably more than those fraudulent expressions. I have been in law enforcement over 23 years. I have attended many a policeman's funeral. And we are familiar with the entire process. I am at odd's end to understand why the NRA takes the position that it does.

But hopefully this committee—and forgive me, Mr. Chairman, I am a little upset about this because I am passionately involved with this issue. There is a responsibility on the part of government, on the part of society at large to protect the police officer when possible.

Here we have an opportunity and it is not being done and it is being resisted by the very same people who should be out there in the vanguard and not be the main obstacle to the enactment of this legislation.

With relation to the question of using rifle ammunition in handguns, the bill would only affect ammunition that is originally designed for handguns. And again I agree with the Senator from New York; it is a rare occasion when a sportsman will take a rifle cartridge and put it in a handgun. This legislation deals with the rule, not the exception. Frankly, there is no legislation that perfectly applies in all cases.

But if it deals effectively with the problem at large, then it is worth enacting. As I said before, it was nearly 4 years ago that I authored legislation to address the problem of cop-killer bullets. I did so at the request of the law enforcement community. In 1979,

the then president of the New York City Patrolmen's Benevolent Association brought this to my attention saying that New York City had become the dumping ground for this type of bullet.

And as a 23 year veteran police officer, I understand the critical nature of the problem, but I cannot understand how such a problem can be talked about by so many and acted on by so few. And that is why I appreciate your interest, Mr. Chairman. And I am hopeful that today's hearing will allow us to overcome the obstacles that have stalled this vital police protection measure for so long.

First, let me emphasize that armor piercing handgun bullets are not used for legitimate purposes. Even the National Rifle Association has acknowledged this fact, stating, "Clearly ammunition designed to cut through armor is not used by hunters or competitive shooters." My legislation seeks to ensure these bullets are not used for unlawful purposes.

Actually, these high powered cartridges, which the police community fear, were originally made to help police, particularly when shooting at automobiles. The notorious Teflon coated KTW armor-piercing cartridge was developed by three men in Ohio for that very purpose.

But we have witnessed a change in the policy of law enforcement over the years. Police officers today are generally restricted from firing at fleeing cars. Now, the KTW bullet and other armor-piercing ammunition no longer serves any special law enforcement purpose. I have brought a KTW bullet to show the committee because it is quite unique. It has the green apple Teflon coating. The Teflon was provided by Du Pont.

And, in fairness to Du Pont and to their everlasting credit, we had their representatives in several years ago and pointed this out and they agreed to discontinue the sale of Teflon to ammunition manufacturers for this purpose. But there are about a half a dozen other cartridges that have the same armor-piercing ability, and do not have the Teflon coating.

Adding to the irony is the fact that the law enforcement community considers this ammunition too dangerous even for police use. According to the International Association of Chiefs of Police, "We can find no legitimate use for armor-piercing ammunition, either in or out of law enforcement. The manufacturers' position that it is for 'police use only' is ludicrous." The problem is really quite simple. More than half our Nation's 528,000 law enforcement officers wear bullet resistant body armor on a daily basis. And that soft body armor came into being long after the armor-piercing bullet was developed. So, initially, the armor-piercing bullets did not pose any special threat to police.

Now, we have the soft body armor and the police officers who wear it have every right to expect that they will be afforded the kind of protection that it allegedly represents.

Senator LAXALT. For the purpose of the record, Congressman, what was the reason why we had the policy change restricting police officers from using this on vehicles?

Mr. BIAGGI. Most police departments, including New York City's, restrict their officers from firing at fleeing fugitives; the theory being we have the means to pursue and capture them later rather

than jeopardizing innocent bystanders, who have too often been injured or killed during an exchange of gunfire between police and felons.

The problem is really quite simple. More than half of our Nation's 528,000 law enforcement officers wear bullet resistant body armor on a daily basis. The U.S. Justice Department reports that more than 400 lives have been saved by these vests, and that is reason enough for wearing them.

In fact, during the 10 years that bulletproof vests have been in use, handgun related police deaths have declined by 43 percent. Although not designed to stop rifle ammunition, the 18 layer Kevlar vest that most police officers wear will stop conventional handgun ammunition, including the powerful .44 Magnum.

As a result, more and more police are looking to soft body armor for protection. Just last year, in fact, I joined in the effort to raise \$624,000 to furnish more than 3,000 District of Columbia police officers with a bulletproof vest identical to the one displayed here by District of Columbia police officer Alan Harper. Yet, despite its ability to stop conventional handgun ammunition, soft body armor is totally useless against a small class of handgun bullets especially made for maximum penetration.

And there has been demonstration after demonstration in the city of New York and other places around the country that have revealed to police officers just how dangerous the bullets can be. There was a film shown this morning when Senator Moynihan appeared on the "Today Show," which demonstrated how these bullets can rip through a police vest and—

Senator MOYNIHAN. Five telephone books.

Mr. BIAGGI. These bullets can penetrate both sides of the vest, go through a substance equivalent to the human body and then go through several thick telephone books. What Officer Harper is now holding is a vest that provided as much resistance as a piece of paper when tested against a KTW bullet. As you can see, the KTW bullet easily penetrated the front and back panels of this vest and kept on traveling.

Significantly different from other handgun ammunition, the armor-piercing handgun bullets are made of extremely hard metals, usually steel, which allow the bullets to retain their shape on impact.

In addition, they travel at exceptionally high speeds. Contrary to a popular misconception, the apple green Teflon coating, which is unique to the KTW bullet, is not the key ingredient to armor-piercing ammunition, although it does increase the penetrability by some 10 to 20 percent.

My initial research identified eight different manufacturers, both foreign and domestic, that made a handgun cartridge capable of penetrating the most popular police vest. The current availability of armor-piercing handgun ammunition is difficult to assess in precise terms.

However, we do know they have been easily obtained by civilians through local gun shops and we know that criminals have used them to shoot and kill police officers. Just last September a bank robbery suspect was arrested by Nassau County and New York police. During a search of the suspect's home, the police found a

stockpile of weapons and ammunition, including 32 armor-piercing handgun cartridges. The Bureau of Alcohol, Tobacco, and Firearms reports that approximately 30 million rounds of Czechoslovakian armor-piercing ammunition were imported during the 1970's for commercial sales.

Despite these alarming facts, Federal law does not limit the availability of armor-piercing cop-killer bullets in any way.

This is especially surprising, since even the manufacturers agree that these awesome projectiles should not be available to the public. In fact, the producers of the notorious KTW armor-piercing bullets have labelled their product "for police use only." And, notwithstanding that label, we have it right here. People go into the shops and buy them without difficulty.

Now, there are some critics of our legislation who say that since we have raised the issue there has been a more cautious approach, a more considered approach in making these bullets available to the public. The impression they give you is that only law enforcement people can now get it. Nothing could be further from the truth.

Senator MOYNIHAN. This was bought over the counter two months ago in Nassau County.

Mr. BIAGGI. In February 1982, I offered what I felt was a logical response to the serious problem. All handgun bullets capable of penetrating the 18 layer Kevlar vest, most often worn by police, would be outlawed, except for military and police use. This legislation would also provide a mandatory 1 to 10 year prison sentence for any person convicted of using these bullets in crime.

As a police officer, I have always recommended that anyone convicted of committing a crime with a firearm should have an additional mandatory penalty imposed. The bill, H.R. 953, and its Senate companion, S. 555, have been endorsed by individual police departments and major police organizations across the country. Congressional support has been overwhelming with over 200 Members of Congress cosponsoring this legislation.

In addition, 10 States as well as a number of localities have enacted similar laws banning armor-piercing handgun bullets. Contrary to what some critics might want you to believe, my legislation is not some deviously contrived gun control measure aimed at infringing on the legitimate use of firearms or ammunition, which is a right I fully support. I am not for gun control measures that infringe on the rights of legitimate gun owners and users. I would like to make that point clear.

I am simply for protecting of the lives of police officers. My bill uses an approach based on common sense to outlaw a very small class of handgun bullets that benefit only one element of our society, the criminal element. Despite the compelling need for such a measure, the Congress has failed to enact a Federal ban against armor-piercing, cop-killer bullets.

There are two reasons. First, the National Rifle Association strongly opposes a ban on these bullets; second, the administration, while seemingly not opposed to the idea, has offered very little meaningful support for a Federal ban. The gun lobby's opposition to a ban on armor-piercing handgun ammunition is nothing but a

knee jerk reaction based more on paranoia than on any semblance of reason.

Consider, for example, an article written by Evan Marshall for the Gun Owners of America, which stated:

The National Rifle Association has wisely recognized that the killer bullet controversy represents a gun control issue. If the antigun people can begin to restrict ammunition, they can get gun control through the back door.

Simply put, the issue my bill seeks to address is police protection, not gun control. For nearly 2 years the Justice and Treasury Departments have offered assurances that they share my deep concern about the serious threat armor-piercing ammunition poses to our law enforcement community. They have given assurances that they would work with me in developing appropriate legislative remedies. Yet they refuse to endorse the legislation before the subcommittee today to ban armor-piercing bullets, and they have failed to develop alternative legislation of their own.

Simply stated, this administration, which has long prided itself on a strong law and order stance, for which I am grateful, notwithstanding the fact I am a Democrat, has used bureaucratic double talk to effectively stonewall the most important police protection initiative in recent years, a ban on cop-killer bullets. It appears that at least part of the reason for these mixed signals we are getting from the administration stems from a bureaucratic squabble between the Departments of Justice and Treasury.

While both Departments have pledged their willingness to work toward a legislative ban against armor-piercing handgun bullets, only the Justice Department appears to have followed through on that pledge, and their constructive efforts have met continued resistance from Treasury officials. In a letter dated January 31, 1984, Assistant Attorney General Robert McConnell informed me that:

The Department of Justice has just recently forwarded a draft armor-piercing bullet package to the Office of Management and Budget for review within the administration.

I remain optimistic that we have now resolved the definitional problems which have plagued this legislation in the past.

And the question of definition has been the plague, but apparently Mr. McConnell feels that the Justice Department's proposal resolves that problem and that we will have a legislative proposal for submission to the Congress in the near future.

Although the Justice Department proposal has not been made available for my review, I have been informed by a Justice official that the general thrust is very similar to the Biaggi-Moynihan legislation. The major differences are that the Justice proposal would require testing to be conducted by the industry rather than the Treasury Department, and the standard of penetration would consist of a certain number of aluminum plates rather than the 18 layers of Kevlar. For the record, I would have no problem with either change. In fact, I find the Justice approach rather appealing, and I am hopeful the Congress will have an opportunity to give it the prompt and careful consideration it deserves.

I am bothered by the reports I have received, however, indicating the Treasury Department is opposed to the Justice draft and may block its submission to Congress. I would urge Treasury to reconsider their position and join the Justice Department.

While State laws and voluntary restrictions are encouraging, they are far from satisfactory. Only 10 States have restricted the availability of these high powered projectiles and the laws that do exist vary from one State to the next. Voluntary efforts are unenforceable and have already proven unsuccessful in keeping armor piercing bullets out of the hands of cop killers.

Suffice it to say that without a Federal ban on armor-piercing handgun ammunition, there will be nothing to stop the money hungry businessmen from making an easy dollar at the risk of police lives. Whether it is the Biaggi-Moynihan legislation, the Justice Department proposal, or some other alternative is really quite insignificant. No matter what the legislative vehicle, we cannot afford to wait any longer to impose a Federal ban on armor-piercing cop-killer bullets.

Simply put, cop killers do not wait for others to act. So, why should we? We must try to prevent police deaths rather than respond to them.

[The prepared statement of Mr. Biaggi follows:]

PREPARED STATEMENT OF REP. MARIO BIAGGI

Mr. Chairman, it was nearly four years ago that I first authored legislation to address the problem of armor-piercing "cop killer" bullets. I did so at the request of the law enforcement community. They came to me because I served 23 years as a New York City police officer . . . because I was wounded 10 times in the line of duty . . . because I fully recognize the need for better police protection. With good reason, they were deeply concerned that the public was being allowed easy access to a special type of handgun ammunition that could penetrate their soft body armor.

It is unthinkable to me that such a critical problem can be talked about by so many and acted on by so few. I appreciate your interest, Mr. Chairman and am hopeful that today's hearing will allow us to overcome the obstacles that have stalled this vital police protection measure for so very long.

Significantly, armor-piercing "cop killer" bullets are not used for legitimate purposes. In fact, the Bureau of Alcohol, Tobacco and Firearms informed me in a report dated July 22, 1983, that "most State game laws . . . preclude the legitimate use of armor-piercing bullets." However, these bullets have been used by criminals to shoot and kill police officers. The most alarming fact, though, is the nonexistence of any federal law limiting the manufacture, sale or importation of these awesome projectiles.

Currently, more than half of our nation's 528,000 law enforcement officers wear bullet resistant body armor on a daily basis. The U.S. Justice Department reports that more than 400 police lives have been saved by these vests. In fact, during the 10 years (1974-1983) that bulletproof vests have been used, handgun-related police deaths have declined by 43 percent (95 in 1974 to 53 in 1983).

Our newspapers tell the story. For instance, on December 1, 1982, Washington Post readers were told in graphic detail just how effective bulletproof vests can be:

"William Johnson struggled for the .357 magnum revolver held only inches from his chest. He watched the gun as it fired seconds later. He saw his shirt tear as the bullet struck. He felt its crushing force. And because the 62-year-old Alexandria deputy sheriff was wearing a bulletproof vest, he was alive yesterday to help convict the man accused of trying to kill him."

Soft body armor, first started being used by law enforcement officers around 1974. The vests became popular with police officers because they are comfortable--weighing only about three pounds--and they can stop the conventional handgun ammunition used by most criminals. The most common bulletproof vest used by police costs about \$150 and includes 18 layers of Kevlar--a bullet resistant fiber produced by Du Pont. Although not designed to stop rifle ammunition, the 18-layer Kevlar vest will stop most handgun bullets, including the powerful .44 magnum. As a result, more and more police are looking to soft body armor for protection. Just last year, in fact, I joined in the effort to raise \$624,000 to furnish more than 3,000 District of Columbia police officers with a bulletproof vest.

Yet, despite its ability to stop conventional handgun ammunition, soft body armor is totally useless against a small class of handgun bullets specially made for maximum penetration. For example, the Teflon-coated KTW bullet, which is generally regarded as the most powerful of these armor-piercing bullets, can penetrate the equivalent of four bulletproof vests (72 layers of Kevlar) in a single shot.

Significantly different from other handgun ammunition, the armor-piercing handgun bullets are made of extremely hard metals--usually steel or brass--which allow the bullets to retain

their shape on impact. In addition, 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. Contrary to a popular misperception, the apple green Teflon coating, which is unique to the KTW bullet, is not the key ingredient to armor-piercing ammunition. In fact, it is responsible for no more than about 10 to 20 percent added penetration.

My initial research identified eight different manufacturers, both foreign and domestic, that made a handgun cartridge capable of penetrating the most popular police vest. The current availability of armor-piercing handgun ammunition is difficult to assess in precise terms. However, we do know they have been easily obtained by civilians through local gun shops, and we know that criminals have used them to shoot and kill police officers.

For example, on February 20, 1976, Florida Highway Patrolman Phillip A. Black and a visiting Canadian police officer, Donald R. Irwin, were shot and killed by KTW armor-piercing ammunition in Broward County, Florida. Their murderers were arrested shortly after the shooting armed with several boxes of the KTW bullets. Interestingly, the manufacturers of KTW bullets claim their ammunition is made and sold "For Police Use Only," and is not available to the public.

More recently, on the night of September 13, 1983, David Schwartz was arrested by Nassau County (NY) police on bank robbery charges. During a search of his home, police found a stockpile of weapons and ammunition, including 32 armor-piercing handgun cartridges.

A report prepared by the U.S. Bureau of Alcohol, Tobacco, and Firearms states that "approximately 50 million rounds" of a Czechoslovakian 9mm handgun bullet, that will easily penetrate the vests worn by police, were imported during the 1970's for commercial sale. Recent reports from law enforcement officials in my home state of New York indicate that "cop killer" bullets are still being sold in large quantities at local gun shops.

Beyond these facts, however, it is virtually impossible for anyone to determine the precise availability and use of these so-called "cop killer" bullets because national crime statistics do not show whether a bullet used in a crime is armor-piercing or otherwise. Commonsense, however, tells us that as the number of police officers wearing bullet resistant vests continues to grow, criminals have more reason to seek and use armor-piercing handgun ammunition.

These alarming facts have led individual police departments and major police organizations across the country to endorse a ban on armor-piercing "cop killer" bullets. These police organizations include the International Brotherhood of Police Officers, the National Association of Police Organizations, and the International Union of Police Associations.

Public support has been equally overwhelming, as demonstrated by the fact that over 140 editorial boards from every region of the nation have called for a federal ban on armor-piercing handgun ammunition. Further, H.R. 953 has 184 House cosponsors and S. 555 has 17 Senate cosponsors.

Further, 10 states, as well as a number of localities, have enacted laws banning armor-piercing handgun bullets. They include, Alabama, California, Florida, Illinois, Indiana, Kansas, Maine, Oklahoma, Rhode Island and Texas.

Even the manufacturers agree that these awesome projectiles should not be available to the public. In fact, as stated previously, the manufacturers of the notorious KTW armor-piercing bullet have labeled their product for "Police Use Only."

Raising serious questions about their fierce opposition to a ban on "cop killer" bullets, the Executive Director of the NRA's Institute for Legislative Action, Warren Cassidy, has written that clearly, ammunition designed to cut through armor is not used by hunters or competitive shooters. The ammunition is for specialized law enforcement and military uses only. The NRA understands this." (The Firing Line, August 15, 1983). One must wonder, then, why the NRA does not understand the need for a ban on armor-piercing handgun ammunition, except for police or military use.

"How ironic," I thought, after learning that the armor-piercing "cop killer" bullets the police community feared were made originally to help police. Adding to the irony was the fact that the law enforcement community--for whom the bullets were intended--considered the armor-piercing handgun ammunition too dangerous even for police use. In fact, the International Association of Chiefs of Police, Inc., commented in a letter to me in January 1982 that "we can find no legitimate use for (armor-piercing) ammunition, either in or out of law enforcement. The manufacturer's position that it is 'for police use only' is ludicrous."

The IACP's claim is further substantiated by Remington Arms and Winchester, two of our nation's largest ammunition manufacturers. Remington began making a special metal penetrating load for police use in 1938. However, it was discontinued in 1965. According to Du Pont, Remington's parent company, "These loads were originally intended for use by police officers for penetrating metal, particularly fleeing cars. They were discontinued long before the advent of modern soft body armor. There does not appear to be sufficient demand for such loads for law enforcement purposes to justify their current production."

Winchester began making a metal-piercing handgun cartridge in 1937. However, according to their parent company, Olin Corporation, "The revelation that some pistol cartridges have the ability to penetrate body armor caused Winchester to review their product line. Although the .357 magnum and .38 special metal-piercing cartridges were added to our product line in 1937 as a result of police requests, due to low current interest by police departments. . . on February 22, (1982) the President of Winchester, H.E. Blaine, issued the directive that the metal-piercing cartridges no longer be manufactured."

With these facts in mind, it was certainly no surprise, then, to learn that both the Treasury and Justice Departments shared my concern about this problem. As far back as September 1979, the Treasury Department informed me that "we share your concern and that of all law enforcement agencies with the availability of (the KTW) and other ammunition capable of going through the body armor used by officers. We sincerely regret that law officers have lost their lives through misuse of this ammunition." In February of 1982, the Treasury Department reiterated their concern in a letter to me stating that "the Department shares your concern that armor-piercing bullets pose a danger to law enforcement officers."

In testimony nearly two years ago before the House Subcommittee on Crime, then-Associate Attorney General Rudolph W. Giuliani was even more specific in stating Justice Department concerns. He stated, "We see no legitimate reason for private use or possession of handgun bullets, such as the KTW, that are designed to penetrate armor."

Acting with what appeared to be consensus support from the police community, the Administration, and even the manufacturers of armor-piercing handgun ammunition, I first authored a bill, in February 1982 to ban these so-called "cop killer" bullets, except when needed for police or military use (my earlier bill had merely called for a study). An identical bill, H.R. 953, was reintroduced this Congress, and a companion bill, S. 555, has also been introduced in the Senate by my distinguished colleague from New York, Pat Moynihan.

Contrary to what some critics might want to believe, H.R. 953/S. 555 is not some deviously contrived gun control measure aimed at infringing on the legitimate use of firearms or ammunition-- a right which I fully support. Instead, it uses an approach based largely on commonsense to outlaw a very small class of handgun bullets that benefit only one element of our society-- the criminal element.

Specifically, this legislation would direct our federal firearms regulatory agency, the Department of Treasury, to determine which handgun cartridges can penetrate the equivalent of an 18-layer Kevlar vest (the most popular police vest) when fired out of a gun barrel five inches or less in length.

Once identified as armor-piercing, those handgun cartridges would be banned from future manufacture, importation, or sale, except when needed for police or military use. The bill would also provide mandatory penalties for any person convicted of using armor-piercing handgun bullets in a crime.

The 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 is not in any way intended to 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 Act would not be retroactive in scope.

The problem has been clearly defined and a reasonable solution has been proposed by myself and Sen. Moynihan. Yet, the Congress has failed to enact a federal ban against armor-piercing "cop killer" bullets. Why? There are two major reasons: first, the National Rifle Association strongly opposes a ban on armor-piercing handgun ammunition; second, the Reagan Administration, while seemingly not opposed to the idea, has offered very little meaningful support for such a ban.

The gun lobby's opposition to a ban on armor-piercing handgun ammunition is nothing but a knee-jerk reaction based more on paranoia than on any semblance of reason. Consider, for example, an article written by Evan Marshall for the Gun Owners of America, which stated, "The National Rifle Association has wisely recognized that the 'Killer Bullet' controversy represents a gun control issue. If the anti-gun people can begin to restrict ammunition, they can get gun control through the back door."

Normally, I would not waste my time to respond to such a ludicrous and reckless statement. Yet, because this paranoid mentality has placed the lives of our police officers in grave jeopardy, I cannot allow such warped reasoning to go unchallenged. Let me first reemphasize that the bullets my bill seeks to ban are not used for legitimate purposes. Secondly, I want to once again state my support of the right to bear firearms for legitimate purposes. Simply stated, the issue my bill seeks to address is police protection, not gun control.

As a veteran police officer, I deeply resent the NRA's attempts to use their close ties to the law enforcement community to excuse their irresponsible and short-sighted position on this vital police protection issue. Simply put, the NRA has revealed that their long stated commitment to police safety can be compromised, even when the rights of legitimate gun users are not threatened.

A brief review of the facts shows that when I first authored legislation to ban armor-piercing handgun ammunition, the NRA made blanket statements of opposition, like "there is no such thing as a good or bad bullet." They were sharply criticized by the police community for such an outrageous position, but rather than changing their stance they merely restructured their words. There are technical problems with the legislation, they said.

I remain convinced that my legislation is sound, although I have long indicated my willingness to make any technical changes that the NRA or anyone else can prove are necessary. The NRA has chosen to ignore this challenge and, instead, continues to attack my effort by making totally inaccurate and misleading statements. For instance, they recently attempted to stir the emotions of their membership by saying that my bill "would ban 90 percent of high powered rifle cartridges." In fact, my bill would only ban armor-piercing bullets made originally for "handgun" use. There is no mention anywhere in the bill about banning rifle ammunition, and there is certainly no such intent.

In a letter to law enforcement officials, the NRA makes the incredible statement that my legislation "will cause the people to think something is being done to help our police officers, when, in fact, nothing is being done to protect them or to control those who attack them." The merits of my bill as a police protection measure are obvious--handgun bullets that can penetrate the soft body armor worn by police would be far more difficult for criminals to obtain.

The NRA apparently does not understand how that might help save police lives. Instead, they argue that "the only workable approach is to impose, with vigor and with justice, mandatory penalties for the use or the possession of 'armor-piercing' ammunition in the commission of violent crime. Strong words. I support tougher penalties, too, and have included such a provision in my bill. However, is the NRA so naive that it believes a criminal intent on committing a violent act would think twice if given the chance to arm himself with high-powered "cop killer" bullets?"

Once again, I challenge the NRA to stop waging their war of words from the sidelines, and do their battle for police protection in the trenches, with those of us who are truly committed to saving police lives.

For nearly two years, the Justice and Treasury Departments have offered assurances that they share my deep concern about the serious threat armor-piercing ammunition poses to our law enforcement community. They have given assurance that they would work with me in developing an appropriate legislative remedy. Yet, they refuse to endorse my bill to ban armor-piercing handgun bullets, and they have failed to develop alternative legislation of their own. Simply put, this Administration, which has long prided itself on a strong law and order stance, has used bureaucratic double talk to effectively stonewall the most important police protection initiative in recent years--a ban on "cop killer" bullets.

It appears that at least part of the reason for these mixed signals we are getting from the Administration stems from a bureaucratic squabble between the Departments of Justice and Treasury. While both departments have pledged their willingness to work toward a legislative ban against armor-piercing

handgun bullets, only the Justice Department appears to have followed through on that pledge, and their constructive efforts have met continued resistance from Treasury officials.

Consider, for example, that when testifying on March 30, 1982, before the House Subcommittee on Crime, Deputy Assistant Treasury Secretary Robert E. Powis, stated, "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." Since that statement, as best as I have been able to determine, the Treasury Department has not conducted any further studies or attempted in any other way to develop legislation aimed at restricting the availability of armor-piercing handgun ammunition.

The Justice Department, while far from expeditious in their handling of this serious problem, has at least lived up to the spirit of their pledge of May 12, 1982, "to develop a workable definition of (armor-piercing) bullets." In fact, in a letter to me dated January 31, 1984, Assistant Attorney General Robert McConnell stated, "The Department of Justice has just recently forwarded a draft armor-piercing bullet package to the Office of Management and Budget for review within the Administration. I must caution . . . that this proposal is still subject to review (particularly by the Departments of Treasury and Commerce which have substantial expertise concerning firearms and body armor). Therefore, it may yet be found technically deficient in some respect. Nevertheless I remain optimistic that we have now resolved the definitional problems which have plagued this legislation in the past and that we will have a proposal for submission to the Congress in the near future."

The fact that this proposal has not been formally proposed to Congress prior to today's hearing leads me to reach a very distressing conclusion--the Treasury Department has blocked the Justice proposal, which was developed after months of careful study and deliberation. If that conclusion is accurate, the Congress in all likelihood will be left to act on the "cop killer" bullet issue without an official Administration endorsement. I hope I am proven wrong on this assessment.

Although the Justice Department proposal was not made available for my review, I have been informed by Justice officials that its general thrust is very similar to the Biaggi/Moynihan legislation. For example, it supposedly contains a ban on armor-piercing handgun ammunition based on a standard of penetration, and it would provide enhanced mandatory penalties for criminals who use such ammunition in a crime. The major differences are that the Justice proposal would require testing to be conducted by the industry, rather than by the Treasury Department, and the standard of penetration would consist of a certain number of aluminum plates, rather than the 18 layers of Kevlar. For the record, I would have no problem with either change. In fact, I find the Justice approach rather appealing, and am hopeful the Congress will have an opportunity to give it the prompt and careful consideration it deserves.

While state laws and voluntary restrictions are encouraging, they are far from satisfactory. Only 10 states have restricted the availability of these high powered projectiles and the laws that do exist vary from one state to the next. Voluntary efforts are unenforceable and have already proven unsuccessful in keeping KTW bullets out of the hands of "cop killers." The president of one U.S. company that manufactures armor-piercing handgun ammunition has been quoted as saying, "It's not up to me to regulate who gets the bullets." An importer of the "cop killer" bullets has attempted to shift the blame to the vest manufacturers, saying, "(the armor-piercing bullets') penetration speaks less of bullet design than of the inherent limitations of the vest."

It should be noted that Du Pont, the maker of Kevlar, has informed me that "at present . . . there are no strong leads on a new fiber which will make a vest capable of defeating the KTW or other armor-piercing handgun bullets at a weight low enough for routine wear." Suffice it to say that without a federal ban on armor-piercing handgun ammunition, there will be nothing to stop the money hungry businessman from making an easy dollar at the risk of police lives.

Whether it is the Biaggi/Moynihan legislation, the Justice Department proposal, or some other alternative is really quite insignificant. The simple fact is, no matter what the legislative vehicle, we cannot afford to wait any longer to impose a federal ban on armor-piercing "cop killer" bullets.

Simply put, cop killers don't wait for others to act, so why should we? We should be trying to prevent police deaths instead of responding to them.

Senator LAXALT. I thank you, Congressman, for an excellent statement. I guess you heard, Congressman, during part of my opening statement that we will have representatives of Justice and Treasury--as a matter of fact they are going to testify right after we are completed here. And if you would like, you are welcome to stay on to hear that testimony to see where we are at the present time in terms of policy positions coming out of both those agencies.

Let me ask you one question, and it has been submitted by staff, which I guess reaches some of the concerns that have been expressed to the committee.

Is it your understanding that only a few types of cartridges, perhaps no more than a dozen, would be affected by this bill? Is that what we are talking about, essentially about a dozen or so? Is that ballpark?

Mr. BIAGGI. That is correct.

Senator LAXALT. OK. What if many types of ammunition, including ammunition that is presently being used for legitimate sporting uses would be banned by the bill? I gather from your testimony you do not intend to attain that result, do you?

Mr. BIAGGI. Absolutely not, Mr. Chairman. Absolutely not.

Senator LAXALT. But what if that would be the effect of it?

Mr. BIAGGI. Well, I do not see how it could, but let us deal with the hypothetical, for example the sportsman who might want to use a rifle bullet in a handgun. I would support placing additional language in the bill that would further clarify that rifle ammunition is not to be affected in any way by this legislation. If this legislation is passed, it will, in my judgment, do the job well. And for those sportsmen or hunters who would like to use the rifle ammunition into the handgun, we have no problem with that.

Senator LAXALT. I thank the Congressman. At this point I would like to welcome to the hearing the distinguished ranking member of the full Committee on the Judiciary, Senator Biden of Delaware.

The chairman would be pleased to hear any statement that the Senator would like to make or any questions that he wants to address to the panel.

OPENING STATEMENT OF HON. JOSEPH R. BIDEN, A U.S.
SENATOR FROM THE STATE OF DELAWARE

Senator BIDEN. I will not take an unnecessary amount of time from my colleagues. I would ask that my statement be put in the record. I am a cosponsor of the Senator's legislation. And let me proceed to questions.

Welcome, Congressman, by the way. Let me ask you fellows, if you would, each of you, to respond. Obviously, there are not a lot of animals that wear bullet proof vests. So we are not really trying to work out how we can keep competitive and sportsmanlike conduct underway in the forests of America.

But there is, as one well known, Southern police officer who appeared in several James Bond movies stated, we have a communications problem here. And that problem relates to—is a definitional one. And really all I would like to ask you gentlemen is whether or not you are willing to work out the details of the definition of what constitutes an armor-piercing bullet. We will hear testimony shortly from opponents of this legislation, that there are a whole range of bullets that would fall into the category of being banned if your legislation passed. And rather than go into much detail with you right now before I hear all their testimony, do I understand you both to be in a position that you are prepared to work on and work out a clear definition of what constitutes such a bullet to be covered by your legislation?

Senator MOYNIHAN. If I could just speak, Senator Biden, as far as we know that definition has already been worked out; it is in the Office of Management and Budget and we cannot get it out.

I said earlier—

Senator BIDEN. We have trouble getting a lot of things out of there.

Senator MOYNIHAN. On the subject of big game hunting, I live in Delaware County, New York where more deer are shot each year than in any other county of New York many States through the Nation. I think I know something about deer hunting. I can tell you, no deer hunter in Prosses Hollow would use one of these bullets.

Senator BIDEN. Well, there is a new strain of deer coming on. We are a little worried.

Senator MOYNIHAN. You would not find your deer. Two days later it finally would die, 5 miles away. You will not stop your deer with these bullets. The only thing you can kill with these bullets are police officers, even wearing body armor.

This is a spent bullet of the kind we are describing. This one was shot at body armor. It penetrated this armor. It has destroyed something. It has barely changed shape. It is still the same spherical, metal bullet designed to penetrate and kill, as against a lead slug which flattens on impact. You ban these five and all like them, and you have done the job. It is not hard.

Mr. BIAGGI. I think the point that is made relates to the law enforcement community, why there is no real need for it even in law enforcement area. The police officer requires a cartridge that will have stopping effect. If he has this type of ammunition—if he uses this type of ammunition, it will not have a stopping effect. It will

penetrate the fellow and go on and jeopardize pedestrians and the stopping effect is critical.

We have seen police officers who in fact shot a felon that was attacking the police officer with a knife. Yes, the felon eventually died, but the felon was able to come forward and kill the police officer. It happened in the Bowery and it killed a sergeant 10 or 15 years ago. There is no stopping power, no impact.

A traditional bullet would have stopped that felon in his tracks and would have at least stopped him in his tracks. Whether he died or not is another matter. No, the same consequence flows with game.

Senator BIDEN. I will not tie you fellows up anymore, but let me just point out, sometimes we talk about the need for social responsibility on the part of corporate America, that as a consequence of its ingenuity, reached the bounty of this country and sometimes we suggest they are not very responsible.

I would like to note publicly that E. I. Du Pont de Nemours & Co., a company that is one of the larger companies in the world, last year stopped the sale of Teflon coating to ammunition makers that produce and develop armor piercing bullets.

Senator MOYNIHAN. Senator Biden, can I speak to this point?

Senator BIDEN. Yes.

Senator MOYNIHAN. This has come up. Nobody wants these damn things. Du Pont will not have anything to do with producing them. The police do not want them. The people do not want them. The only people making any money are the Czechs who have sold some 30 million rounds of this particular cop-killer bullet. Nobody wants these things.

An issue has been raised by the National Rifle Association about whether this somehow impinges on constitutional rights. This is not so. The only issue is, are you in favor of safety for your police officers? That is all. No respectable American corporation should want to make a penny out of these things.

Senator LAXALT. Are the Czechs presently manufacturing these bullets?

Senator MOYNIHAN. Yes, sir, buy all you want.

Mr. BIAGGI. 30 million rounds last year.

Senator LAXALT. Are we talking about big dollars in these items? Are these big dollars?

Mr. BIAGGI. There is a premium—

Senator BIDEN. On the sale of Communist bullets to kill American people.

Mr. BIAGGI. To kill Americans.

Senator BIDEN. I think this is an issue of communism versus democracy here.

Senator MOYNIHAN. I think you may have just gotten the Treasury Department.

Mr. BIAGGI. Senator, in relation to Du Pont, I acknowledged their public interest attitude. We had their representatives in almost 2 years ago, a year and a half ago. And when we put the question to them and told them what the consequence was of this Teflon, they agreed to discontinue sale to the ammunition manufacturers.

Now, as far as the definitional question is concerned, that is one that has been problematic. The Justice Department's proposal, I think, resolves that. That is now languishing before the OMB and we are hoping that unlike many other proposals that sit there this one will be reviewed and—

Senator BIDEN. One last question, Mr. Chairman.

Do we have any idea what the financial stake is that ammunition manufacturers in this country have in the sale of these bullets? Is it an economic question?

Senator MOYNIHAN. I would say almost zero. There is one corporation in Michigan that manufactures them. Yes, there is some money being made out of killing police officers. But it is not the money you and I would want to have anything to do with. And no respectable ordnance manufacturer would do so either.

Senator LAXALT. Are you telling us that most of these kinds of bullets are being imported?

Mr. BIAGGI. Most of them.

Senator LAXALT. Are we importing from any other country other than Czechoslovakia?

Mr. BIAGGI. Yes, we are, with Czechoslovakia providing the largest supply at this point. We have some small companies in America that produce the armor-piercing bullets and it is a fair portion of their—well, relatively small portion of their business.

Senator LAXALT. Congressman, in view of the changed policies apparently of the police departments around the country not to use these armor-piercing bullets for their own purposes, what market is there for them currently?

Mr. BIAGGI. Criminal market.

Senator MOYNIHAN. Criminals, that is all, and seriously no respectable ordnance company wants anything to do with these things.

Senator BIDEN. These things cost \$1.50 apiece?

Senator MOYNIHAN. Oh, yes, they do not come cheap.

Senator LAXALT. Now, what would a cartridge of similar—

Senator MOYNIHAN. Around 40 cents. You would never use a pistol for target practice, so you would never use them.

Senator LAXALT. OK. I think that is all we have. As I indicated before, you are both welcome to stay on. Thank you very kindly.

Mr. BIAGGI. Thank you.

Senator MOYNIHAN. Thank you. You have been very gracious.

Senator LAXALT. All right. Let us hear from the Government. Our next witnesses will be Jay B. Stephens who is Deputy Associate Attorney General from the Department of Justice, and we also have with us Robert Powis, who is the Deputy Assistant Secretary of Enforcement from Treasury.

We will hear first the presentation from Justice; as we previously indicated, because of the multitude of witnesses we have on these various panels, I would appreciate it greatly if you can limit your formal testimony. We are going to take your written testimony, of course, and file it for the record for the edification of our colleagues.

Mr. Stephens, will you please proceed.

STATEMENTS OF JAY B. STEPHENS, DEPUTY ASSOCIATE ATTORNEY GENERAL, DEPARTMENT OF JUSTICE; AND ROBERT E. POWIS, DEPUTY ASSISTANT SECRETARY OF ENFORCEMENT, DEPARTMENT OF THE TREASURY

Mr. STEPHENS. Thank you very much, Chairman Laxalt. Mr. Chairman, Senator Biden, Senator Moynihan, I would like briefly to introduce the individuals who are on the panel with me this morning. On my far left is Mr. Lester Shubin, who is with the National Institute of Justice and has been instrumental in developing soft body armor. On my immediate left is Special Agent William Vanderpool, who is with the Firearms Training Unit of the FBI at Quantico, VA; and on my immediate right is Special Agent David Pisante, who is also with the Firearms Training Unit of the FBI Academy at Quantico.

Senator LAXALT. We welcome you all.

Mr. STEPHENS. Mr. Chairman, it is indeed a pleasure to be here today to testify on behalf of the Department of Justice to discuss with the committee the issue of armor-piercing handgun ammunition.

We believe that the threat which certain armor-piercing handgun ammunition poses to law enforcement officers and to others who wear soft body armor is an issue which needs to be addressed. We have concern about this issue and we support the thrust of the legislation restricting availability of all armor-piercing bullets, while recognizing that this does not create a panacea for the problems and dangers which police officers face on front line duties.

To understand the interest which the Department of Justice has in this, I think it is important to realize we have a substantial and significant concern about the safety of law enforcement officers. They are indeed our front line defense against crime; we have had a significant initiative to strike at crime and we believe it is important and imperative to protect those officers who are out in the front lines doing that job for us.

Senator LAXALT. May I ask you a question at this point, and I guess it is a turf question more than anything else. How is the responsibility divided up here between Justice and Treasury? And there have been references made to OMB. How is that all cut up jurisdictionally so that we will understand it a bit better?

Mr. STEPHENS. Jurisdictionally, Senator, there are different aspects of this particular proposal or any proposal that might come out of the administration which would be treated differently; for example, those aspects which would deal with mandatory minimum sentences, mandatory minimum penalties for use of armor-piercing handgun ammunition during the course or commission of a violent crime would probably be title 18 offenses. The enforcement of those would be by the Department of Justice. The issue relating to the ban on importation or manufacturing of armor-piercing ammunition would be enforced through the Treasury Department's Bureau of Alcohol, Tobacco, and Firearms.

Senator LAXALT. Justice generally looks at the criminal aspects and otherwise Treasury has jurisdiction?

Mr. STEPHENS. That is correct.

Senator LAXALT. Is that roughly the division?

Mr. STEPHENS. We would look at the enforcement aspects on the criminal use side. Treasury would look at the enforcement aspects from the trade, transfer, sale, and importation of firearms and firearm ammunition. OMB, of course, is the umbrella to harmonize those positions and develop a position for the administration on this.

Senator LAXALT. Congressman Biaggi in his testimony or in response to a question, I do not recall which, made reference to the fact that this whole issue has been languishing somewhere in the bureaucracy for a couple of years. Is that the case? Have you people at Justice and at Treasury been pondering this problem for the last couple of years in terms of coming forward with policy?

Mr. STEPHENS. Senator, I think we have made significant progress. I can only speak for the Department of Justice, but speaking for the Department of Justice, I believe we have made some very positive steps in dealing with the issue.

First of all, with respect to use of armor-piercing ammunition, we have proposed legislation as part of the administration's crime package to provide a mandatory minimum sentence for any individual who uses armor-piercing ammunition during the commission of a felony or violent crime. We propose to have a 5-year minimum, mandatory sentence for the first such offense and a 10-year mandatory minimum for the second such offense. I think that is a substantially greater penalty than is in S. 555.

Second, and Treasury will want to speak to this more specifically, we have—the administration has developed a number of voluntary agreements with the importers and manufacturers of so-called armor-piercing ammunition. As I indicated, Treasury will speak to that issue more directly. My understanding is they have effectively through voluntary agreements banned the manufacture and importation of most of the offending ammunition in this case.

Third, the Department of Justice has undertaken a significant research and development project through our National Institute of Justice in connection with the Bureau of Standards. And we believe we have developed some test procedures which can shed substantial light on this. We have taken the occasion to provide the staff of the committee with the background and information on those test procedures and some of the results of those test procedures. And we think this helps—

Senator LAXALT. You mean to help us on the definitional problem?

Mr. STEPHENS. That is correct, Senator. As the Senator pointed out in his opening statement, we believe this is really one of the fundamental issues here to try to resolve. And we would expect that is one of the fundamental issues the committee is trying to resolve.

While there is some concern that may be expressed about certain aspects of the test by Treasury or others, we believe the test provides a standard against which you can measure certain types of ammunition under fixed circumstances.

It uses aluminum plates which are fixed test plates. It uses fixed fixtures from which to fire certain types of ammunition and you can develop a scale, much as if you would test various aspects of

automobile safety or any other kind of safety standard that you might want to test, in a fixed set of circumstances.

Senator LAXALT. Have you discussed that approach, Mr. Stephens, with the private sector?

Mr. STEPHENS. We have on some occasions discussed that with manufacturers of some of the ammunition. Indeed, I think in one case that I'm familiar with, the manufacturer did not find that particular approach overly onerous and indeed it would suggest, I think, that they could meet the standards and the procedures that were outlined in that test.

Senator LAXALT. How about the gunowner groups?

Mr. STEPHENS. To my knowledge, the Department of Justice has not discussed that specific issue with the gunowner groups. I believe the Treasury Department may have.

Senator LAXALT. I see.

Mr. STEPHENS. I would just like to take a moment with the chairman's consent to have special agent Pisante demonstrate to the committee a couple of the different types of body armor that are available. And we would like to point out, I think, that the reason we are doing this is to show that the type of body armor that is most prevalently worn by officers in the field is body armor II-A and that body armor is intended and designed and in fact stops most small arms ammunition that they would encounter under most circumstances.

I would also like to point out that the Department of Justice through the National Institute of Justice is currently developing a new set of soft body armor, what we refer to as III-A, and that new body armor, which we expect to be marketed or be on the market sometime within approximately a year, would in fact provide a dividing line which we believe would be an effective cutoff point that would shield those officers who are on the front lines of our defense against crime from almost all kinds of handgun ammunition except very specific types of armor-piercing ammunition.

And the test which we have designed we believe would identify that small category of bullets and ammunition which has no legitimate handgun use, no legitimate recreational use, and we would be able to isolate those particular small number of types of ammunition; then through appropriate legislative remedies we could perhaps eliminate the importation and the manufacture of those particular types of ammunition.

Senator LAXALT. Well, if eventually that very narrow standard is adopted, what is the Department's view, if it has one, in connection with the standard that is presently in the proposed legislation?

Mr. STEPHENS. We believe that S. 555 really adopts too wide a standard at this point. It is not specifically defined. The problem is definitional, as the Senator pointed out; the problem is defining what is armor piercing. It depends on the type of armor. It depends on the thickness of the armor. It depends on the control circumstances. It depends on what it is fired from, the distance, the velocity, all those aspects of the weapon as well as the ammunition. We are trying to develop a definition. I believe we have a test that can indeed narrow that category to those small number of types of ammunition that would penetrate type III-A armor, body armor, soft body armor, which is currently under development, so that if offi-

cers were to wear type III-A body armor, they would probably be protected from most kinds of handgun ammunition; those types that would penetrate that would be banned. And those that would be banned would not really be legitimate recreational type of ammunition.

So we realize this is a difficult problem, as you can tell, I think, and we would like to have you understand that we have been working on it from an expert technical point of view. We are trying to arrive at a solution here that protects police officers in those circumstances where they need protection beyond what they have now.

And in that regard I would like to emphasize—

Senator LAXALT. Before you proceed to that, you saw the various bullets that were displayed here this morning. Apparently, they were over-the-counter sales or purchases. Based upon this standard that you are now adopting or attempting to adopt, would all these bullets be banned or do you know?

Mr. STEPHENS. Senator, I cannot really address that issue because I am not sure of the specific type of the bullets that were here, whether they are over the counter; they may indeed be—I do not know what the specific model, type, velocity, brand of these particular bullets were. But we are clearly talking about banning the KTW type of bullet and certain types of imported 9-millimeter rounds that are not viewed as having any legitimate—

Senator MOYNIHAN. Mr. Chairman, would you allow me to make one clarifying point?

Senator LAXALT. Surely, all yours.

Senator MOYNIHAN. Mr. Stephens responded to your question about the specifications contained in the legislation before you, whether they were too broad, and I believe Mr. Stephens said that they were too broad.

Mr. STEPHENS. That is correct, Senator.

Senator MOYNIHAN. Well, now that is not correct, sir. There are no specifications in our bill. Our bill directs the Secretary of the Treasury to make such specifications.

Mr. STEPHENS. The Senator is correct on that point. The bill does refer the matter to the Treasury.

Senator MOYNIHAN. We do not want the Congress to do this. We asked the executive, which has the Institute of Justice and the National Bureau of Standards and the FBI at his disposal, to make the judgment.

Senator LAXALT. What in the bill then caused you to express the concern you have in your statement, that the bill itself is too broad, Mr. Stephens?

Mr. STEPHENS. Senator, I think the concern would better be expressed in that we believe this is a significant policy issue which the legislative branch should address. We in the executive branch have attempted to develop an effective test so that the Congress can make an informed decision on this matter.

We believe that that decision can be drawn in such a way as to provide for legitimate use of certain types of ammunition and certain types of firearms and it also can be drawn in such a way as to protect police officers. We are essentially saying we believe this is a decision which should be made by the Congress because it is a sig-

nificant policy decision and it should be made that way rather than through a set of regulations which may vary.

Senator LAXALT. Let me ask the Senator from New York a question, then. The approach that is now being adopted by Justice in order to develop an acceptable standard, is that consistent with the thrust of the legislation?

Senator MOYNIHAN. Exactly. And this legislation would simply require that it be done. But we are not asking the Congress to make the judgment about what is, or is not, such a bullet, but we are asking the executive branch, where it properly belongs as a judgment.

Senator LAXALT. And that requires, I guess necessarily, the proper definition; and that is precisely, I gather, what Justice is attempting to pursue.

Senator MOYNIHAN. Mr. Chairman, we appropriated money a year ago for this purpose. They have done the job. It is in the OMB, but OMB will not let it out.

Senator LAXALT. What are the dollars involved? Do you know off-hand?

Mr. STEPHENS. I think we spent approximately \$80,000.

Senator LAXALT. \$80,000.

Mr. STEPHENS. Senator, I would point out there is some concern that even if you have a test, how enforceable is it in terms of the various types of ammunition that is available?

And I cannot speak to that as well as Treasury and would defer to Treasury on their concerns about once you have a piece of legislation that is designed like this, how enforceable are those standards and can we really have a significant impact on the problem given the enforcement problem.

Senator LAXALT. Do you have any questions, Senator?

Senator MOYNIHAN. Thank you, Mr. Chairman. Would you agree that a ban on importation would have a significant impact?

Mr. STEPHENS. Indeed, I understand from Treasury that they have achieved essentially a ban through their voluntary agreements. But a ban on importation of the bullets from Czechoslovakia that are flooding our markets, if that is indeed the case, and I think Treasury would disagree that this is indeed the case, a ban on importation of a limited class of bullets that have no legitimate use would certainly assist in that narrow category of situations where we have ammunition that can penetrate body armor of the III-A level, for example.

I think with the consent of the chairman that we can demonstrate briefly the differences between the two categories and what we can protect from normal handgun ammunition and those types of body armor which are available to protect against substantially greater velocity and caliber of ammunition, which would be used more in siege situations or in SWAT team situations where you have snipers, that kind of thing.

I would like Special Agent Pisante to show the committee the two particular types of body armor, II-A and then also body armor IV, soft body armor.

Senator LAXALT. Surely, please. Before we proceed to that, based upon these tests that you are now conducting, have you got any

idea, Mr. Stephens, how many types of ammunition are going to be banned? Do you have any handle on that yet at all?

Mr. STEPHENS. How many?

Senator LAXALT. Types, yes.

Mr. STEPHENS. How many types. I do not, but I think we are talking about a small number of types. I mean, we are not talking about a vast—we are not talking about 100 or 200 types of ammunition, although there is an infinite variety of ammunition out there in terms of casings, caliber, loadings, so that that number may be larger than I currently believe it is. But I think it is a relatively small number.

Mr. PISANTE. Mr. Chairman, this vest that you see here is referred to as a level II-A ballistic protective undergarment, which is designed to defeat projectiles comparable to low velocity 357, 9 millimeter threats. The material inside the garment is constructed with a Du Pont arimid fiber called Kevlar.

This vest was originally designed for use in law enforcement to protect police officers when they least expect to be shot, during daily activity, to be worn constantly through a tour of duty. In previous times police officers have worn in the past rigid body armor, which is classified at level IV and will expand the threat level protection up to 30-caliber armor-piercing ammunition. Because this armor is so heavy and roughly can range from anywhere from 12 to 60 pounds, it is not practical to consider an officer carrying this around on a daily basis. Therefore, this armor designed to protect against handgun bullets is worn on a daily basis by the police officer.

Senator LAXALT. Does the level IV have military application currently or do you know?

Mr. PISANTE. Yes, it does, sir. Its original application was military.

Senator LAXALT. But as a practical matter, it has very little, if any, police application because of its weight and bulkiness.

Mr. PISANTE. It does have application in police work when the threat level exceeds the handgun. This was designed for special raid-type operations when higher than handgun threats are expected.

Senator LAXALT. You mean a terrorist type of situation, perhaps?

Mr. PISANTE. Possibly so or an armed barricade situation.

Senator LAXALT. We thank you. Senator, do you have any questions?

Senator MOYNIHAN. No.

Mr. STEPHENS. Senator, I would like again to emphasize the results of the test and the test procedure has been provided to the committee staff and that is available to assist the committee in its deliberations.

Senator LAXALT. It will be very helpful.

Mr. STEPHENS. Thank you. Just to emphasize and to summarize, then, we believe we really have made some strides over the last year, 18 months on this particular problem. There is no doubt the Department of Justice stands behind the law enforcement officers of this country. We believe they deserve the protection. We believe they deserve to have those concerns expressed here and to have the committee address those.

There are competing concerns. We have, we believe, to date made some significant strides. As I indicated, the use of armor-piercing ammunition would be a 5- or 10-year mandatory minimum penalty under the proposed crime legislation which was passed by the Senate and which we hope will pass the House expeditiously this spring. Second, Treasury will speak to the voluntary agreements that they have arrived at with various importers and manufacturers of the armor-piercing type of ammunition. And third, we have, we believe, arrived at what is a plausible test. There is some concern about whether in using this test you can enforce the results of that test, but we believe we have made some progress on that. We would like to advise the committee that the thrust of this legislation is something we find we would support.

And we want also to emphasize, though, that this legislation should not be viewed as a panacea to protect all police officers from all types of situations. In the last analysis, the best line of defense for police officers in most cases is to wear soft body armor. And we believe the development of the type III-A, which we are currently in the process of doing, will provide an added level of protection.

So we are talking about a very narrow category of cases, and that is the category we think the legislation may appropriately address.

Senator LAXALT. We thank you, Mr. Stephens, and all members of the panel. We appreciate your help.

Mr. STEPHENS. Thank you very much, Senator.

[The prepared statement of Mr. Stephens follows:]

PREPARED STATEMENT OF JAY B. STEPHENS

Mr. Chairman, it is a pleasure to appear here today on behalf of the Department of Justice to discuss the issue of armor-piercing handgun ammunition and the threat which such ammunition poses to law enforcement officers and others who use soft body armor. We support the thrust of legislation restricting the availability of armor-piercing bullets while recognizing that such restrictions in themselves do not provide a panacea to the dangers faced by law enforcement officers.

To understand the vital interest of the Department of Justice in this issue, it is important to understand our concern about protecting law enforcement officers and our role in the development of soft body armor to assist in that effort. In 1971, Lester Shubin of the Department's technology development program became aware of a new synthetic fiber, marketed under the trade name "Kevlar", originally developed for use as a replacement for steel cords in automobile tires. Recognizing the potential of this fiber, the Department of Justice pioneered the development of a prototype vest made from "Kevlar" and, following extensive laboratory work, conducted field tests of this new type of body armor in fifteen cities. Results exceeded expectations. In addition to offering exceptional 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 producing a wide range of soft, lightweight body armor. Because few state or local agencies had the resources to test the quality of such body armor, the National Institute of Justice of the Department of Justice, in concert with the National Bureau of Standards of the Department of Commerce, developed a body armor standard published in December of 1978. This standard established procedures for testing body armor and created five different armor categories: Type I, Type IIA, Type II, Type III and Type IV.

These body armor categories protect against increasing threat levels. For example, the Type I armor is the lightest weight providing protection against designated handgun ammunition when fired from a distance of five meters under specified conditions; the Type IV armor is the heaviest providing protection against designated armor-piercing rifle ammunition. Types I, IIA and II are soft body armor. Types III and IV incorporate metallic or ceramic materials and are normally used by special weapons teams in sniper or seige situations.

With the Chairman's consent, we would like to show the Subcommittee the different types of body armor now used by law enforcement officials and to explain the various uses and characteristics of each.

(Demonstration)

An estimated 50% of the nation's law enforcement officials use body armor such as that you have just seen, primarily due to the efforts of the Department of Justice and the International Association of Chiefs of Police, both of which strongly advocate its use. Soft body armor has saved the lives of an estimated 400 police officers during the past eight years. We have, therefore, been concerned over the availability of handgun ammunition capable of defeating soft body armor and have devoted substantial efforts in recent months to development of an appropriate and workable legislative remedy to the problem.

Our technicians have known from the beginning that soft body armor, like all other forms of armor, can be pierced by particular types of handgun rounds. The standards used for testing different classes of body armor require that the armor be able to stop specific types of bullets posing particular threat levels in order to receive a rating. It is for this reason that body armor is referred to by technicians as "ballistics-resistant" apparel. The fact that body armor is more commonly referred to by the public as "bullet-proof" has created the mistaken impression that body armor can or should be able to stop any bullet. Rather, soft body armor

is designed to stop the most common threats that police officers face.

With this background, experts were not at all surprised by a network television news program in early 1982 on the "KTW" bullet and its ability to penetrate multiple thicknesses of soft body armor. Our technicians were, however, disturbed that such information was so widely distributed to the public, in essence creating a shopping list for criminals.

Our concern over the publicity surrounding the "KTW" bullet is two-fold. First, we fear that publicity surrounding the availability of handgun ammunition capable of defeating body armor could encourage assassins and other criminals to search out these particularly dangerous classes of ammunition to use in their endeavors. Although our technicians have known about the "KTW" bullet for many years, this and other forms of armor-piercing ammunition were not felt to constitute a substantial threat because most criminals are not so sophisticated as to realize that the protection afforded by body armor is limited and that there are varieties of ammunition available which will penetrate it. Although we are unaware of any instance in which an armor-clad police officer has been shot with armor-piercing handgun ammunition, the publicity surrounding the "KTW" bullet has, in our view, increased the likelihood of such attacks.

Secondly, we are concerned that the publicity over armor-defeating ammunition may discourage police officers from wearing body armor. In this regard, although the new soft body armor is comfortable to wear by comparison with earlier types of armor, it is a constant problem for police administrators to ensure that body armor issued to officers is indeed worn. Too often, officers to whom body armor was issued have been killed or severely wounded because the armor was left in a dressing room locker or the trunk of a squad car. By discouraging the use of armor, the publicity surrounding the availability of armor-piercing handgun ammunition

could result in more deaths and crippling injuries than the actual use of armor-piercing bullets against officers wearing body armor.

In order to provide law enforcement officers with some measure of additional protection, we have continued to try to develop appropriate and enforceable restraints upon the manufacture and importation of armor-piercing handgun bullets which would not be unduly onerous to gun owners or ammunition manufacturers. In this regard, we believe that we should do all we can to encourage police departments to equip their officers with body armor, for in the last analysis this is a more effective way of reducing injuries to law enforcement officers than an effort to restrict the availability of certain ammunition which could defeat some types of armor.

In early 1982, the Department of Justice commenced work on legislation to ban the manufacture or importation of certain armor-piercing handgun ammunition. Our initial efforts produced a draft bill very similar to S. 555 and other bills currently pending before the Congress. Careful review of these proposals, however, revealed that they were overbroad in their reach inadvertently banning ammunition with legitimate recreational uses. In fact, early proposals would have inadvertently deprived thousands of citizens of the use of their firearms by banning all ammunition being manufactured for certain handguns. Moreover, our early efforts at a legislative definition of "armor-piercing" bullets were imprecise with the result that they did not give adequate notice to manufacturers and importers as to precisely which bullets are legal and which are prohibited. S. 555 and other similar bills now before the Congress suffer from these same grave defects.

During the time we have been considering this broader issue we have taken steps to protect law enforcement officers. First, we have supported enactment of mandatory-minimum penalties for the criminal use of such ammunition during the course of a federal crime of violence. With respect to creating criminal sanctions for the criminal use of armor-piercing handgun ammunition, absolute

precision from a technical standpoint is not as crucial as in the area of restricting production or importation as law enforcement officials will often be in possession of both the suspect ammunition and the handgun in which it was loaded thereby facilitating testing to ensure that the ammunition is armor-piercing when fired from the weapon in possession of the felon. Our proposal of minimum-mandatory penalties for criminal use of armor-piercing bullets was recently approved by the Senate as Part E of Title X of the Comprehensive Crime Control Act, S. 1762.

We believe the mandatory-minimum penalty proposal governing criminal use of armor-piercing bullets constitutes a substantial contribution to reducing the threat to officers posed by armor-piercing bullets. We hope that this important measure will be enacted by the Congress this year.

Second, in early 1982, the Department of the Treasury met with ammunition manufacturers and importers and secured voluntary agreements to halt importation, manufacture or public sale of the most dangerous armor-piercing bullets. This was an important step toward reduced availability of bullets which were already rare. These voluntary agreements reflect great credit upon the Department of the Treasury and upon ammunition manufacturers and importers. I understand that a Treasury representative will discuss these voluntary agreements more fully later today.

To assist the Subcommittee in its consideration of this issue, we have furnished to Subcommittee staff copies of the test procedure we developed in an effort to distinguish among different types of bullets based upon penetration capability. This test procedure is a "complete" one in that it recognizes that the penetration potential of ammunition cannot be precisely evaluated without reference to the system from which it is fired. Barrel length, the type of handgun used (i.e., pistol or revolver), the tolerances to which the weapon is manufactured, and the amount of wear to which the weapon has been subjected affect the velocity at which projectiles emerge from weapons. The test procedure, therefore, provides for

firing of test ammunition from test fixtures used by manufacturers to test velocity of ammunition. Detailed written standards exist for these test fixtures. Furthermore, rather than using layers of "Kevlar" as the test medium, the NIJ test procedure provides for use of a series of aluminum plates to determine penetration. Metal plate is much more uniform than fabric in its composition and penetration resistance and thus yields more precise and predictable results. The use of metal plates rather than fabric as the test medium also reduces costs associated with performing penetration tests. In short, our test procedure eliminates many of the variables in S. 555 and yields predictable results. We have also provided your staff with a summary of our test results for about 100 different handgun bullets showing the number of plates the various bullets will penetrate. We hope that the test procedure and test results will be useful to you in your consideration of this issue.

In sum, we believe we have made significant progress in addressing this issue. We have developed mandatory-minimum penalty legislation for the use of armor-piercing bullets and we have obtained voluntary agreements to restrict the availability of such ammunition. We have also developed a feasible test procedure which can provide a base from which to work to develop restrictions on the availability of certain armor-piercing handgun ammunition without imposing undue burdens on manufacturers or legitimate gun owners. We recognize that these additional efforts do not provide an easy panacea to the protection of our law enforcement personnel and that in the last analysis increased use of body armor by police officers provides the best line of defense. We will continue to work to take those additional steps that could provide some added measure of safety for those who are on the front line in our fight against crime.

Senator LAXALT. We will hear next from the Department of Treasury. We welcome Robert Powis, whom I previously indicated is the Deputy Assistant Secretary of Enforcement over at Treasury. Welcome.

STATEMENT OF ROBERT E. POWIS

Mr. Powis. Thank you, Mr. Chairman. We are pleased to appear here before you today to discuss S. 555, a bill known as the Law Enforcement Officers Protection Act of 1983. I am accompanied here today by Mr. Edward Owen on my right, the Chief of the Firearms Technology Branch; and Mr. Phillip McGuire on my left, the Associate Director of Law Enforcement for the Bureau of Alcohol, Tobacco, and Firearms.

I would like at the outset to furnish the subcommittee with some historical background and information regarding protective vests commonly being worn by police officers and about armor-piercing ammunition.

Armor-piercing ammunition, as such, has been around for a long time, and its capabilities have been well known by armor and ordnance experts both in the military and in civilian law enforcement. It is not a new phenomenon. The Winchester group of the Olin Corp. produced an armor-piercing .357 Magnum round of ammunition as far back as 40 years ago.

The so-called KTW has been relatively well known in the domestic ammunition industry for the last 15 years. It did not just come on the market at the same time that bullet proof vests did.

While information about armor-piercing ammunition was known in the industry, this information was not known by the general public or indeed by many law enforcement officers until a television program highlighted this situation in 1981.

Thereafter, there has been a great deal of publicity about armor-piercing ammunition, which, in my view, has served to educate criminals and persons who would cause harm to others about the various kinds of ammunition which will pierce protective vests worn by police officers.

I am concerned about this kind of publicity leading to a self-fulfilling prophecy where an officer wearing a vest does get shot and hurt. The general characteristics of armor-piercing ammunition involve a projectile that has a jacket of steel or other hard metal, a hard bullet core, a relatively large propellant charge, and consequently a high muzzle velocity.

Protective vests or vests composed of soft body armor, which are commonly worn by many police officers today, have a much shorter history. Tests by the Department of Justice in the early seventies led to a significant breakthrough in the development of bullet resistant vests, made of Kevlar, and provide the police officer today with a considerable amount of protection from bullets.

The first wide-scale test of these vests occurred in 1975 when some 5,000 vests were used in 15 different cities by police officers. The first documented saving of a life by the use of one of these vests was recorded in December 1975 in Seattle.

Since that time it is estimated that some 400 police officers have been saved from firearm attacks and another 200 have been pro-

tected from other injuries, including those caused by auto accidents as a result of wearing these vests.

A study mentioned in a recent article in Law and Order Magazine shows that most assaults on police officers, approximately 82 percent, involve the use of hands, feet, and fists. Only about 5 percent of assaults on police officers involve firearms. At the present time, roughly one-half of the Nation's police officers have bullet resistant vests as part of their protective equipment.

Unfortunately, only about 15 percent of the officers who have these vests wear them regularly. This is alarming when one considers the probability of assault that officers face; 82 law enforcement officers were killed by firearms in 1982. It is estimated that one-half of these deaths could have been prevented if they were wearing a type II-A Kevlar vest.

Senator LAXALT. They are not required to? Does that vary from department to department?

Mr. Powis. It varies from department to department and most officers are not required to.

Senator LAXALT. So you have a seatbelt situation, I guess, roughly.

Mr. Powis. I think that is a fair analogy here, Mr. Chairman.

Of the 82 officers killed, 60 were shot with handguns and 55 were hit in the torso. The main reason why police officers do not wear soft body armor has to do with the amount of body heat retained by the material. Several new types of vests have been developed to allow for greater moisture absorption and air movement. It is hoped that these new styles will increase the usage of the vests.

The type II vest is the most commonly used today. It will stop nearly all of the handgun rounds that we used to kill officers in the last 10 years. The type II-A vest is gaining wider use because it is light and somewhat cooler than the type II.

The type II-A vest will stop more than 90 percent of the handgun bullets used in criminal attacks. The cartridges used in these attacks will likely be standard, nonarmor-piercing type ammunition.

There are a number of fallacies connected with the whole issue of legislation regarding armor-piercing ammunition. Somehow these fallacies keep getting repeated by the media and others as if they were fact.

One of the main misconceptions connected with the entire issue of antiarmor-piercing handgun ammunition legislation is an assumption that soft armor vests were designed to stop just about every kind of handgun ammunition. This assumption is inaccurate. The design was to protect against the most frequently encountered ammunition while at the same time being comfortable, convenient, and concealable to encourage its everyday use.

Another fallacy has to do with the issue of Teflon coating. People seem to think that it is the Teflon coating which confers upon the ammunition its armor piercing qualities. This is not accurate. Teflon is little more than a cosmetic additive. It adds only an infinitesimal amount of velocity to an armor-piercing bullet and provides some protection to the gun bore.

The armor-piercing qualities depend upon the type of jacket, the shape of the bullet, the amount of the propellant, the barrel length, muzzle velocity and a number of other factors.

Another misconception deals with the use of vests by police officers who have been killed by armor-piercing bullets. To the best of our knowledge, no police officer has ever been shot and killed by an armor-piercing round which has penetrated a soft body armor vest being worn by an officer.

Another fallacy, which I have heard here this morning, and I want to correct on the record, has to do with Czech ammunition. This ammunition was made in Czechoslovakia particularly between the period 1949 and 1952. It is not armor-piercing ammunition. I repeat, it is not armor-piercing ammunition. It was not designed as such.

It will, however, penetrate a type II or a type II-A Kevlar vest under certain circumstances. Not 30 million rounds were imported into the United States, but 13 million rounds. The importation occurred in the early seventies, and it was ammunition that was located in England and owned by a U.S. citizen.

The State Department under those circumstances made an exception and allowed for the importation of the ammunition. It is not presently manufactured. It is not presently imported, and any information to the contrary I just do not know where it comes from. It is also very cheap. It goes for about 15 cents a cartridge.

The legislative proposal contained in S. 555 has a number of problems, which leads us to believe that it will be unenforceable and hence we are not able to support it. In the first instance, the regulation 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 on a test can be easily changed by varying the quantity and/or type of propellant so that the same bullet will indeed penetrate armor. The regulation would theoretically require testing of an infinite variety of cartridges, each having a slightly different quantity and/or type of propellant. In any event, the regulation or regulations which attempt to address the problem should deal with complete cartridges rather than mere bullets or projectiles.

Another problem is that many handguns currently produced do fire rifle ammunition. It is likely that much sporting rifle ammunition when fired from a 5-inch barrel would penetrate soft body armor. Therefore, under S. 555 all rifle cartridges for which handguns are made would have to be tested. This would be a monumental task. Many sporting rifle cartridges would end up being restricted by the bill.

Even though regulations may be prescribed under S. 555 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 domestically produced ammunition would need to be tested.

Additionally, the bill would require the testing of all foreign ammunition imported into the United States. The changing of ammunition designs would create an additional burden by mandating continuous testing.

The purpose of this bill may be thwarted if ammunition, which although tested and determined to be nonarmor piercing, is used in firearms having a barrel length exceeding that of the test weapons. 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 addition to the rifle ammunition which could be used in certain handguns, there is a variety of other readily available handgun cartridges presently in commercial channels which are not designed or intended to be armor piercing or to penetrate soft body armor, but which would probably cause penetration and which would be banned.

For all of these above reasons, it is our belief that the legislative definition of armor piercing bullets is imprecise and results in a situation whereby manufacturers and importers will not be given adequate notice to decide which bullets are legal and which bullets are prohibited.

Mr. Chairman, this administration shares the committee's concern about the safety of police officers; we will not take a back seat to anyone regarding this concern. We have taken several steps and wish to propose others which underscore and highlight this concern.

First, the administration has proposed as part of the Comprehensive Crime Control Act of 1984 a section which would impose a mandatory prison sentence of not less than 5 nor more than 10 years for an individual who uses and carries a handgun loaded with armor-piercing ammunition during or in relation to the commission of a Federal crime of violence.

This is an important legislative remedy. We feel very strongly that an enhanced mandatory penalty is the way to discourage the utilization of armor-piercing ammunition by criminals.

Another action taken by the administration deals with contacts made with manufacturers and importers of certain specifically designed or designated types of armor-piercing ammunition. In these contacts we have requested voluntary compliance by the manufacturers and importers for a proposition whereby they would only sell this type of ammunition to the U.S. military, to official Federal, State, and local law enforcement agencies, and/or to foreign governments as authorized by law.

We think that these contacts have been significant. To the best of our knowledge, all of the manufacturers and importers have either agreed to our proposition or have gone out of the business of importing or producing armor-piercing ammunition. We do not believe that this type of ammunition is readily available in the marketplace. We have asked various individuals and groups to bring to our attention any indication that this kind of ammunition is readily available.

We have stated that we would take followup action if this situation exists. To this date no one has come forward to us with this information. I am somewhat surprised to hear here this morning

that there are situations where you can go out and buy armor-piercing ammunition. I am surprised because I think that people in the law enforcement community and people who have been involved with this legislation know of our position. I am surprised that they did not come to us a long time ago and advise us of this, if there is a real concern for the life of police officers. We are going to do something about that. We are going to check it out and get some kind of a voluntary compliance.

We think that the steps we have taken in this area are reasonable and indicate our concern for the safety of police officers by positive action and not by cumbersome legislation and regulatory processes which may not in the long run produce the desired results.

As indicated previously, only one-half of the police officers in this country are currently issued soft body armor as part of their equipment. Recent information indicates that only 15 percent of these officers regularly wear this body armor. Statistics further indicate that more lives of police officers could be saved if they had Kevlar vests and used them.

It is our intention to encourage police administrators, police associations, and local governments to both procure the existing standard body armor and to take whatever measures are necessary to ensure that police officers wear this protective material.

A significant increase in the number of officers who are issued protective vests and even more importantly, a significant increase in the number of officers who regularly use these vests would be the greatest single factor in saving more lives right now.

The Department of Justice is in the process, as they testified, of developing standards for a so-called type III-A Kevlar vest which will offer considerable more protection than that offered by the current type and type II-A. The administration intends to ensure that the development of this standard and the utilization of these vests is expedited to the greatest extent possible.

Along with this action I would like to suggest the possibility that additional research might be conducted to explore the possibility of developing an even better soft body armor than is currently available. Perhaps there is something out there which will do the job better than Kevlar and give police officers better protection than is presently available.

In conclusion, Mr. Chairman, I must state that the administration is opposed to S. 555 for the reasons laid out above. Important questions are raised by the legislation as to whether the regulatory proposal envisioned here or any regulatory scheme devised pursuant to other legislation might produce the desired result of saving the lives of police officers.

We believe that this legislation contains a cumbersome, imprecise, and costly regulatory process which would be extremely difficult to enforce and in the long run would have little or no impact on police officer safety, but would in effect create an imprecise, ineffective regulatory framework and would be extremely difficult to enforce.

That concludes my statement, Mr. Chairman. We will attempt to answer questions which you or the committee members may have.

[The prepared statement of Mr. Powis follows:]

PREPARED STATEMENT OF ROBERT E. POWIS

Mr. Chairman and members of the Subcommittee, we are pleased to appear before you today to discuss S. 555, a bill known as the "Law Enforcement Officers Protection Act of 1983." I am accompanied today by Mr. Edward M. Owen, Chief of the Firearms Technology Branch, and Mr. Phillip C. McGuire, Associate Director (Law Enforcement) of the Bureau of Alcohol, Tobacco and Firearms. These gentlemen will assist me in answering any questions you may have regarding technical and other matters after my prepared statement has been entered.

I would like at the outset to furnish this Subcommittee with some historical background and information regarding protective vests commonly worn by police officers and armor-piercing ammunition. Armor-piercing ammunition has been around for a long time and its capabilities have been well known by armor and ordnance experts both in the military and in civilian law enforcement. It is not a new phenomenon. The Winchester Group of the Olin Corporation produced an armor-piercing .357 Magnum round of ammunition as far back as 40 years ago. The so-called "KTW" ammunition has been relatively well known in the domestic ammunition industry for the last 15 years. While information about armor-piercing ammunition was known in the industry this information was not known by the general public or indeed by many law enforcement officers until a television program highlighted this situation in 1981. Thereafter there has been a great deal of publicity about armor-piercing ammunition which in my view has served to educate criminals and persons who would cause harm to others about the various kinds of ammunition which will pierce protective vests worn by police officers. The general characteristics of armor-piercing ammunition involve a projectile that has a jacket of steel or other hard metal, a hard bullet core, a relatively large propellant charge and consequently a high muzzle velocity.

Protective vests or vests composed of soft body armor which are commonly worn by many police officers today have had a much shorter history. Tests by the Department of Justice in the early or middle 1970's led to a significant breakthrough in the development of bullet resistant vests made of Kevlar which provided the police officer with a considerable amount of protection from bullets. The first wide scale test of these vests under the auspices of the Department of Justice occurred in 1975 when 5,000 vests were worn by police officers in 15 different cities. The first documented "saving of life" by use of one of these vests was recorded in December 1975 in Seattle. Since that time it is estimated that approximately 400 police officers have been saved from firearms attacks and another 200 have been protected from other injuries including those caused by auto accidents because they wore the vests.

A study mentioned in a recent article in Law and Order Magazine, shows that most assaults on police officers (approximately 82 percent) involve the use of hands, feet and fists. Only about 5 percent of assaults on police officers involve firearms. At the present time roughly one-half of the nation's 570,000 sworn police officers have bullet resistant vests as part of their protective equipment. Unfortunately only about 15 percent of the officers who have the vests wear them regularly. This is alarming when one considers the probability of assault that officers face. Eighty-two law enforcement officers were killed by firearms in 1982. It is estimated that one-half of these deaths could have been prevented if they were wearing a Type II-A Kevlar vest. Of the eighty-two killed, sixty were shot with handguns and fifty-five were hit in the torso. The main reason why police officers do not wear soft body armor has to do with the amount of body heat retained by the material. Several new

types of vests have been developed to allow for greater moisture absorption and air movement. It is hoped that these new styles will increase usage of the vests.

The Type II vest is the most commonly used today. It will stop nearly all of the handgun rounds that were used to kill officers in the last ten years. The Type II-A vest is gaining wider use because it is lighter and somewhat cooler than the Type II. The Type II-A vest will stop more than 90 percent of the handgun bullets used in criminal attacks. The cartridges used in these attacks will likely be standard non-armor-piercing type ammunition.

There are a number of fallacies connected with the whole issue of legislation regarding armor piercing ammunition. Somehow these fallacies keep getting repeated by the media and by others as if they were fact. One of the main misconceptions connected with the entire issue of anti-armor-piercing handgun ammunition legislation is an assumption that soft armor vests were designed to stop just about every kind of handgun ammunition. This assumption is inaccurate. The design was to protect against the most frequently encountered ammunition while at the same time being comfortable, convenient and concealable to encourage its every day use.

Another fallacy has to do with the question of Teflon coating. People seem to think that it is the Teflon coating on the ammunition which confers upon it its armor-piercing qualities. This is inaccurate. Teflon is little more than a cosmetic additive. It adds only an infinitesimal amount of velocity to an armor-piercing bullet, and provides some protection to the gun bore. The armor-piercing qualities depend upon the type of jacket, the shape of the bullet, the amount of propellant, barrel length, muzzle velocity and other factors. Another misconception deals with the use of vests by police officers who have been killed by armor-piercing bullets. To the best of our knowledge no police officer has

ever been shot and killed by an armor-piercing round which has penetrated a soft body armor vest being worn by the officer.

The legislative proposal contained in S. 555 has a number of problems which leads us to believe that it will be unenforceable and hence we are not able to support it. In the first instance the regulation 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 on a test can be easily changed by varying the quantity and/or type of propellant so that the same bullet will indeed penetrate armor. The regulation would theoretically require the testing of an infinite variety of cartridges, each having a slightly different quantity and/or type of propellant. In any event the regulation or regulations which attempt to address the problem should deal with complete cartridges rather than mere bullets or projectiles.

Another problem is that 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 body armor. Therefore, under S. 555 all rifle cartridges for which handguns are 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 under S. 555 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 domestically produced ammunition would need to be tested. Additionally, the bill would require

the testing of all foreign ammunition imported into the United States. The changing of ammunition designs would create an additional burden by mandating continuous testing.

The purpose of this bill 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 addition to the rifle ammunition which could be used in certain handguns, there is a variety of other readily available handgun cartridges presently in commercial channels which are not designed or intended to be armor-piercing or to penetrate soft body armor, but which would probably cause penetration and which would be banned.

For all of the above reasons it is our belief that the legislative definition of armor-piercing bullets is imprecise and results in a situation whereby manufacturers and importers will not be given adequate notice to decide which bullets are legal and which are prohibited.

Mr. Chairman, this Administration shares the Committee's concern about the safety of police officers. We will not take a back seat to anyone regarding this concern. We have taken several steps and wish to propose others which underscore and highlight this concern. First, the Administration has proposed legislation as part of the Comprehensive Crime Control Act of 1984 which would impose a mandatory prison sentence of not less than five nor more than ten years for an individual who uses or carries a handgun loaded with armor-piercing ammunition during or in relation to the commission of a crime of violence. This is an important legislative remedy. We feel very strongly that an enhanced, mandatory penalty is the way to discourage the utilization of armor-piercing ammunition by criminals. We are in effect saying to the criminal, "If you commit a violent

crime you will be prosecuted and sentenced. If in addition you use a deadly or dangerous weapon in the commission of this crime you will be faced with an enhanced punishment. Furthermore, if the weapon which you used or carried was a handgun loaded with armor-piercing ammunition, you will face an additional sentence of not less than five years which must run consecutive to a sentence imposed for the felony committed." I would urge that all of the members of this Committee support this mandatory penalty and the entire Comprehensive Crime Control Act of 1984 as a demonstration of concern and support for the safety of police officers.

Another action taken by this Administration deals with contacts made with manufacturers and importers of certain specifically designated types of armor-piercing ammunition. In these contacts, we have requested voluntary compliance by the manufacturers and importers for a proposition whereby they would only sell this type of ammunition to the U.S. military; to official Federal, state and local law enforcement agencies and/or to foreign governments as authorized by law. We think that these contacts have been significant. To the best of our knowledge all of the manufacturers and importers have either agreed to our proposition or have gone out of the business of importing or producing armor-piercing ammunition. We do not believe that this type of ammunition is readily available in the market place. We have asked various individuals and groups to bring to our attention any indication that this kind of ammunition is readily available. We have stated that we would take follow-up action if this situation exists. To this date no one has come forward with information about the ready availability of armor-piercing ammunition. We think that this is a very reasonable step and indicates our concern for the safety of police officers by positive action and not by cumbersome regulatory processes which may not in the long run produce the desired results. As indicated

previously only one-half of the police officers in this country are currently issued soft body armor as part of their equipment. Recent information indicates that only 15 percent of these officers regularly wear body armor. Statistics further indicate that many more lives of police officers could be saved if they had Kevlar vests and used them. It is our intention to encourage police administrators, police associations and local governments to both procure the existing standard body armor and to take whatever measures are necessary to ensure that police officers wear this protective material. A significant increase in the number of officers who are issued protective vests and even more importantly a significant increase in the number of officers who regularly use these vests would be the greatest single factor in saving more lives right now.

The Department of Justice is in the process of developing the standards for a so-called Type III-A Kevlar vest which will offer considerably more protection than that offered by the current Type II and Type II-A vests. This Administration intends to ensure that the development of this standard and the utilization of these vests is expedited to the greatest extent possible. Along with this action, I would like to suggest the possibility that additional research might be conducted to explore the possibility of developing an even better soft body armor than is currently available. Perhaps there is something out there which will do the job better than Kevlar and give police officers better protection than is presently available.

In conclusion, Mr. Chairman, I must state that the Administration is opposed to S. 555 for the reasons stated above. Important questions are raised by the legislation as to whether the regulatory proposal envisioned here or any regulatory scheme devised pursuant to other legislation might produce the desired result of saving the lives of police officers. We believe this legislation contains a

cumbersome, imprecise and costly regulatory process which would be extremely difficult to enforce and in the long run would have little or no impact on police officer safety.

That concludes my prepared statement, Mr. Chairman. We will attempt to answer any questions which you or the Committee members may have.

Senator LAXALT. The committee thanks you, Mr. Powis. May the record indicate that Congressman Biaggi has asked the chairman for permission to question the witness and the chairman has readily consented to that arrangement. I assume Senator Biden has no objection.

Senator BIDEN. None at all.

Senator LAXALT. Congressman Biaggi, I think it would be well if you would address some of your concerns to Mr. Powis because some of the contentions that you made were put rather squarely into issue by virtue of his testimony.

Mr. BIAGGI. Thank you, Mr. Chairman. Thank you for the opportunity to pose these questions.

One, Mr. Powis, it is my understanding you represent the Bureau of Alcohol, Tobacco and Firearms.

Mr. Powis. I represent Treasury, and we have oversight over the Bureau of Alcohol, Tobacco, and Firearms. The two gentlemen with me are from that organization, Mr. Biaggi.

Mr. BIAGGI. Well, that is what my understanding was. I just want to clarify that because you started out sounding like a representative of the National Rifle Association.

Mr. Powis. Mr. Biaggi, I am clearly a representative of the Treasury Department.

Mr. BIAGGI. I understand. You are on record. I am making my observation. Do not interrupt me when I am speaking. You had an opportunity to respond to my question.

Mr. Powis. I thought it was a question, sir.

Mr. BIAGGI. Well, it was not, and you know the difference.

Clearly, you have tried to discredit some of the earlier testimony presented by myself and Senator Moynihan by saying that no police officer had been killed wearing a bullet proof vest. No one has said that. What we said was that two police officers were killed with armor-piercing bullets.

I am not asking for a response; I am making a statement. When I pose the question you will be given an opportunity to respond.

Now I will pose the question: Would you have preferred that they be killed wearing their vests or do you contend that if they were wearing their vests they would not have been killed? You have an opportunity now to respond to both questions.

Mr. Powis. I certainly would not want to see any police officer killed, either wearing or not wearing a bullet proof vest. I made a statement of fact and it is a fact, because there is a certain implication here in terms of statements about officers being killed in the last year, and so forth, there is an implication that officers are

being killed by armor-piercing ammunition while wearing bullet proof vests and that is not the fact.

Mr. BIAGGI. That is an implication that you make. The statement was very clear by Senator Moynihan and myself, that two police officers were killed in Florida by armor-piercing bullets; that is all that was said. No one said there was a bullet-proof vest.

Now, answer the second question. If they were wearing bullet proof vests, would they have survived the assault by those armor-piercing bullets?

Mr. Powis. Well, certainly, Mr. Biaggi, we do not know that because we do not know the circumstances. And so we understand each other, I have no argument with the fact that specially designed armor-piercing rounds will penetrate a vest, but what we do not know—and I do not know about that particular situation, is what was the range of the shooting, and so forth.

So I do not think I or anyone else can answer that question with respect to the case in Florida.

Mr. BIAGGI. Mr. Powis, we have seen demonstration after demonstration where these armor-piercing bullets go through the front panel, the back panel, a substance equivalent to the human body and several telephone books after that.

I am sure you do not mean to tell us or imply that if they were wearing a bullet-proof vest they would have survived?

Mr. Powis. As a general proposition, Mr. Biaggi, I do not question at all that specially designed armor-piercing rounds and a number of other rounds that are not designed to pierce armor will penetrate a bullet proof vest.

What I am saying is that I do not know the facts and circumstances regarding the shooting in Florida, the distance away that the people were, and so forth. So I do not know that anybody can tell us whether or not a bullet-proof vest would or would not have saved the lives of those officers.

Mr. BIAGGI. I do not think it serves any purpose to belabor the question. But I think the record speaks for itself and the demonstrations speak for themselves.

You opened your remarks by saying that prior to all this publicity criminals did not know about the armor piercing bullets and the KTW bullets. That is one of the very special arguments that the NRA has been putting forth.

The fact is, Mr. Powis, the KTW bullets have been publicized since around 1970 when they were created in Ohio. And they have been publicized in all of the sports publications and the munitions publications. So clearly the argument that the NRA offers or you offer, Mr. Powis, is not true.

And, moreover, if you think that the criminals—and I know you know better, Mr. Powis—given your experience—need a television to find out about armor-piercing bullets, then you are being naive, because oftentimes, my friend, the criminals know more about the innovative instruments available to them than law enforcement at large. I am not talking about the leadership, but law enforcement at large.

Now, you make reference to the amount of foreign importations into the country; the fact is we have importation from France, from Finland, from West Germany, and from Sweden; as a matter

of fact the arrest that was made out in Nassau County, we found some armor-piercing bullets from Sweden.

And you also make reference to the long barrel. From my experience as a police officer, and it has been fairly extensive in some of the more difficult places in the city of New York, most criminals use short barrels. That is what we are dealing with.

You said you speak for the administration. I heard the Department of Justice take a contrary position. You speak for the Department of Treasury. Is that correct?

Mr. POWIS. Mr. Biaggi, I think we have to sort out what we are talking about. I think very clearly the administration, including the Department of Treasury and the Department of Justice, are opposed to S. 555. I do not know if there is any question about that. I did not hear anyone in Justice say that they were for S. 555.

Mr. BIAGGI. I heard Mr. Stephens say he was for the thrust of S. 555. Mr. Stephens is still here. Would you like him to reaffirm the Justice Department position for the record?

Mr. POWIS. I certainly would.

Mr. BIAGGI. Mr. Stephens.

Mr. STEPHENS. Congressman, I think when I testified I indicated that we did support the thrust of S. 555 if we can arrive at a satisfactory definition of armor piercing so that we can get at this narrow category of ammunition which can defeat body armor which we would hope would be worn by most police officers.

As to the way S. 555 is now drafted, we, as Treasury and as the administration, have opposed that bill. But the idea behind it and the thrust we did support.

Mr. BIAGGI. Well, that was my understanding.

Mr. POWIS, you said you have taken some initiative with relation to this problem by proposing enhanced penalties. That is not innovative and I support it. In fact S. 555 has an enhanced penalty provision. I go even further and you were here when I testified that we should enhance the penalties for any crime committed with a firearm.

But aside from that, what have you done? What has Treasury recommended with relation to this problem?

Mr. POWIS. Well, as I indicated, Mr. Biaggi, we are recommending very, very strongly and we intend to get something off the ground in terms of a public relations campaign, that police officers should get as part of their basic equipment type II or type II-A Kevlar vests, and more importantly, that they should wear them. I think it is significant that half the lives—half of the 82 police officers who were killed in 1982 probably could have survived if they had these vests. I think that is very significant. I think that is very important.

Mr. BIAGGI. I could not agree with you more.

Mr. POWIS. Another thing that we have done, recognizing—and we are not in disagreement on this issue, I do not believe, recognizing that the KTW-type bullet does create a problem. I do not question or have any argument with you on the number of telephone books it will penetrate or on the number of layers of Kevlar it will go through.

We have gone to the manufacturers and to the importers and we have said, because of our concern, we would not want to see you

selling that kind of ammunition to dealers or to individuals. We would want you to restrict your sales to law enforcement agencies and/or the military and/or foreign sales pursuant to the law.

Mr. BIAGGI. Voluntary agreements might be satisfactory presently because attention has been focused on the problem. With the passage of time I am not so sure what would happen to those voluntary agreements. I am far from convinced that there is any capability of enforcement.

Let me ask you this: Do you see armor-piercing bullets as a problem?

Mr. POWIS. Armor-piercing bullets are a problem.

Mr. BIAGGI. As they relate to police officers?

Mr. POWIS. If we did not see it as a problem, sir, we would not have done this contact with the manufacturers and importers. We see it as a problem.

Mr. BIAGGI. Now, let me see if I understand you; what you are saying here is we should have more vests. If we have more vests it would not be a question—are we not back where we started from, square one, where we have vests that can be penetrated by armor-piercing bullets?

Mr. POWIS. Well, if we have more vests, we are going to save more lives; I do not think there is any question about that and I think that is very significant.

Mr. BIAGGI. That is not the question.

Mr. POWIS. We are dealing with a situation here of a very, very small amount of ammunition that could create the problem, and we are dealing with a real life situation where only very rarely is armor-piercing ammunition being used in crimes. That is a fact.

The incident in Florida happened in 1976.

Mr. BIAGGI. Suppose it never happened, Mr. Powis. Suppose it never happened. As long as we know we have the capacity out there, those criminals have the capacity to use armor-piercing cartridges to penetrate vests and kill police officers, why should we wait until a police officer is killed? I know you do not want that and I do not want that. So why not prevent it and why not give the police officer comfort in the knowledge that his vest will protect him?

Mr. POWIS. Mr. Biaggi, I think if we can come up with something that does not impose a cumbersome, unenforceable type of a situation, that we ought to try and do something about it. And I think that our effort in the voluntary compliance area has been an effort to try and do something short of this kind of legislation in S. 555.

Senator LAXALT. Senator Biden.

Senator BIDEN. Thank you very much. Let me ask you a couple of questions. First of all, on page 4 you cite that there are a number of fallacies connected with the whole issue of legislation regarding armor-piercing bullets. The first fallacy you point out is that the misconception that the entire issue of armor-piercing handgun ammunition legislation is an assumption that soft armor vests were designed to stop just about every kind of handgun ammunition. This assumption is accurate.

It sounds like a little bit of sophistry to me. I am not sure what point you are trying to make. I am probably missing something.

Mr. POWIS. Well, I am trying to make the point that soft body armor came along at a time when there was a lot of ammunition out there of all kinds, including armor-piercing ammunition. That is armor-piercing ammunition that was definitely designed for that purpose, but also a wide variety of other ammunition that while not specifically designed to be armor-piercing would in fact and does in fact penetrate the commonly used vest that we have now.

Senator BIDEN. But is it not true—

Mr. POWIS. But the point I was trying to make was that it was not a situation where soft body armor came along and suddenly you had an arrival on the scene of armor-piercing ammunition, which was designed to defeat it.

Senator BIDEN. I see. Well, as a matter of fact, if they could design to defeat it, they would try to do it. It is not that they did not design it to defeat armor-piercing bullets. It is designed to defeat the penetration of any projectile as much as they could do that. I mean, that was the purpose.

They did not sit down and say, now, we are going to design a vest that will stop most bullets. They sat down and said, we are going to design a vest that will stop as much as we can stop.

Mr. POWIS. And still be worn and still be comfortable.

Senator BIDEN. They want to stop any kind of projectile they can and still be able to be worn in some mildly comfortable manner and still be able to get policemen to get them on.

Mr. POWIS. I think we are on the same wavelength.

Senator BIDEN. OK, good. Now, the second fallacy you point out is that only an infinitesimal amount of velocity of an armor-piercing bullet is provided by Teflon. Again, what is the point of that? I mean, what are you trying to get at?

Mr. POWIS. Well, the point is, and you hear it over and over again and you hear it in the media. I think the New York Times did an editorial and the point seems to be that the Teflon is the bad thing here, that the Teflon confers some kind of invulnerability on this bullet.

Senator BIDEN. So, you are suggesting that if you are going to do anything about bullets that can pierce armor that we are capable of producing now, that we have to do something more than deal with Teflon.

Mr. POWIS. Teflon is a negligible factor.

Senator BIDEN. OK. The third misconception is that you mentioned about how many officers were or were not killed wearing vests by armor-piercing bullets.

Mr. POWIS. I mentioned a fourth, Senator, and I do not think you were here.

Senator BIDEN. All right. What is the fourth?

Mr. POWIS. It is very significant. It has to do with the Czech ammunition that there was information given about. I think it is worth repeating. The Czech ammunition that we are referring to was made in Czechoslovakia between the period of 1949 to 1952. It is not armor piercing ammunition. It was not designed to be armor-piercing ammunition. But it does fall into the category of non-armor-piercing that will indeed penetrate a type II and a type II-A vest.

And the circumstances surrounding the importation—and it was 13 million, not 30 million—was that a U.S. citizen owned the bulk of this ammunition in Great Britain. He applied for and was granted permission by the State Department to bring it into the country and he did bring it in. So we are not currently importing this type of ammunition. What we have is the residue of the 13 million rounds, which came in in the early seventies.

Senator BIDEN. All right, now—

Senator LAXALT. So the record is clear on this, so your testimony is, Mr. Powis, that in point of fact that the Czechs are not presently manufacturing this kind of ammunition. Am I correct in that?

Mr. POWIS. I guess I would feel most comfortable with the fact that this kind of ammunition is not being imported into the United States at this time. I would have to check; I have information indicating that, but I would want to be more positive about the manufacture.

Senator BIDEN. Now, you then go on on pages 6 and 7 and beyond to point out the cumbersomeness of an attempt to in a regulatory fashion determine what bullet constitutes an armor-piercing bullet.

But then you say, and I find it interesting, you indicate in both the essence of your testimony and a letter to Senator Moynihan in response to questions, you said that, "The difficulty in attempting to define projectile type ammunition is it invariably includes a wide range of ammunition commonly used for hunting, target shooting, or other legitimate and long established sporting purposes."

You go on to say in a letter dated April 7, 1983: "There has been little significant progress in the development of regulatory definition for armor-piercing ammunition that would not also include the wide range of ammunition commonly used for sporting."

And yet in that same letter, as I read the letter, you said, and I quote:

That we have made additional progress in our contacts with manufacturers who specifically designed armor-piercing ammunition such as KTW. We are now in a situation where all manufacturers of this type of ammunition have either agreed to restrict their sales to legitimate enforcement agencies or have gone out of business.

Now, I am a little confused. You say you cannot define it, but you are confident that you have gotten the manufacturers to stop manufacturing what you could not define.

Mr. POWIS. The difference, Senator, lies between that ammunition which is clearly designed and advertised and meant to be armor piercing. These are the people we have gone to and said restrict your sales, and a wider range of sporting ammunition that is not designed to be armor piercing, that is not in a true sense armor piercing, but which will in effect penetrate the type II and type II-A vest.

Senator BIDEN. As I said before, what we have here is a communications problem. Why do you not just give us the definition that you use to get the manufacturers to voluntarily stop manufacturing what you have just defined as clearly designed as armor piercing and we will just put that in the legislation.

If you would send that up we can really save a lot of time at the hearing here.

Mr. POWIS. Well, it might be a difficulty because what we basically go at are the people who advertise and claim and who have designed their ammunition to be armor piercing. Now, let me—

Senator BIDEN. I am confused again now. I am looking for some precision here. Should we then have legislation—I know you do not want any legislation, but in order to do what you are doing voluntarily, should we then write the legislation relating to advertising? I would like you to send us with precision what you ask manufacturers to do; how you determine who the manufacturers are, No. 1; No. 2, what you say to them when you determine who they are; and No. 3, what you ask them not to do once you determine who they are and what they are doing.

Then we might be able to incorporate that in the legislation and we will be a long way toward our goal here.

Would you do that for the record?

Mr. POWIS. We will attempt to do that. The basic thing we looked at is that ammunition that is specifically designed, marketed, and advertised as—

Senator BIDEN. How do you determine that? What are those?

Mr. POWIS. We go after people who advertise.

Senator BIDEN. And say this is armor piercing.

Mr. POWIS. That is right. This will pierce armor.

Senator BIDEN. All right. Well, we can start there, then. OK. Thank you very much, Mr. Chairman.

Senator LAXALT. Thank you, Senator. We thank you, Mr. Powis, and members of the panel. There probably will be some followup written questions, I would assume, from the subcommittee.

Mr. POWIS. Thank you, Mr. Chairman.

Senator LAXALT. Thank you for your usual cooperation.

All right, we will proceed now with the various panels, and as everyone can see, we are running awfully late. We would like to expedite the processing of these panels if we may.

First of all, we have a panel consisting of various police officers: Richard Janelli from Nassau County, John Butler from Newark, DE, and Kane Robinson from Des Moines, IA.

Senator BIDEN. Mr. Chairman, he will not testify, but we have a very distinguished Delawarean here with his ballistic expert; Bill Briesley, the former president of the National State Association of Chiefs of Police. And if you would not mind I would like to ask him to join us at the table. He has no testimony, but maybe we might have a question. Please join us, chief.

I might note for the record, he arrested me when I was an undergraduate at the University of Delaware, never filed charges, though, I might add. This is so he will not arrest me again.

I would note for the record that they laughed. That was a joke, all right. I can see it in the next campaign brochure of my opponent, Biden arrested by Briesley.

Senator LAXALT. All right. Who is first? We will start with you, Detective Janelli, if you like.

Senator BIDEN. Maybe you could pass that microphone down to the detective if you would.

STATEMENTS OF RICHARD JANELLI, NASSAU COUNTY, NY, POLICE DEPARTMENT; JOHN BUTLER, NEWARK, DE, POLICE DEPARTMENT; AND KANE ROBINSON, DES MOINES, IA, POLICE DEPARTMENT

Mr. JANELLI. Good morning, gentlemen. I would first like to read a prepared statement. Upon completion of that statement, I would like to explain briefly but in detail the work that I was assigned to do regarding the penetration of soft body armor. I would like to point out at this particular point the word "armor" in reference to the work that was done would be regarding the soft body armor, not the armor you would find on a tank.

When I mention armor piercing, please bear with me, that I am making reference to in the majority of the cases ammunition that will penetrate not only this body armor, but the material I had placed behind it.

Senator LAXALT. What was that, Detective, the last of that statement?

Mr. JANELLI. That the bullet not only penetrated the soft body armor, but the material that I had placed behind the soft body armor.

Senator LAXALT. All right.

Mr. JANELLI. Good morning distinguished Members of the Senate, ladies and gentlemen. My name is Richard Janelli and I am a detective and senior firearms examiner for the Nassau County Police Department.

I have been a member of the Nassau County Police Department for 28 years and have been assigned to the scientific investigation bureau for the past 23 years. I am also the past president of the International Association of Firearm and Tool Mark Examiners.

As part of my duties as the senior firearms examiner, I am responsible for the examination, testing, and testifying regarding evidence which has been submitted on crimes involving firearms. I am also responsible for evaluating the ammunition and soft body armor used by the police department in the County of Nassau.

On behalf of the Nassau County Police Department, I would like to thank the committee for providing the opportunity for the department to relate its experiences with armor-piercing ammunition.

As the result of a search warrant executed last fall in conjunction with a bank robbery investigation, a quantity of Teflon coated bullets and armor-piercing rounds were recovered from the premises of a subject wanted for the robbery. This discovery prompted the department to send me out to the firearms dealers in the area to ascertain whether it was possible to obtain other armor-piercing handgun ammunition.

As a result of this inquiry, I found that armor-piercing handgun ammunition was available in the normal channels of commerce and that it could be obtained with little difficulty. I then proceeded to set up a procedure to test the department's soft body armor against eight different types of armor-piercing handgun ammunition which had been procured.

In all eight cases the ammunition penetrated the soft body armor with ease. Since the armor-piercing handgun ammunition is pro-

duced and distributed across the country and in some cases imported from foreign countries, there appears to be a need for a national answer to this problem. Unless Congress takes action to pass effective legislation to adequately deal with the sale and possession of armor-piercing ammunition, the safety and well-being of the law enforcement officers across America will remain in jeopardy.

I would now like to show and display the ammunition, explain how it was purchased, a description of the bullet configuration involved, the type of handguns, and examination of the soft body armor.

When I first went out to purchase this ammunition, I was looking for, again, using the word armor-piercing ammunition. I had already in my laboratory supply a certain type ammunition that I felt would do the job. I visited several dealers throughout the area and I was able to obtain, first, this box here of .380 caliber armor-piercing ammunition, and it is made by the American Ballistics Co. of Marietta, GA. I have the enclosed bill for this ammunition.

At the same time when I purchased the .380 ammunition, he only had left in his stock three .45 caliber ACP cartridges. I purchased those three. He informed me when the 9-millimeter cartridges came in he would call me. A member of my office in another section of the laboratory who is a gun buff had called up a dealer, identified himself, as we are required to within the State of New York; this company then ordered 9-millimeter ammunition over the phone. It was sent to his place of business. Upon arrival he called our office. The officer went over and picked it up and he was kind enough to give me a few rounds for the purpose of my testimony.

This round here, and I believe the contents of this box are up on the desk here, was purchased either by myself or another member of the department approximately 3 years ago, again from a local firearms dealer in Nassau County and on the box it indicates that it is imported or distributed by Interarms, Alexandria, VA.

The first ammunition I was making reference to has come from Georgia. This particular box that we had ordered through the normal channels of ordering through a police department is 9-millimeter ammunition. It is Norma brand. I had in my possession, which I had ordered again through normal processing, Winchester Western ammunition containing .357 magnum, what they refer to as a metal piercing bullet. And this bullet is truncated in design. I then went out and purchased from another store, the bill here submitted, the same as the .357; however, it is in the .38 special caliber, again with a truncated design bullet.

This box here contains the end results of the bullets after I had done my test firing. This box here contains a sample of each of the rounds that I fired. Now, the soft body armor that the police department in the county of Nassau uses is made by the PACCO Corp. I would like to take time to read very briefly what it contains. It contains 21 layers of Kevlar. There are two units, a red unit which contains 5 layers of Kevlar, a white unit which contains the balance of 16 layers of Kevlar. The manufacturing specifications state: "When you wear the red unit alone, it has no protective power whatsoever." When the white unit is worn simply within this outer canvas or covering it will stop a .357 magnum

jacketed soft point, 158 grain bullet, having a muzzle velocity of 1,250 feet per second with a plus or minus of 50 feet per second. It will stop a 9-millimeter FMC, which is a full metal case bullet, 124 grain or 1,080 feet per second, plus or minus 50 feet per second and all lesser threats.

By lesser threats they are making reference to a lesser caliber, 3,225, which has a lesser velocity. When the red and white are worn together, again we use the .357, 158 grain, it will now stop a muzzle velocity of 1,395 feet per second plus or minus 50 feet. It will stop a 9 millimeter full metal case, 124 grain of 1,175 feet per second plus or minus 50 and all lesser threats.

Regarding the ammunition from Marietta, GA, I have here in their brochure how they refer to it. For example, the one that I had tested, the .380 auto, they refer to it here as armor piercing. This particular cartridge has a muzzle velocity of 1,250 feet. The 9-millimeter cartridge that I fired, which they refer to as armor piercing, has a muzzle velocity of 1,650 feet per second. The .45 ACP armor piercing has a muzzle velocity of 1,450. Part of the job as the examiner for the police department is to test every group of vests that are submitted to be worn by our members. One is selected at random, and I test fired using a .38, a .357, and a 9-millimeter cartridge, using standard ammunition that has been normally bought through the normal avenue of trade.

The vests that we wear will stop any .38 special—excuse me—.357 or 9-millimeter as so designed by the manufacturer and any lesser threats. We use a duct seal. When I used this armor-piercing ammunition, I took the forward panel, and I strapped it around a box, which is approximately 18 inches square, 3 inches in depth, and contained 40 pounds of duct seal. The duct seal would give you an idea of basic trauma that would strike the body after the bullet has gone into or been stopped or penetrated the vest.

I have found with all this ammunition that was tested that every round penetrated the front of the vest, went to the back of the duct seal, and was contained in the back. The only two exceptions were the .357 magnum and the .45. They not only penetrated the front of the vest, the 40 pounds of duct seal, but also a half inch of plywood in the back and they came to rest in the back of the second panel or the back panel.

If you have any questions that you would like to ask pertaining to this, I would be happy to answer them if possible.

[The prepared statement of Mr. Janelli follows:]

PREPARED STATEMENT OF RICHARD JANELLI

On September 13, 1983, a bank robbery investigation, jointly conducted by the Garden City, New York Office of the Federal Bureau of Investigation and the Nassau County Police Department, culminated with the issuance of a Search Warrant for the residence of David Schwartz. The execution of this Search Warrant resulted in the confiscation of a cache of weapons and ammunition, including two teflon coated rounds which were commercially produced, six teflon coated rounds which were homemade, and twenty-four steel jacketed armor piercing rounds.

The discovery of this ammunition prompted the Nassau County Police Department to conduct an inquiry into the availability of teflon coated, armor piercing and metal piercing handgun ammunition in the normal channels of commerce, and to test the potential lethal capabilities of such ammunition.

With little trouble at all, I was able to purchase from a commercial firearms and ammunitions dealer, 380 and 45 caliber armor piercing ammunition. This dealer happened to be out of 9 millimeter armor piercing ammunition, but stated he would call me when it came in. In the interim, however, I obtained a quantity of 9 millimeter armor piercing rounds from another laboratory technician who had purchased them from a dealer. I was also able to buy a quantity of 38 special caliber metal piercing rounds. What is curious about the last purchase is that the ammunition was obtained from American Outdoor Sports Inc., a concern which bills itself as "Long Island's largest field and stream sports store," and the ammunition has no legitimate purpose in sport or recreational shooting.

After this ammunition had been obtained, I proceeded to test fire the following eight different types of handgun ammunition:

- (1) 380 caliber rounds containing a low carbon steel and teflon coated, manufactured by the American Ballistics Company of Marietta, Georgia;
- (2) 9 millimeter rounds containing a low carbon steel and teflon coated, manufactured by the American Ballistics Company of Marietta, Georgia;
- (3) 45 caliber rounds containing a low carbon steel and teflon coated, manufactured by the American Ballistics Company of Marietta, Georgia;
- (4) 38 caliber special metal piercing rounds with a truncated bullet design and copper coated, manufactured by the Winchester Western Company of the Olin Corporation in East Alton, Illinois;
- (5) 357 magnum metal piercing rounds with a truncated design and copper coated, manufactured by the Winchester Western Company of the Olin Corporation in East Alton, Illinois;
- (6) 38 caliber special RTW rounds made of solid brass with a teflon coating, manufactured by the North American Ordnance Company of Pontiac, Michigan;
- (7) 9 millimeter rounds with a copper coated steel jacket and lead core, manufactured in Norma, Sweden;

- (8) 9 millimeter rounds with a cupro-nickel jacket and soft steel core, manufactured in Czechoslovakia and imported by Interarms of Alexandria, Virginia.

These eight different types of ammunition were then test fired by me into the soft body armor manufactured by the Protective Apparel Corporation of America in Englewood Cliffs, New Jersey. This is the same soft body armor which is presently being issued to members of the Nassau County Police Department. This soft body armor consists of two panels. The first panel is a red one, consisting of five layers of kevlar. The second panel is a white one, consisting of sixteen layers of kevlar. When worn together under manufacturer's specifications, these twenty-one layers of protective kevlar are designed to stop the penetrating force of a 357 magnum, a 9 millimeter and all lesser threats. The soft body armor was placed around a half-inch thick plywood box which was open at the front end filled with forty pounds of ductseal. Each test firing was conducted from a constant distance of fifteen feet. In each and every instance, the eight types of ammunition which were tested, penetrated through the front panels of the soft body armor and into the ductseal. In the case of 357 magnum metal piercing ammunition and the 45 caliber armor piercing ammunition, the rounds continued through the ductseal and half-inch plywood, and were found resting against the rear panel of the soft body armor.

The role of the law enforcement officer is one fraught with danger. With the development of soft body armor, the law enforcement officer was provided with some measure of success in dealing with one aspect of this danger. The availability of the teflon coated ammunition, the armor piercing ammunition and metal piercing ammunition which is

readily available in the marketplace today has once again made the police officer vulnerable to the threat posed by the violent criminal. As these tests demonstrated, the soft body armor was rendered completely ineffective for its intended purpose.

With this ammunition being distributed throughout the country and coming into the United States from foreign countries, it appears that a national answer to the problem is needed. For this reason, it is recommended that Congress favorably consider legislation which will effectively deal with this clear and present danger to the safety and well being of law enforcement officers across America.

Senator LAXALT. Thank you very much, Detective. I assume as you gather evidence showing this apparent availability of this ammunition, that that is being transmitted to Treasury. At least I would hope so.

Mr. JANELLI. Senator, I was just informed of this situation to do this work about 9 days ago. I was not aware of any legislation, to be very honest with you, regarding armor-piercing ammunition. If my department was aware of it, I was not made aware of it. However, upon hearing Treasury talk at this meeting, I am sure when I report back to my Commissioner any information that would be forthcoming will be sent by him to the Treasury Department.

Senator LAXALT. I think it would be very helpful.

Mr. JANELLI. Yes, sir.

Senator LAXALT. Senator Biden.

Senator BIDEN. Sir, two questions. One, to the extent that you can answer it, are there any bullets available on the market that you are aware of, for whatever purpose, whatever stated purpose, that could pierce the vests that you tested that do not also do damage to the barrel of the gun?

Mr. JANELLI. No, sir; the ammunition that I have tested here, especially the steel, the Teflon coating, coating in my opinion serves two purposes. It protects the interior of the barrel because the steel bullet itself would damage the interior of the barrel. By Teflon coating it creates a lesser friction of the long axis of the barrel, of the bearing surface of the bullet on the interior of the barrel.

Plus, I have heard—I have not read the report—that the Teflon adds about 14-percent increase in penetrating power into soft body armor. So, basically, it is serving two functions, protecting the interior of the barrel and increasing the ability to penetrate the soft body armor.

Senator BIDEN. Well, I guess, just so you understand our problem—and I think the Senator from Nevada and I share the same concern to this extent—and that is that testimony from Treasury

implied or directly stated there are armor-piercing bullets on the market that are in fact legitimate for hunting purposes.

And that some of those bullets are capable of piercing the vest in question by either using them in a different gun, rifle, or pistol, or by changing the configuration. That is what we are trying to get at, this definition question.

Mr. JANELLI. Well, in a rifle caliber, .35 Remington caliber, .3006 caliber, of course, with the muzzle velocity of those weapons, the cartridges, rather, produce, they would penetrate any soft body armor. But I know of no .3006 caliber handgun. There might be a .30 caliber put out by Center Firearms, but they are not, in my opinion, a very popular handgun.

Senator BIDEN. Are the bullets interchangeable?

Mr. JANELLI. The bullet configuration from a .3006, you might be able to neck it down and place it into a lesser caliber, but as far as changing it into a handgun, no. The only interchangeable cartridges that I am aware of at this point, for example, your .45 ACP cartridge here, this is capable of being fired in a semiautomatic pistol, a fully automatic weapon, such as a small machine gun, a revolver with the use of a half moon clip. So it is interchangeable; the same with the .44 magnum, for example. You can fire a .44 magnum handgun and the same cartridge that goes into the magnum goes into the rifle.

The 9 millimeter could be fired in a revolver, a semiautomatic pistol.

Senator BIDEN. Now, in a rifle would that cartridge have a legitimate hunting purpose in terms of how you would define it.

Mr. JANELLI. All right. If we are talking about now the armor-piercing—

Senator BIDEN. What I am trying to get at is what is armor-piercing. That is what we are trying to get at here.

Mr. JANELLI. To me the—and I have not researched the true definition, but I think the word is self-explanatory. Could this particular bullet penetrate a piece of armor. And during the military during the wars they have found that certain types of steel such as this will penetrate armor. But the purpose of my being here, the word "armor," as I prefaced my statement, I was making reference to the soft body armor. We are concerned with what will kill a police officer on the street, not what is going to stop a tank running down 42d Street.

We are more concerned with the individual life. It is the bullet configuration, in my opinion, not the caliber that would be the source of your problem. If you can define what is an armor-piercing bullet, there are other bullets in .45 caliber or any other caliber for the man who wants to do any kind of shooting that are presently on the market.

I have a thing here from Winchester Western that certainly lists everything from a .25 automatic up to a .45 Winchester Magnum and everything in between. The only two-bullet configurations here that are metal piercing, both in the .38 special and the .357, that had a truncated bullet. So there is nothing else here that can be used in a handgun.

Senator BIDEN. So to put it another way, of the—among the major manufacturers of cartridges, if we pass the legislation as it is

presently drafted, the definition relating to its ability to pierce those vests, how many, in your opinion, how many types of cartridges would have to be taken off the market?

Mr. JANELLI. Maybe 10.

Senator BIDEN. Out of how many, roughly?

You can submit it for the record, but give me a rough idea.

Mr. JANELLI. Maybe I have 50 to 60 different calibers here that would be involved.

Senator BIDEN. OK. Thank you very much.

Senator LAXALT. Thank you. We will now proceed to Mr. Butler.

STATEMENT OF JOHN BUTLER

Mr. BUTLER. Thank you, Senator. It is a distinguished honor to be here.

My name is Cpl. John Butler from the city of Newark Police Department, Newark, DE. I have been a police officer there for 15 years. Currently, I am a street supervisor, the firearms instructor for the department, and also the firearms repair officer.

The department does consist of approximately 45 police officers, including our staff. I have graduated from firearms programs, both from the Smith and Wesson gun manufacturer as well as the Ruger Firearms Co. I presently am a life member of the National Rifle Association for approximately 20 years. I am currently a certified police firearms instructor for that organization. And I presently hold master pistol shooters classification with the National Rifle Association, which allows me to compete nationally in police combat pistol matches.

I would like to say that, first of all, that we as officers on the street, from previous testimony, are not concerned with which came first, the chicken or the egg, the bullet or the vest. The fact is right now we have both. I was fortunate enough to obtain from one of the major manufacturers some test panels.

And the majority of the people on our department that are wearing the vest have the type of vest that I have the panel for. Unlike Detective Janelli, I did not have the funds to go out and purchase the ammunition. Being a small community, I put out word of mouth to different officers, different people throughout the community and what you see displayed on the bullet board, the armor piercing and the other specialized ammunition that we are confronted with, came to me. I did not go out and actively try to purchase those particular rounds.

They came to me from the street, from other police officers, from civilians. They came to me. This was our concern. I did actively try to purchase the armor-piercing rounds as well as some of the specialized rounds and was not successful in New Castle County in the State of Delaware on purchasing armor-piercing rounds.

None of our dealers in that area carry them. Thank God. All my testing was done with a 4-inch duty revolver that the members of our department carry. The testing was done at a distance of 21 feet, 7 yards.

I used both of the panels; the first panel which consists of 18 layers of Kevlar; the second panel consists of 26 layers of Kevlar. The two panels were backed together. Again, a telephone book

saturated to give a resemblance of the human body was placed behind that and then secured to a maple log so that I may be able to retrieve the projectiles.

The KTW in the center, the .357 Magnum round penetrated both pieces of vest material, a total of 44 layers, which is definitely uncommon for the average street officer to wear. It penetrated 44 layers, the wet telephone book, and went 4 inches into the maple log, which I was able to retrieve. This was alarming to me as a street officer. It is alarming to my supervisors to know that we are out there daily with this possibility coming from the street.

I then proceeded to test ammunition that we carry, other ammunition that was comparable to be fired in our weapons. And no matter what I threw at these panels at the same distance with the same weapons, it did not penetrate, except for the armor-piercing rounds.

The three armor-piercing rounds listed on top, the Remington, KTW, and the Winchester round, it is my understanding at present the KTW is the only one being manufactured. Winchester has ceased their manufacture, as well as Remington, but the stockpile that is in the stores and in the warehouses, that ammunition is still available on the shelves today.

And it is our understanding that there may be up to a 5-year stockpile of ammunition. They will defeat the soft body armor that both Detective Janelli and myself have worked on.

That concluded our testing and it did create quite a concern for our city and for our State legislators. Both the city of Newark and the State of Delaware have drafted resolutions which will be made available to the panel for their consideration.

Senator BIDEN. They were passed by the legislature?

Mr. BUTLER. Pardon?

Senator BIDEN. Was the resolution passed by the State legislature?

Mr. BUTLER. Yes, sir.

Senator BIDEN. By what margin? We look at numbers.

Mr. BUTLER. I think it was unanimous.

Senator BIDEN. Unanimous.

Mr. BUTLER. Yes, sir.

Senator BIDEN. We have a lot of hunters in Delaware.

Mr. BUTLER. Yes; but that information will be made available to your panel.

Senator BIDEN. Thank you.

Mr. BUTLER. Thank you.

Senator LAXALT. Let me ask, you say that you are a member of the NRA and I assume you are a hunter and a sportsman.

Mr. BUTLER. Yes, sir.

Senator LAXALT. Would this kind of ban, in your estimation, create any kind of threat upon your liberty as a gun owner?

Mr. BUTLER. None whatsoever, sir. The ammunition that I tested I would not use. The ammunition that I want to use both as a police officer and as a hunter is transferring a maximum amount of energy into the body of the perpetrator or the animal to create a hydrostatic shock to that system, to put that perpetrator or animal down instantly where these projectiles would penetrate, and as pre-

vious testimony stated, a slow bleeding to death type atmosphere would be constructed.

Senator LAXALT. Do you share the concern of a number of people in NRA that imposing a ban of this kind would be a door opener, a wedge to lead to gun control in some fashion later?

Mr. BUTLER. With the proper wording of the definitions, no, sir; it would not.

Senator LAXALT. Of course, the definition is the problem.

Mr. BUTLER. Yes, sir.

Senator BIDEN. With the definition as the definition being anything that could pierce that vest, do you have any problem with that? Would that in any way impact on you as a sportsman?

Mr. BUTLER. You are talking about anything that would pierce the vest or are you talking about handguns?

Senator BIDEN. What we are talking about is the bullet, any bullet. That is the argument that Treasury makes and NRA makes. They say, look, there are so many bullets out there that if you make the definition what the bullet can pierce, since you can put it in different guns and different rifles, that you can change its capability.

Therefore, you would have to take so many of them off the market that you would impact upon the ability of sportsmen to engage in sport.

Mr. BUTLER. Senator, you are talking about a bullet now. My experience with a bullet is the actual projectile or missile that comes out of the casing.

Senator BIDEN. Right.

Mr. BUTLER. We offered to Senator Moynihan's personnel and to the Senator yesterday a definition that we thought would be acceptable.

Senator BIDEN. Please give us that definition.

Mr. BUTLER. We want any projectile to be fired from a firearm, including but not limited to a pistol, shotgun, or revolver using fixed ammunition, driven by a propellant explosive, composed entirely of a ferrous alloy or coated with any substance or any truncated projectile, which is designed or intended to increase the penetrating capability of the projectile.

Senator BIDEN. I see. Thank you. That is a help.

Senator LAXALT. Corporal, did you listen to the testimony of Justice here this morning to see the approach that they are using in order to try to reach some kind of objective standard out there to satisfy all these competing interests.

Did you hear that testimony?

Mr. BUTLER. Yes, sir.

Senator LAXALT. What was your reaction to it.

Mr. BUTLER. Kind of walking the fence.

Senator LAXALT. You or they?

Mr. BUTLER. They are kind of walking the fence. It seems to me that they do not want to—they want to see which way the wind is going to blow before they make a decision.

Senator LAXALT. But aside from that, what do you think about the scientific basis of the method that they are approaching?

Mr. BUTLER. Are you talking about them using the aluminum panels and all?

Senator LAXALT. Yes.

Mr. BUTLER. I do not wear aluminum, sir. I wear Kevlar.

Senator LAXALT. But for the purposes of adopting a standard, are you saying that you do not think it is all that valid?

Mr. BUTLER. I do not see how you could arrive at it because we are not wearing aluminum; we are wearing Kevlar.

Mr. JANELLI. You have to base your standard on what the police officers are wearing, Senator. If the police officers are wearing Kevlar, you have got to base your standard against what is being worn out on the street, not what might be a better substitute if Kevlar is being used. If aluminum was being used we all would have been testing our ammunition against aluminum. It is Kevlar that is being used.

Senator LAXALT. So your point is if we are going to look at a standard, we look at the standard and apply it against the product that is in place and presently being used. Is that what you are saying, the two of you?

Mr. JANELLI. Yes, sir.

Mr. BUTLER. Yes, sir.

Senator LAXALT. All right. Let us proceed now with the testimony of Mr. Robinson of Des Moines, Iowa.

STATEMENT OF KANE ROBINSON

Mr. ROBINSON. Thank you, Senator Laxalt. I am lieutenant of police, chief firearms instructors, armor, legislative liaison for the department, legislative liaison for the Iowa Chiefs of Police Association, and the State chairman of a police commanding officers group known as IMPAC.

First, I would like to say that our analysis of this overall situation corresponds very closely to that—

Senator BIDEN. I am sorry. Excuse me 1 minute. You are representing your police department.

Mr. ROBINSON. I am here as the legislative representative of the police department and all those other organizations. The police department took a position on this legislation in the Iowa Legislature.

Senator BIDEN. It is the same as what you are going to give?

Mr. ROBINSON. Yes.

Senator BIDEN. So you do represent the view—

Mr. ROBINSON. I am not speaking for the chief of police at the moment. He happens to be in Florida, but he is aware that I am here speaking on this issue.

Senator BIDEN. No; does he support you being here? Are you here as an individual or are you here in your official capacity representing the view of your police department?

Mr. ROBINSON. I am here in both capacities.

Senator BIDEN. Good.

Senator LAXALT. Please proceed, Lieutenant.

Mr. ROBINSON. A KTW law was proposed in the Iowa legislature about a year ago, and that law was not passed primarily due to the opposition of police organizations which were—and police officers and departments united in their opposition to that legislation.

Senator LAXALT. Was the thrust of that law basically the same as we have here, an outright ban?

Mr. ROBINSON. Yes, sir.

Senator LAXALT. Limited purely to KTW?

Mr. ROBINSON. No; it had to do with penetration and there were definitional problems with the penetration and the essential problem was the same, that many rounds that are legitimately used, including much rifle ammunition that is shot commonly today through pistols, would be banned. And it is not an occasional thing. It is a very common thing. We in our own police department have quite a number of people who are metallic silhouette shooters, for example, that use pistols that employ rifle ammunition, which would be banned by the definitions that are floating around here today.

Senator LAXALT. You are hitting at the heart of the problem.

Senator BIDEN. Does your testimony include specifically what those rounds are?

Mr. ROBINSON. It does not, no. There are—almost all rifle ammunition, there are now, Thompson Co., for example, has handguns chambered for virtually all rifle ammunition that is commonly used, not some old, obscure calibers that may not be available anymore.

For example, 3030, one of the most common deer rifle cartridges in the United States is available in pistol form and is very commonly used. It is not an obscure thing that no one ever encountered.

Senator BIDEN. You do not hunt with a pistol, though, do you?

Mr. ROBINSON. Well, I do not hunt with a pistol, but there are many people that do. But if you ban the ammunition based on that standard, sir, then you will ban the ammunition, period.

Senator BIDEN. No; I am a little concerned. Will the same cartridge as the 3030 that goes in a rifle, will that same exact cartridge be able to be placed in a pistol, same size, same shape?

Mr. ROBINSON. Yes, sir.

Senator BIDEN. OK. That is what I wanted to check. Thank you.

Mr. ROBINSON. And it applies to quite a variety of other cartridges.

Senator BIDEN. Would you list as many as you can for us, just for our benefit, not now, but for the record.

Mr. ROBINSON. OK.

Senator BIDEN. Thank you.

Senator LAXALT. So, essentially, what happened in Iowa was that there was a finding of interchangeable use and an outright ban then infringed, I guess, rather substantially on recreationalists, whether hunters or target shooters or whatever.

Mr. ROBINSON. That is correct.

Senator LAXALT. Including members of your own police department.

Mr. ROBINSON. That is correct.

And I would like to deal with three issues, I guess. First of all is the overall issue and the setting that we find ourselves in law enforcement regarding this issue. I sense that I am rather unpopular here today, but I am going to take a position that is probably different than most of the police officers from the eastern seaboard

that are here. And they all have rights to their opinions and the rest of us do also.

For many years those people that have been desiring to ban firearms have falsely claimed that police officers are in league with them and they are doing that for the benefit of police officers. Yet any analysis of that issue nationwide, particularly the largest single incident that has happened in that regard in California recently will show that police officers have been the backbone of the campaign to preserve private firearms ownership, not to ban private firearms ownership.

Some people have seized on this proposal, which is very well intentioned—and I do not imply that the people that authored the proposals—and I repeat—I do not imply that those people have this goal in mind.

But others have seized upon it as a method of driving a wedge and disorganizing those people that have been opposed to the banning of private firearms. That is the name of the game. That is exactly what is being done. As an example you see right here in this room being passed around an organization known as Handgun Control, Inc. that wants to ban handguns, support, pamphlets designed to support this legislation, which of course is their right. But I am putting it in perspective. It was said before that it did not have anything to do with the issue of banning handguns. It has a great deal to do with that issue.

Senator BIDEN. Does that mean if you oppose the banning of handguns you are in league with some criminal organizations that also oppose it?

I think this kind of discussion gets us off the issue of whether or not there are certain bullets that are specifically designed to kill people.

Mr. ROBINSON. That may be, but that is—I feel it is an important issue, that the people that are supporting it as part of a continuum toward their goal, which is the elimination of private handguns and perhaps other guns in the country. And their own advertising, for which they pay a great deal of money to supply, shows that. And they have been trying to use the method of advertising in police magazines to accomplish that end and they have stirred up a lot of tumult in the police business.

And then a lot of officers we find when they consider both sides of the issue, they change their view. But at first reaction it sounds great. Let us ban firearms. Let us have no knock search warrants. There are a lot of knee jerk things that do not really represent thoughtful law enforcement after you have once taken a serious look at an issue. That is my point.

Senator BIDEN. I assume you are going to tie it into the bullets and why these guys up here have been duped.

Mr. ROBINSON. Well, Senator, I have not suggested that anyone is being duped, and that is not my point in making the statement, I do not think. I think there is a difference of opinion and I hope that I could have an honorable right to my opinion.

Senator BIDEN. Fire away. That is why we are here.

Mr. ROBINSON. Yes, sir. There are many, commonly available rounds that can defeat vests. Some of those that were presented here today as armor-piercing rounds, it was suggested that they

were manufactured for armor piercing, yet we heard the Czech controversy did not turn out exactly as it was presented originally. We have old ammunition manufactured in Czechoslovakia, not for the purpose of penetrating armor, but that incidentally can penetrate armor and that would of course be banned if the penetration of armor was the standard that we were going to become involved in.

Now, in my prepared remarks I mentioned something that has been beaten to death here, I guess. We are aware of no police officer that has actually been killed by one of these rounds that has been shot through a vest.

Implicit in that statement certainly is not the desire that any police officer be killed, but I think it helps to put it in perspective.

The impression is being presented that police officers are being slaughtered by this ammunition. That is unmistakably the impression. It is the impression the media has given and some of the other supporters. And so I think it is legitimate to point out that that has not happened. We hope it will not, but it has not in fact happened.

Another factor that presents one with some bad choices, but is nevertheless a fact, if you are going to be shot—we do not desire that anyone is shot, but if you are going to be shot, about half of the cops in the United States do not wear vests—you are better off, albeit you have bad choices, but you are better off if you are shot with an armor-piercing round than if you are shot with a round that will deform.

And I would repeat, albeit those are very bad choices, but it is not a panacea to saving lives just because we are going to ban that particular round. Armor-piercing ammunition—and I hope the news media will use some restraint in how they repeat what I am going to say—armor-piercing ammunition can be made by any competent person. And I do not mean a firearms expert.

In testing our own vests in the Des Moines Police Department, we manufactured—here are some samples of bullets. It took us about 15 minutes apiece to modify commonly available, ordinary, everyday police type ammunition that would shoot through our vests with no difficulty at all and penetrate way into our bullet catching device. It is the common one that is used, but it nevertheless absorbs energy to capture the bullet.

The point is that it is very easy for anyone to make this ammunition in his own basement. It is very, very easy to do. It is going to be extremely difficult to define that kind of a situation in the law.

That ammunition obviously was not originally manufactured for that purpose. Yet it was very easy to modify it. Needless to say, that is cheaper and more readily available than some of the highly restricted ammunition like the KTW that would leave a more dramatic trail, certainly, with regard to the person who bought it.

So as regards the specific proposals that I have read, the one that is before the committee, it will ban many sporting cartridges. It will ban cartridges like some of those standing before you that were not designed to be armor piercing cartridges, and that is a serious problem.

Another problem is that although we may have a great deal of confidence in the honorable people that are before us in various bureaucracies today, the fact is that by changing definitions tomor-

row's crop of bureaucrats may come up with an entirely different standard and definition. And that is not an idle and frivolous statement. We remember some years ago when the Consumer Products Safety Commission attempted to usurp its authority and define ammunition as a hazardous material which should not be used.

We recall definitions of handguns as Saturday night specials in some previous legislation and proposed regulations pursuant to it that would have banned the revolvers carried by the guards in this building. And so these definitional things tend to get out of hand. And that could be a problem with definitions proposed here.

So the legislation has unfortunately been captured by people that perhaps are taking it beyond its intent. It may very easily be summed up by what Bryant Gumble, I believe it is, on NBC said last night in introducing Today's program, which was designed to promote this legislation. And it was to the effect that we are going tomorrow to examine Teflon-coated, cop-killer bullets that explode on impact. Is that not a wonderful piece of hysteria, that that kind of hysteria is being presented around the United States. And I hope that we can stick to the realistic issue, the future of private firearms ownership, and if there is a problem that can be solved with legislation, that whatever it is it be so surgically done that it deals perhaps with penalties. We can do something to protect police officers' lives. It is not a miracle. It is not a secret if we just keep dangerous felons in prison a little bit longer.

Anybody that knows anything about law enforcement knows that if you look at the people who kill cops, they are invariably dangerous, repeat felons that have been released on a sentence that was such that had they been serving a meaningful part of it they would have been in prison on the day they shot the cop.

Now, there is a meaningful suggestion for saving police officers' lives and I would applaud those and I know Senator Biden is one to support it and Senator Laxalt has also. But that kind of legislation might produce some meaningful results. Thank you.

[The prepared statement of Mr. Robinson follows:]

PREPARED STATEMENT OF KANE ROBINSON

I am a Lieutenant of Police, chief firearms instructor, armorer, and legislative liaison for the Des Moines Police Department. I am also Chairman of IMPAC, a statewide police management organization, and a legislative representative for the Iowa Chiefs of Police Association.

Legislation regarding armor piercing ammo came on the scene largely because of a 1982 NBC MAGAZINE program. In its zeal to join the anti-firearms campaign, the NBC show regrettably demonstrated to terrorists and criminals how to shoot unprotected areas or use specialized equipment to defeat police armor.

A KTW law was proposed in the Iowa Legislature and was not passed -- because of the work of police officers -- united in their opposition to the measure.

For many years those desiring to ban privately-owned firearms have falsely claimed that the police support them -- the truth is that police officers and management have been the backbone of the campaign to PRESERVE private firearms ownership.

Some have recognized an opportunity in the KTW controversy to drive a wedge between the police and other private firearms supporters.

Let me be clear -- those leading the anti-firearms campaign are the prime activists in the "KTW" campaign nationwide and their goal is the dividing of supporters of second amendment rights.

As an example, please consider these advertisements placed by Handgun Control, Inc. in police magazines -- pleading for support of a "KTW" law.

REGARDING ARMOR PIERCING AMMUNITION

Armor piercing ammo has been available since before WW II, KTW since 1967.

We are aware of no officer killed or wounded by such ammo shot through a vest by a criminal.

Armor piercing ammo will actually inflict a less serious wound than other types if it strikes a person without armor or an unprotected spot. Over half the nation's police do not wear body armor.

The value of body armor will disappear as criminals become aware of its use. Publicity about body armor is far more dangerous to officers than a theoretical problem with ammunition.

Armor piercing ammunition can be made by any competent person with simple home tools (I hope the news people won't repeat this). I modified these cartridges in a few minutes in my basement and tested them on our vest--which was easily penetrated.

Needless to say, these home modified cartridges are cheaper and more difficult to describe than the highly restricted commercial KTW rounds.

REGARDING THE PROPOSED LAW

Many sporting and defense cartridges will become illegal.

Some have questioned whether there is a legitimate use for armor piercing ammo--I hope we aren't seriously proposing "legitimate use as a standard for allowing Americans to own an object or the police will be busy indeed!"

Next years crop of bureaucrats could easily misuse the law to attack private firearms by adding to the list of "BAD" bullets. We all remember the attempt to ban bullets by the Consumer Product Safety Commission a few years ago.

There is no practical way to identify armor piercing ammo and establish knowledge and intent on the part of the criminal.

The kind of people who commit robbery, terrorism, and murder won't worry about a comparatively minor penalty concerning the ammo in their gun when they set out to kill someone.

This legislation, regardless of the intent of its authors, has been gleefully adopted by the ban firearms people as their leading issue.

The law will do nothing to help police.

NBC and Handgun Control, Inc. are strangely silent on efforts to keep dangerous criminals in prison a little longer--a measure which can be clearly shown to save police lives without treading on the rights of law abiding Americans.

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THE POLICE ARE AGAINST IT.
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Killing cops is all it's good for. No self-respecting hunter would ever use it.

The police have worked hard for laws to ban it--in Alabama, California, Connecticut, Florida, Illinois, Indiana, Kansas, Maryland, Massachusetts, New Jersey, Ohio, Oklahoma, Pennsylvania, Rhode Island, Texas, Virginia, and now in Congress.

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Please help us make sure the Congress hears from America's police--in support of the Moynihan-Biaggi Bill (S.555 and H.R. 953) to ban the COP-KILLER BULLET.

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Mr. JANELLI. Senator, may I ask a question, sir?

Senator LAXALT. Surely.

Mr. JANELLI. I have been listening to testimony all morning from everybody concerned and possibly Lieutenant Robinson can answer this question. I have only been a cop for 28 years and I know of no legitimate reason regarding handgun ammunition—I am not talking about rifle—why a person needs an armor-piercing projectile in a handgun cartridge.

Possibly you could enlighten me.

Senator LAXALT. Please.

Mr. ROBINSON. The answer to the question is that the difficulty that I have is not so much with the KTW round or something like that. The difficulty that most people opposed to this legislation have, one difficulty is that it embraces much other ammunition and gives a present friendly bureaucracy, but perhaps future hostile bureaucracy, the power to use that legislation to ban more and more ammunition. But there is much ammunition that would be embraced by this kind of a definition if it has to do with what it can penetrate.

Senator LAXALT. Do you think it is capable of solution through a restrictive definition, Lieutenant?

Mr. ROBINSON. I do not honestly know if it is.

Senator BIDEN. How about the definition my friends from Newark came up with? Maybe you could look at that and for the record tell us.

Mr. ROBINSON. I am not sure this lends itself to reading this and giving you an answer.

Senator BIDEN. No, no. I am not suggesting that, but I would like it for the record because you are a very articulate fellow, and your arguments are fairly—I have a few questions, if I may, Mr. Chairman.

Senator LAXALT. They fought the battle in Iowa, apparently, on this very ground. So it is very helpful testimony.

Senator BIDEN. And speaking of Iowa's battles, there is an assistant chief named Zinzer who says you do not speak for the department. I guess he is your assistant chief. We just got him on the phone.

Mr. ROBINSON. Is that right?

Senator BIDEN. Yes. He says specifically you do not speak for the department.¹

Mr. ROBINSON. OK.

Senator BIDEN. Is that right? Did you think you did? I mean, I am confused here.

Mr. ROBINSON. I am not going to debate you about what Assistant Chief Zinzer has to say, sir.

Senator BIDEN. Does that surprise you that he would say that?

Mr. ROBINSON. I do not have any way of knowing what he said.

Senator BIDEN. I'll tell you what, you could make it in the State Department. [Laughter.]

You might be able to make it in politics. I am going to ask a couple of questions. The bullets that you suggest that you tested,

¹See letter from Dennis C. Westover on page 146.

which I assume will be submitted for the record, that can be made at home, I assume that you are not suggesting that notwithstanding they can be altered at home to become armor piercing, that those which are sold over the counter which are already armor piercing should not be banned.

Let me put it another way: the KTW bullet, how would you feel if we just said nothing else in the legislation but the KTW bullet, which I guess even you would acknowledge is specifically designed to pierce armor.

Mr. ROBINSON. Not to kill cops.

Senator BIDEN. I do not only care if it kills cops. I am worried about me and many other people.

Mr. ROBINSON. Well, unfortunately, Senator, that has been the allegation, that it was designed to kill cops.

Senator BIDEN. Let us forget about the cops, OK, for a minute.

Mr. ROBINSON. OK.

Senator BIDEN. Which is clearly designed for the purpose of being able to pierce armor. Would you have any objection to that particular bullet, the KTW bullet being banned?

Mr. ROBINSON. I am not sure I can answer that question.

Senator BIDEN. Why can't you?

Mr. ROBINSON. Because I would have to look at the implications, if you are going to—

Senator BIDEN. By name. The KTW bullet.

Mr. ROBINSON. Ban a brand of ammunition—

Senator BIDEN. That is right.

Mr. ROBINSON. That would be a rather singular piece of legislation.

Senator BIDEN. I understand that. Would you object to it?

Mr. ROBINSON. I do not think I have any answer for that. I really—

Senator BIDEN. Well, why don't you?

Mr. ROBINSON. You are trying to get me to say something, Senator—

Senator BIDEN. I am trying to get you to answer a question.

Mr. ROBINSON [continuing]. That will not accurately represent my view.

Senator BIDEN. Well, now, wait a minute. The KTW—I promise you I will draft such legislation that says you ban that brand name, nothing else. Would you object to that?

Mr. ROBINSON. Probably.

Senator BIDEN. Why?

Mr. ROBINSON. Because it is—you are not banning that particular bullet. You are doing it as a speaking technique, a debating technique, and you are not really trying to ban that bullet. Honestly, that is not your real purpose.

Senator BIDEN. You know what I honestly intend and do not intend. You are a pretty smart guy.

Mr. ROBINSON. I think that is obvious to everyone in the room. You are not trying to simply do that.

Senator BIDEN. What I am trying to do is, I agree that the points you have made make some sense and I agree that the points made by the Treasury Department made some sense. And what I am sug-

gesting to you is if we cannot find a perfect solution, let us start with what we can do.

And if we all agree that that bullet is one that has no legitimate hunting purpose, why do we not start there. Let us agree on what we can agree on. In this committee, the way it works, we share a vast difference of philosophic background, from Strom Thurmond, the chairman, to me the ranking member, from Paul Laxalt to Ted Kennedy. It goes on down the line. Probably we have the most diverse committee in the Senate.

Now, prior to my taking over as the ranking member, we tended to argue a lot. I have a view. Maybe you ought to check my record a little bit so you know I am being serious with you. I like to start with where we can agree on agreeing. We spent 12 years debating the kind of legislation you just complimented.

And I am going to say something very self-serving. None of it happened until I came on this committee for one reason: The chairman and I said, let us not argue about what we disagree on. Let us agree on what we can agree on.

And if it is 2 percent of the field, we will pass 2 percent. If it is 50 percent, we will pass 50. If it is 100 percent, we will pass 100. That is how we got the legislation through. Now, I am sincere when I say to you, let us start off on what we can at a minimum define and at a minimum, and it may only represent 1 percent of the universe of bullets, the KTW bullet. Why can we not just, if that is the only thing we agree on, eliminate that one?

Now, what is your objection to that?

Mr. ROBINSON. The objection, I guess, is that I think in the United States of America that that is a very poor reason to ban an object because it does not have a legitimate use. I think the police would be busy indeed across America if we begin banning things that we feel are unsafe that have an illegitimate use.

Senator BIDEN. Well, if it is by definition an illegitimate use—

Mr. ROBINSON. Or that have no legitimate use.

Senator BIDEN. That have no legitimate use—

Mr. ROBINSON. That covers a lot of territory. There are a lot of other things that we could include in there. I am not sure I would want to subscribe to that policy.

Senator BIDEN. Well, we understand that probably you and I could never agree on anything. But that is a good start. That probably helps you and it helps me, too.

Senator LAXALT. I do not think he is saying that. I think essentially, if I understand him, he is saying that if there is no legitimate purpose for a piece of legislation, we should not indulge in the exercise. There has been a hell of a lot of that around here in years past.

Senator BIDEN. Again, with all due respect, Mr. Chairman, that is a bit of sophistry, too. The catch here is if there is not legitimate purpose for a thing that can do great harm and we all agree there is no legitimate purpose for it, is that an irresponsible legislative activity to eliminate it?

It seems to me that is a legitimate field of activity for responsible U.S. Senators and Congresspersons and Presidents and police officers.

That is what I am talking about.

Senator LAXALT. If you want to follow that kind of reasoning out to its logical extreme, we could ban automobiles.

Senator BIDEN. No, because that does have a legitimate purpose. There is a legitimate purpose for an automobile. It also has some illegitimate purposes, but there is no legitimate purpose for this bullet. We all agree on that.

Mr. ROBINSON. You could probably ban alcohol.

Senator BIDEN. There is a legitimate purpose for alcohol. Everyone agrees with that. There is a legitimate purpose for even smoking. There is a legitimate purpose for everything. But this is something we all agree has no legitimate purpose and you all do not want to do anything about it and I cannot understand that.

Senator LAXALT. Would you like to be heard?

Mr. BRIESLEY. Senator, could I make the point that the Senate did exactly what Senator Biden is suggesting, I think, in the lawless years of the thirties when they outlawed gangster type weapons such as sawed off shotguns, machineguns and silencers that had no place in an orderly society.

And I would go one point further, that if something is not done on the this checks and balance, we are in for big troubles.

He indicated something about an exploder round. If you look on that chart in the lefthand corder, there are two rounds of ammunition that are so volatile, they are five times more sensitive than dynamite. They explode on impact. We had the first homicide in my community just before Christmas when an individual was shot twice with that type of ammunition.

If you take that ammunition and you are simply loading a handgun and drop that round, it will explode on impact. If you take two kilograms of weight, 3 inches high and drop it, it will explode. It is senseless to have that sort of ammunition available in an orderly society. It has no place.

I cannot wait until they come out with one where you dip the darts in poison. I mean, where do we draw the line?

Senator BIDEN. Apparently, you do not.

Mr. BRIESLEY. There has to be some sort of a responsible action in that sort of ammunition.

Senator BIDEN. Can I ask one more question, if I may, of Mr. Robinson. Do you suggest—I just came from a closed hearing on Stinger missiles. Stinger missiles, do you know what they are?

Mr. ROBINSON. Yes, sir, I am aware.

Senator BIDEN. Should we ban the sale, which we have, of Stinger missiles to citizens of the United States of America that are not engaged in the military? Is that a legitimate thing to do?

Mr. ROBINSON. I think it is.

Senator BIDEN. Why?

Mr. ROBINSON. I think that it would be relatively easy to demonstrate the extreme likelihood of many, many people being slaughtered by the use of that equipment.

Senator BIDEN. I see.

Mr. ROBINSON. I think it is a little bit different than the thing that we are talking about.

Senator BIDEN. So, many, many people—I guess what we get down to is how many people. I see.

CONTINUED

1 OF 2

Mr. ROBINSON. Well, yes, I think that is a relevant—it is crude to say it, but it is certainly relevant. Otherwise, we would ban automobiles. We could ban a lot of things.

Senator BIDEN. I think that is preposterous, but I understand what you are saying.

So let me ask you another question because it really gets down to what the basic position of you and others who share your view have. And that is—and you may be right for all I know. But let me ask you, do you think there is anything wrong with us having banned sawed off shotguns? Now, we are reducing the field from Stinger missiles, you know, in terms of the field of devastation that can be done.

Was that a mistake to do?

Mr. ROBINSON. I have no objection to the law. I seriously question whether it has had any real effect. We encounter sawed off shotguns all the time. But I do not think it has really changed that situation very much. But I have no objection to the law. I am not standing here on a crusade to have it repealed.

Senator BIDEN. Gotcha. OK. Thanks.

Mr. BUTLER. Senator, one thing in sort of rebuttal to what the lieutenant said. He referred to making the projectiles out of already manufactured ammunition capable of piercing the soft body armor. We have laws and regulations against machineguns, but yet you can go out on the market and buy a weapon today and take it down in your basement and work with it a little bit and make it a machinegun.

Senator BIDEN. Well, I do not imagine he would object to machineguns, though, being sold over the counter, would you?

Mr. ROBINSON. Yes.

Senator BIDEN. Why?

Mr. ROBINSON. I think for the—

Senator BIDEN. You can kill a lot more deer with a machinegun, and for a guy like me who does not have very good aim, I would be better off.

Mr. ROBINSON. I do not find anything humorous about it, so—

Senator BIDEN. I am serious. I mean, why would you be opposed to machineguns being sold over the counter? I do not understand. I seriously do not understand based upon the philosophy you have set out. Why do you object to machineguns being sold?

Mr. ROBINSON. For the same reason that I cited with regard to the missiles. The potential is somewhat greater and I think the experience in Miami and some of the other places recently has shown that there is a consensus that there was a significant danger to large numbers, a meaningful, realistic thing that was actually happening. It could be demonstrated that it was happening and would seem to be a responsible thing to do.

Senator BIDEN. OK. Thank you.

Senator LAXALT. Thank you all. It has been a very stimulating panel.

Mr. BRIESLEY. Senator, could I add just one closing comment that has not been brought up, but I think it bears mentioning. I am thinking about it as I am sitting here is that one other thing that certainly ought to be of consideration to everyone that is considering this legislation and that is the fact that those armor-piercing

slugs that we see on display here are made of a compound that is so hard that when it leaves the weapon, assuming that it does strike and kill a person, there are no identifying characteristics on that bullet that can identify the gun from which it was fired.

So if a round of that nature goes through the bullet proof vest and kills the police officer or if it just strikes a politician and kills him, you cannot identify even though you recover that bullet to the weapon which it came from because the metal is so hard. I think that should be considered.

Senator LAXALT. Thank you, chief, very much.

We have two more panels and in the interest of time, I would hope that the remaining panelists perhaps would not have any objection to coming to the table together and we will try to coordinate that activity.

We have Robert Ricker, who is the executive director of the California Wildlife Federation. We have Warren Cassidy, who is the executive director of the Institute for Legislative Action of the National Rifle Association. Then we have Gilbert Gallegos, who is legislative chairman of the Fraternal Order of Police. And finally Phil Caruso, who is the president of the New York City Patrolmen's Benevolent Association.

Let us start with Mr. Ricker.

STATEMENTS OF ROBERT A. RICKER, EXECUTIVE DIRECTOR, CALIFORNIA WILDLIFE FEDERATION; WARREN CASSIDY, EXECUTIVE DIRECTOR, INSTITUTE FOR LEGISLATIVE ACTION, NATIONAL RIFLE ASSOCIATION; GILBERT GALLEGOS, FRATERNAL ORDER OF POLICE; AND PHIL CARUSO, PRESIDENT, NEW YORK CITY PATROLMEN'S BENEVOLENT ASSOCIATION

Mr. RICKER. Mr. Chairman and Senator Biden, I am happy to be here today to help shed some light on the proposed legislation, S. 555. I represent the California Wildlife Federation, which is a statewide sportsmen's organization representing over 150,000 sportsmen and over 100 sportsmen's clubs in the State of California.

Unlike the State of Iowa, the State of California has passed legislation dealing with armor piercing ammunition.

Senator LAXALT. They did or they did not pass it?

Mr. RICKER. They did pass.

Senator LAXALT. The Iowa testimony, as you probably heard, was to the effect that they did not.

Mr. RICKER. The California legislation was enacted.

Senator LAXALT. Oh, unlike. All right.

Mr. RICKER. Unlike Iowa's, it was passed; and hopefully I can shed some light on some of the problems that were encountered in California.

Senator LAXALT. When did this legislation pass, Mr. Ricker?

Mr. RICKER. I believe it was in 1982.

Senator LAXALT. That is the same basic type of legislation that we are considering here, outright ban?

Mr. RICKER. It differs significantly in two respects. In one respect, a person possessing armor-piercing ammunition has to knowingly possess that ammunition. And second, the ammunition has to be specifically designed for armor-piercing capabilities.

Senator LAXALT. Are there criminals penalties attached in this piece of legislation also?

Mr. RICKER. Yes; there are. It is basically a criminal statute.

Senator LAXALT. I see.

Mr. RICKER. As Lieutenant Robinson testified earlier, there is a great deal of leeway and uncertainty as to what ammunition would in fact be banned should S. 555 be enacted.

Lieutenant Robinson mentioned the modification of commercially manufactured ammunition, which under the proposed bill would not normally be banned. Such ammunition however, could be hand modified and therefore prohibited under S. 555. I would like to cite some examples of how hand modification is widely practiced in California as well as every other State in the union. Most sportsmen and hunters or a large segment of sportsmen and hunters participate in what we call hand loading. This is done in order to save money on purchase of ammunition. Hunters and target shooters purchase types of ammunition which can be reused by taking the cartridge and adding a new projectile with new propellant; they can reuse the component parts of the ammunition for their hunting or target shooting purposes.

This is done on a large scale throughout the United States. We also heard earlier the testimony of the Treasury Department where Mr. Powis stated that by modifying the amount or the type of propellant in a particular form of ammunition a person can easily enhance its armor-piercing capabilities. I would submit that for the average handloader, the average licensed hunter and law abiding gun owner in California, and likewise in every other State, would have a difficult time determining exactly how much propellant or what type of propellant would make a particular piece of ammunition armor piercing.

In California in 1980 approximately 67,300 licensed hunters spent more than \$9 million on handloading equipment and accessories. If S. 555, in its current form, were adopted, I submit that we would have a law enforcement nightmare on our hands. We would have hunters and target shooters possessing ammunition with armor-piercing capabilities who do not know that they would be breaking the law.

Another point I think that has not been mentioned yet in this hearing is that the sportsmen and the hunters of this country pay their own way. By that I mean the money that they spend on firearms and ammunition is taxed, and that tax money is then applied to wildlife restoration programs throughout the country.

This was initially set up in the Dingle-Johnson—Pittman-Robinson taxing provisions passed by Congress.

In California there are approximately 4 million licensed hunters who would use ammunition and equipment which would be affected by this legislation. I submit that the Pittman-Robinson funds that the State of California receives, which is somewhere in the neighborhood of, I believe, \$4 million, which is used strictly for wildlife restoration programs, and hunter safety projects, would be severely and drastically reduced if this legislation were passed.

Senator LAXALT. What about the approach that was considered a moment or so ago by Senator Biden, that we take a known armor-piercing piece of ammunition by brand name and exclude it?

Would that remove the problem that you are speaking of, of your people doing the handloading that you describe?

Mr. RICKER. I really do not think so. You know, we have heard testimony here today to the effect that particular piece of ammunition has no legitimate sporting purpose. If you look at the firearms sporting community as a whole, there are various activities—target shooting and high power rifle shooting, which require the use of ammunition that is capable of withstanding high muzzle velocity types of powder charges.

If you attempted to ban a particular piece of ammunition, by brand name, I do not think from a handloading standpoint or from a competitive shooting standpoint that you really would be getting at the crux of the problem.

I think the real problem is not necessarily the existence of a particular piece of ammunition, but is crime in the streets, and what is motivating our population or a large segment of our population to shoot police officers.

So I think you would be taking more of a bandaid approach, to a difficult social problem which I do not think the people of this country support.

Senator BIDEN. Well, regardless of whether the people are behind us or not, would that impact upon the sportsmen?

Mr. RICKER. I think it would. I testified earlier, you have sportsman out there, for example a high powered rifle shooter who engage in statewide competitions who basically manufacture their own ammunition by taking component parts from many different types of ammunition and combining them to achieve the muzzle velocity that is necessary to achieve desired competition results.

I do not think you would really impact—

Senator BIDEN. With all due respect, I am not really interested in your opinion of the impact. You sound like one of those whacko liberal friends of mine who talks about the sociological causes of crime, but I am not with you liberals on that.

I would like to know what you can speak to, though, with your expertise. At any rate, thanks.

[The prepared statement of Mr. Ricker follows:]

PREPARED STATEMENT OF ROBERT A. RICKER

Mr. Chairman and Members of the Subcommittee:

It is my pleasure to appear before you today to describe the threat posed by S. 555 and its companion bill, HR. 953, to the American sporting community and Federal, State and local wildlife programs already underway in this country.

The California Wildlife Federation is a statewide sportsmens organization representing over 150,000 sportsmen and 100 sportsmens clubs. The Federation strongly believes that hunting and fishing are valuable game management tools and, when the state's game resources are properly managed, the state as a whole benefits.

The California Wildlife Federation shares the concern of the Committee and a large number of people who have expressed concern following the recent publicity regarding the dangers of "armor piercing" ammunition. The immediate reaction of most people after the publicity was that armor piercing ammunition must be banned. In California the State legislature enacted a provision directed specifically at "handgun ammunition designed primarily to penetrate metal or armor". However, many lessons were learned through the legislative process in California, and 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.

Any attempt to define projectile-type ammunition, as S. 555 would attempt to do, invariably includes a significant number of commonly used hunting and target shooting ammunition, such as the common .30-30 Winchester. The .30-30 cartridge is currently factory chambered for certain hunting and silhouette competition handguns. It is commonly known that, when fired

from one of these handguns with a barrel of five inches or less, the .30-30 Winchester will penetrate 18 layers of bullet-resistant Kevlar.

It is also likely that most all sporting rifle ammunition, when fired from a 5-inch barrel, would penetrate soft body armor. Under S. 555 therefore, all cartridges for which a handgun is made would have to be tested. As pointed out in testimony given by the U. S. Department of Justice before the House Subcommittee on Crime of the Committee on the Judiciary on May 12, 1982, this would be a monumental and costly task.

The definitional problems with S. 555 are even further compounded when you consider that literally millions of hunters and competitive shooters hand load their own ammunition. It is commonly known in the sporting community that the performance of a bullet or projectile is dependent upon a number of factors, including the quality and type of propellant powder used to assemble the bullet into a cartridge. The performance of a bullet which will not penetrate 18 layers of Kevlar can be changed by varying the quantity and/or type of propellant so that the same bullet will then penetrate the soft body armor.

In California alone, approximately 67,300 licensed hunters spent more than \$9,178,500 on handloading equipment and accessories. If S. 555 in its current form were to be adopted, a law enforcement nightmare would be created. Every time an unsuspecting hunter or target shooter were to handload a cartridge he would first have to determine, under penalty of a federal felony, whether the cartridge is a "restricted handgun bullet". That determination can only be made by the Secretary of the Treasury using very sophisticated equipment.

Federal, State and local wildlife restoration programs would be severely affected by the passage of S. 555. Currently, hunters and sportsmen in this country pay their own way by financing fish and wildlife programs through excise taxes levied on the purchase of firearms and ammunition. This taxing

procedure, which was established under the Dingell/Johnson and Pittman Robertson Federal Aid for Fish and Wildlife Restoration Acts, would be severely undermined by a large number of currently manufactured types of ammunition being banned. Of course, once ammunition is prohibited a certain number of firearms will then become obsolete. This would greatly reduce the number of sporting firearms and ammunition sold and thereby severely impact on the availability of Pittman Robertson funds. In 1982-83, the State of California received \$4.2 million from Pittman/Robertson funds generated by firearm and ammunition sales nationwide. These funds are now used for wildlife habitat development, wildlife studies and mandatory hunter safety courses.

According to the 1980 National Survey of Fishing, Hunting and Wildlife-Associated Recreation, prepared by the U. S. Department of Interior, there are over 4 million licensed resident hunters of the age 16 or older in California. Of those 4 million hunters, approximately 1 million regularly hunt animal species which require the use of ammunition outlawed by S. 555. The 1980 survey also states that in California over 38 million dollars were spent on guns and rifles and 17 million dollars on ammunition. It is therefore clear that S. 555 and its companion legislation would have a drastic effect on all tax revenues not only in California but in all other states.

This now brings me to my final point which is that S. 555 cannot accomplish the purposes for which it was intended.

As stated earlier, non-armor piercing ammunition can be easily modified by hand to achieve armor piercing results. It has also been brought out in earlier Justice Department testimony that the purposes of S. 555 can be thwarted by firing non-armor piercing ammunition from firearms with longer barrels. The 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.

Testimony has also been given in earlier hearings that soft body armor is not designed to repel any or all types of armor-piercing bullets. Most law enforcement agencies do not view protective armor as the only answer to the dangers associated with their law enforcement duties. It is merely a tool used to help reduce the incidence of injury when all other security measures fail.

The concern that has been expressed on a nationwide scale over armor piercing ammunition is well founded and the goals to be met by S. 555 are noble goals. However, to take such a simplistic approach to the real problem, which is not sporting ammunition which is capable of piercing soft body armor but is, in fact, rampant crime in our city streets, is a grave injustice. The people of this country are tired of hearing simple answers being proposed to complex problems.

The millions of sportsmen and law-abiding firearms owners of this country are also tired of being held responsible for the actions of a small criminal population which is virtually holding our society hostage. This fact was borne out in 1982 when the informed voters of California soundly rejected Proposition 15 (the anti-handgun initiative), which was nothing more than another well-intentioned, simplistic approach to our complex social problem of crime.

Mr. Chairman, the California Wildlife Federation believes that firearms and armor piercing ammunition should be kept out of the hands of criminals. There are now thousands of statutes on the books which make it illegal for convicted or even accused felons to own, possess or acquire firearms or ammunition. We also believe that those persons who use firearms or ammunition in violation of the law should be swiftly and severely punished. S. 555, on the other hand, would do nothing more than confuse the real issue of crime in our city streets. It would virtually outlaw most current sporting arms and ammunition which would result in nothing more than the loss of much needed revenues for fish and game restoration projects.

Thank you for providing me with this opportunity to present the views of the California Wildlife Federation.

Senator LAXALT. Thank you very much. Let us proceed now to Mr. Cassidy from the NRA. And if we have to leave, Mr. Cassidy and the rest of the panel, it is not out of any measure of disrespect, but because these hearings have gone much longer than anybody expected. We have a rather important vote on the floor and as soon as you hear five buzzers, I am afraid you are going to lose two U. S. Senators. But in lieu thereof, the remainder of the hearing will be completed by our chief counsel, Jock Nash.

Senator BIDEN. With your permission, Mr. Chairman, I have questions, too, so I would like to be able to ask my staff to participate.

Senator LAXALT. Surely. Of course. That will be just fine. We will make certain we have transcripts of this, and they will be provided, of course, for our use and the other members of the subcommittee.

STATEMENT OF WARREN CASSIDY

Mr. CASSIDY. Thank you very much, Mr. Chairman, Senator Biden.

I would have had much more to say, but I enjoyed the Treasury Department's report refuting the sponsors' contentions. So I will limit my remarks to my prepared ones. I do appreciate being permitted to testify on behalf of our 2,800,000 members in opposition to S. 555 as introduced by Senator Moynihan.

Initially, I would point out there is no demonstrated need for this legislation; since the NRA testified on this identical proposal 2 years ago in the House of Representatives, there has been no rash of criminal misuse of armor-piercing handgun ammunition. In fact, it is our belief and fear, a fear shared by all police, that the high profile media campaign orchestrated by the proponents of this legislation and gun control groups is far more likely to endanger police lives than armor-piercing handgun ammunition.

Senator LAXALT. You heard Congressman Biaggi when this general point was raised, and essentially he says, "Do we have to wait for someone to get killed before we take preventive action". Do you agree with that statement?

Mr. CASSIDY. No, sir. But what has happened, the two officers that are being used here as an example of being killed by armor piercing, those were head shots or shots on parts of the body that would never be protected by any sort of ammunition. And the more this type of proposal is broadcast, the more the criminal element will go for the head if they think the officer is protected that way. Most certainly they will do that with shotguns or anything that will cover a greater area than just one bullet.

I might point out that the NRA has been a much better friend of police than most of the proponents of this type of legislation. Almost all police officers are trained by NRA certified instructors.

Earlier today it was pointed out, I think by Congressman Biaggi, that there had been a dramatic drop in the rate of casualties of the New York Police Department, and the implication at least was because of body armor.

The fact of the matter is that retired New York officer Frank McGee, who opposes this type of legislation, rewrote the New York textbooks on how you deal with violent crime in the streets, the

method of confronting the violent criminal and I would respectfully submit that that is what has reduced the casualty rate among New York officers and nothing to do with the vests.

In fact, S. 555 and its identical companion legislation in the House of Representatives, H.R. 953, are nothing other than one more attempt to separate law abiding gun owners and the Nation's sportsmen from their firearms and ammunition. To quote the Justice Department testimony of March 1982:

The simple fact is that some bullets with a legitimate use will defeat soft body armor. Moreover, in certain handgun calibers, the effect of a ban on armor-piercing bullets would effectively deprive firearms owners of the use of their weapons by rendering illegal all presently available commercially manufactured ammunition.

The National Rifle Association does not believe that legislation which attempts to control criminal behavior through the control of firearms and/or ammunition will ever be effective. Rather, we believe that stiff, sure, fair, mandatory penalties for misuse of firearms and/or ammunition are the only effective deterrents to criminal behavior. It is already against the law to shoot police officers. It is against the law for convicted criminals to possess firearms.

Still another law will have no effect, particularly since the law is designed to solve a nonexistent problem. In that regard, the U.S. Senate recently passed by a vote of 91 to 1 a comprehensive crime control bill which included just such a mandatory minimum sentence for the criminal misuse of armor-piercing handgun ammunition.

The NRA commends and thanks the Senate for that appropriate, courageous action.

Mr. Chairman, the specific problems with S. 555 and H.R. 953 are many. The definitional section which attempts to create a class of "restricted handgun ammunition" is severely flawed. If passed, the result would be the banning of many conventional handgun and rifle cartridges. The U.S. Treasury Department, which would have to administer S. 555, has previously testified, and I quote:

The bill would be likely to include other ammunition readily available in commercial channels which are 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 body armor. Many sporting rifle cartridges would end up being restricted by this bill.

Further, S. 555 would be unenforceable as the physical identification of restricted ammunition, as opposed to similar unrestricted ammunition, is virtually impossible. There is no simple penetration indexing test which will define armor piercing ammunition or any law which would preclude ordinary, nonrestricted handgun ammunition from being fired from handguns with barrels over 5-inches in length. Additionally, private handloaders and small ammunition manufacturers, of which there are tens of thousands, would be placed in a particularly difficult position by this bill.

Each time an individual handloads a cartridge to be used in a handgun, he would be forced to determine under penalty of a Federal felony whether the cartridge is a restricted handgun bullet. That determination can under this bill only be made by the Secretary of the Treasury with very sophisticated testing equipment.

In short, S. 555 and H.R. 953 are riddled with technical inaccuracies, unenforceable provisions, and is legislation drafted in response to a nonproblem.

Three further points I think bear consideration. First, despite the claim of the bill's proponents and gun control groups, armor-piercing handgun ammunition is not available on the civilian market. The officer from the Nassau County Police Department specifically stated that he identified himself as a police officer when he went in and purchased that ammunition.

Manufacturers and importers of AP ammunition sell their handgun ammunition only to law enforcement agencies. They do not sell to intervening FFL dealers, and regardless of whether that fact was reached by some law or voluntarily arrived at with the assistance of the Treasury Department, it is a fact.

In other words, you cannot simply walk into your local gun shop and purchase armor-piercing handgun ammunition as many would have you believe.

Second, it should be noted that many law enforcement organizations have concerns regarding S. 555 and similar bullet-ban legislation. I quote the chairman of the Firearms and Explosives Committee of the International Association of Chiefs of Police in a letter to the president of the International Association of Chiefs of Police:

Partial information, faulty logic, and emotionalism were found to exist in public discussions, in statements within the law enforcement community, and congressional deliberations. We urge you, as president of the IACP, to suspend any official association activities and withhold all public statements regarding "cop killer bullets" until a rational and informed study of the problem has been conducted. This committee believes that this is necessary to avoid potentially damaging legislative overreactions.

Third and finally, 37 States allow hunting with handguns. The various State fish and game departments specify certain calibers and energy levels below which you are not allowed to hunt with a handgun. And I guess this example is going to be wasted now.

But, Nevada, as an example, requires either .357 magnum, .41 magnum or .44 magnum handguns with barrel lengths over 4 inches long. S. 555 would outlaw many of these cartridges mandated for big game hunting by State fish and game departments, not only in Nevada, but across the country.

The answer to the issues this hearing raises are not to be found in ill conceived and poorly defined legislative proposals such as S. 555, but rather in swift, sure, and fair sentencing imposed against those who would attempt to commit such abominable acts.

Again, I commend to the attention of all concerned the minimum mandatory provisions recently passed by the Senate as the most responsible solution to this issue. Thank you for providing me with this opportunity to testify before you.

Mr. NASH. Thank you, Mr. Cassidy. The comment relative to Nevada is not wasted. I am from Nevada. Nevada recently passed armor-piercing bullet legislation. Are you familiar with that legislation?

Mr. CASSIDY. Yes, I am.

Mr. NASH. Nevada also has on its books legislation which mandates that certain calibers be used when you are hunting with a handgun. Are those two statutes in conflict now, and—

Mr. CASSIDY. I believe in the State of Nevada they amended the legislation so that, I think, two or three specific named pieces of ammunition were specifically excluded.

Mr. NASH. Has the National Rifle Association come up with a list of ammunition that would fall within the ambit of armor-piercing or vest-piercing ammunition that would probably be taken off the market should legislation be passed at the Federal level?

Mr. CASSIDY. No, we have not. We do not believe it can be defined because there is so much more involved than just the primer, the powder, the brass, the bullet, the length of the barrel, and the coatings, and so forth. We believe that most of the legislation proposed throughout the country and proposed here would in its desire to rid an imagined problem take care of eliminating most of the sporting ammunition used, as has been testified to here earlier today.

Mr. NASH. There are groups who alleged that when they cannot get gun control, they will instead try to do it through the back door, by ammunition control. Could you give the committee a likely scenario of how come about and how that would—how gun control would be affected through that strategem.

Mr. CASSIDY. I think there is an excellent example, sir, very close to this building in Montgomery County, MD. There is a county trustee that seems to have nothing else to do in his life but to attempt to ban handguns. He has been notably unsuccessful. Recently, he attempted to ban the sale of ammunition within his country. He has been defeated on every level. He makes no pretense about why he does it. He states publicly, I cannot get the guns banned. I will get the ammunition banned and therefore they will have nothing to shoot and I will eventually get to the guns.

This gentleman has been defeated on every level so far. He is using his county's funds to appeal. He has lost the appeals to date. I think he still has one left. But Montgomery County in Maryland is a perfect example of a declared antigun official stating that if I cannot get the guns, I will get the ammunition.

We feel that in the particular bullets that we are discussing here today, if there had been a rash of specific cases where criminals were running around shooting at police officers with armor-piercing ammunition and killing those police officers with armor-piercing ammunition, it would lend a great deal more credibility to the cause of the proponents of the legislation. That is not the case. That simply is not the case.

Mr. NASH. Thank you, Mr. Cassidy.

Mr. GREEN. Just a couple of questions. Mr. Cassidy, do you know what percentage—what kind of numbers reflected in the NRA membership are police officers or law enforcement officers?

Mr. CASSIDY. The number of our total members who are police officers, I do not have any—

Mr. GREEN. Or a percentage figure.

Mr. CASSIDY. No; I would suspect it would be a large percentage because, as I say, our education division puts on courses throughout the United States. They have been asked, for example, to put on a course for the Washington, DC Police Department.

They have put one on recently in Chicago. It intrigues us because of course both of those cities are noted for their strict handgun

laws. But I could not give you a number. I suspect many, many police officers are members of the National Rifle Association.

Mr. GREEN. The reason I ask that is because to our knowledge, there is no major law enforcement group that has come out in opposition to this bill. And I was wondering if there had been a polling of some sort or an opinion taken of police officers who are members of the NRA as to their position and whether they are siding with the NRA on this position or whether they are siding—

Mr. CASSIDY. Yes; we have inquired and we have hundreds of responses from different members of the International Association of Chiefs of Police, for example. I do not have them here with me, supporting our side of this issue.

I believe there are police organizations in this room today, representatives of organizations who do represent a great number of police officers. I think one of the reasons some of them may not go public is in any police department of course you do have differences of opinion. You have the commanding officers. You have the officers. You have the patrolmen. They are represented by fraternal orders of police, patrolmen's association, the international association, and national association of the chiefs.

Their opinions may differ on many subjects, not just what we are talking about this morning and this afternoon, and I suspect it is uncomfortable for them. In our Morton Grove appeal before the Illinois State Supreme Court, we have now obtained two police organizations that have filed amicus curiae briefs in our behalf. It was difficult to get that, as I say, not because they do not agree with you. The chief of police in Morton Grove, for example, happens to agree with our side of it, but he is not about to buck his trustees.

Mr. GREEN. You had mentioned in your statement that this type of ammunition was mailed directly from the manufacturer to law enforcement agencies.

Mr. CASSIDY. After the Treasury Department—I did not mean to imply that. After the Treasury Department talked to the manufacturers, I believe I am correct in stating, and they would support me, that normally law enforcement agencies or the military can order that ammunition directly from them and not through an intervening FFL dealer. And as a matter of fact, the order has to take place on stationery of that particular department ordering the ammunition. I am sure that is correct.

Mr. GREEN. The requirements as far as a licensed dealer, though, they can get access to this ammunition basically by filling out the forms, the proper forms?

Mr. CASSIDY. No. I believe that they would have to have an order on the stationery of the police department. The military of course is not going to order through regular licensed dealers.

Mr. GREEN. No. How about a licensed dealer, though? Once someone is licensed, they can get access then to this ammunition; is that correct?

Mr. CASSIDY. No, I do not believe that is the case any longer. The manufacturers agreed with Treasury that they would ship directly to law enforcement agencies or to the military and not through an intervening Federal firearms license holder.

Mr. GREEN. OK. The availability of this ammunition, as you have said and as Treasury also indicated, through compliance agreements is no longer available. Has that, to your knowledge, also filtered down to individual licensed dealers, that they are no longer to sell over the counter any type of ammunition?

Mr. CASSIDY. I would believe so.

Mr. GREEN. Given the fact it was already in stock is what I am referring to.

Mr. CASSIDY. I think the officer from Delaware stated that he was unable to buy that type of ammunition he needed for his testing in his particular community because they were not sold. I think that is generally the case. That is not to say there is not ammunition that is not entitled armor piercing that could pierce a vest. And that is also not to say there may not be a residue of some of that foreign ammunition in marketplaces throughout the county. I do not know that.

I would simply like to end on one statement because a question was asked by Senator Biden that sounded to—that it should be so easily answered and I think it is a very difficult question to answer. He asked of one of the officers, Robinson, if we simply named one, KTW, by name, would you agree with it.

And I am sure it is easier on hindsight sitting back in the audience to form an opinion than it is sitting up here and responding directly to a question firsthand. The problem with that is simply that if we did that, how long do you think it would take some manufacturer to produce an identical round and call it the ABC round and then sell it because it was not entitled KTW. Then we would be back before this committee to ban the ABC round and the EFG round and the XYZ round.

And I submit for your review again that it is not a question of the number of armor piercing or otherwise rounds in the perpetrators cylinder, in his magazine, in his pocket. It is the recidivism, the repeating criminal out on the street constantly that is causing the crime. If you study the uniform crime reports of the Federal Bureau of Investigation, you will see that the officers shot at, killed, assaulted, kicked, punched are in almost every instance the victims of a repeat felon, four or more arrests or convictions.

That is why the NRA feels as strongly as it does, not because we want to help a criminal or hurt a police officer. We feel just the opposite. But we feel that the entire argument has been framed in a way that will never help the police officer. And that is why we speak as strongly on this subject as we do. Thank you very much.

Mr. NASH. Thank you, Mr. Cassidy. I think our next witness is Mr. Gallegos.

STATEMENT OF GILBERT GALLEGOS

Mr. GALLEGOS. Mr. Chairman and members of the subcommittee, I am Gilbert Gallegos. I am the national legislative committee chairman of the Fraternal Order of Police. I am also a police officer with the Albuquerque Police Department, which is in New Mexico, and I have 20 years of law enforcement experience.

If you do not mind, Mr. Chairman, I would also like to introduce Mr. Richard Boyd, our national FOP president, and Mr. Richard

Lis, our national vice president. Mr. Boyd is with the Oklahoma City Police Department, and Mr. Lis is a police officer in Chicago.

So my point being is that this is not an eastern seaboard police bill. This bill that we are talking about reflects the views, I feel, of law enforcement officers across the country.

The Fraternal Order of Police with its 167,000 members supports this legislation. We are the largest law enforcement organization in the United States. Our organization is composed of law enforcement officers of all ranks from chiefs on down to the street officer, of all agencies, from Federal agencies down to the one man police department.

But the bulk of our membership is comprised of the street officers who make up the front line of society's fight and battle against crime. And I think that is what we are talking about here is protecting that street officer who is out there trying to do the best job that he can and she can to protect the lives in their own community.

Let me say this: the FOP does not support, will never support, as far as I am concerned—and I would speak for the President of our organization—we are not an antigun organization. We would vehemently be against any legislation which would limit the lawful possession of firearms by United States of American citizens.

Also I would like to bring a point; we have been talking about the fact that you cannot get these bullets anywhere or only law enforcement agencies can do it. The gentleman from the NRA has testified to this. The Treasury Department has testified to this. This is wrong.

I purchased this type of bullet myself, not on behalf of the Albuquerque Police Department, not on behalf of the State of New Mexico, on my behalf. Now, I must admit that I did show my badge, but I did not show any other identification. I did not—.

Mr. NASH. Why did you show your badge? Was that requested?

Mr. GALLEGOS. They requested it; except that here I have some .357 magnum, 158 grain metal piercing ammunition. I inquired about this and they told me that anybody could buy this. It did not have to be a law enforcement officer. This is a reputable company in Albuquerque.

I also bought some devastator bullets which blow up when they hit a human being or anything else. This is what the President was shot with, not this round, but this type of round.

I also bought 9 millimeter ammunition and I also bought some .357 ammunition. And if they are saying that you need to be a law enforcement agency to purchase this, they are wrong. And I would like that to go on the record.

So I wonder, Mr. Chairman, just how many other people can go out and buy this type of ammunition. I do not think the Treasury Department knows what it is talking about because I did it. I have the receipts to prove that I purchased these, dated March 1, 1984, which is last week.

Mr. NASH. Could we have copies of those for the record?

Mr. GALLEGOS. Yes, you can.

[The material referred to follows:]

Mr. GALLEGOS. Therefore, I guess by my statements, you gather that we support the control of manufacture, distribution, and the use of armor-piercing ammunition. And this goes beyond the Teflon coated bullet. I think it goes to the regular armor piercing; it goes to the devastator type of bullet, which has no legitimate law enforcement use. I think that has been testified to.

Except for military purposes, I imagine they could use it, but law enforcement, who these bullets were supposedly designed for, has no use for them. I have not heard any testimony that says that. It is the opposite.

In the 1970's the bullet-proof vests were developed for law enforcement. As a matter of fact, the Law Enforcement Assistance Administration at that time, LEAA, went to great lengths to furnish money to police departments so that they could buy these.

But in reality most of those vests that were bought—and I know that for a fact in Albuquerque, under the LEAA grants, most of those are obsolete because are not even the ones that are being sold now.

Across the country citizen groups, the communities have been gathering money and trying to help their law enforcement agencies.

So I think that the citizens in the individual communities are keenly aware that the officers need the protection. I heard the Justice Department talk about the type III, type II-A and all these other numbers that they talk about. I do not know really what it all means except that most of the officers now wear the type II. So that is nice to come up with a definition that says we will fit to type III when in fact officers are not wearing those. We need a definition which can be formulated, but we need something that will control the standard use of vests and that will penetrate those standard vests that are being used now, not in something that is going to come out 2, 3, 4, 5 years from now, something that officers are wearing today.

So I think that the importance of the vest is self-evident. But basically we have to look at it, that armor piercing ammunition makes these vests impotent. Their usefulness goes away. In reality, armor piercing ammunition, handgun ammunition, does not really have a tactical police use. When the people made this ammunition, according to their testimony in previous hearings on this, they said it was made for police use.

I do not know of any police department that uses this. I checked with our SWAT team people; they say it has no use. They all use rifles. They do not use handguns in tactical situations. They do not do the officer in the street any good. They are not even practical for sportsmen. And I do not feel that the average sportsman is going to even want to use this type of ammunition. And we do not want to get into a battle between the sportsmen and the law enforcement officers.

But I think the average sportsman is willing to abide by the bullets that are manufactured. So the real effect of this legislation is not antisportsman, but it is prolaw enforcement. And I do not know why the NRA has taken an antilaw enforcement stance on this issue.

The Treasury Department has taken the stance that this ammunition is not a threat to law enforcement officers. And I submit that it is a threat to law enforcement officers. And as a police officer, I resent that threat because they are supposed to represent me, the Treasury Department. It is an actual threat against law enforcement officers.

The FOP strongly disagrees with the department's position. We feel that the potential threat is just as important as an actual threat. And it seems like the Treasury Department is trying to minimize that threat.

Mr. NASH. If I might ask a few questions at this point. There has been much said over the years that many crimes are becoming strict liability crimes, especially in the area of guns where the mere possession, sale, or distribution, not the use in a crime, of certain weapons or certain ammunition should be penalized. What do you think the appropriate penalty would be for someone who sold you those, given no other criminality? How long would you put them in prison?

Mr. GALLEGOS. Well, I do not know that you would have to put them in prison. I think the problem is that the dealers are not really being told by the Treasury Department really what they should or should not sell. It is obvious that the dealer sells it to me. I do not think necessarily that the dealer in this case should go to prison because what I submit is that the Treasury Department is not doing its job and is reluctant to do its job.

Mr. NASH. Has New Mexico passed a bill to prevent that from occurring? You have mentioned the Treasury Department has not done their job. Has your New Mexico State Legislature passed legislation to prevent this?

Mr. GALLEGOS. We have attempted to do so and we have been lobbied against by the NRA in this issue in New Mexico.

Mr. GREEN. Excuse me one second. Do you know how many States have passed legislation like this?

Mr. GALLEGOS. The testimony varies but I think 8, 12, something like that have this type of law.

Mr. NASH. The portion of the Moynihan-Biaggi legislation which was noncontroversial, that which enhanced the penalties of someone who would use such ammunition during the commission of a felony, passed easily in the Senate and is now awaiting action in the House. Unfortunately, I think the legislation has hard sledding over there, not because of that particular provision, but because of many others.

But if you do not have someone using this ammunition in a crime of violence and if the evil to be remedied is the criminal who uses this—all other people, we will assume, are not going to use it—what further protection would banning distribution, sale, or possession give the policeman? In essence, an otherwise law abiding person might have this ammunition or might sell it, but who would never intend to use it in a crime. What good would this legislation do police officers? Please let the subcommittee know how this legislation is going to protect you. Even more importantly how it would be enforced.

Mr. GALLEGOS. Well, I think that the unintentioned citizen could be really protected. We support that legislation which is pending

before the House that would have enhanced penalties and we agree that that is a good law. But that is a reactive approach rather than a proactive approach. And we feel that the threat is very real. And we feel that if you ban and you can define the ammunition, that the sportsman will probably take their own steps to get rid of it or the dealers would. But the idea is to let them know. And I do not think that the mere possession is going to cause anyone or should cause anyone to go to prison.

I think the people we are focusing on are the ones that do use it in a crime or have it in possession when using it in a crime. And those are the people that we want to have put away.

But the individual sportsman who just by mere possession—I think that we could work something like that out and we would not be pro putting the average citizen away in prison. So I think that that would be my answer to that.

Mr. NASH. Thank you.

Mr. GREEN. Just one quick question, Gil. You as a representative of the FOP, can you summarize for the committee so it is on record what the—police officers, having to face this threat every day with the availability of this ammunition. What has it meant to the morale of the police officers or their ability to do their job. Have there been any changes? Have there been things that have been expressed, that knowing that this ammunition is out there and available and in fact can penetrate the body armor that they wear, if in fact they are wearing it.

Mr. GALLEGOS. I have not spoken to one officer that does not worry about it. When you are a police officer, there are certain things that you realize, certain dangers that you realize are going to confront you. But where the officers are resentful, at least the ones that I have talked to, about the fact that these are available. It is on their mind. I am not saying they worry about it. They worry about it 24 hours a day.

But the idea is that they do not know what is going to face them when they walk into a darkened alley or into a building. And what I am saying is if we can at least give them one small measure, perhaps it will ease their minds, and that the officers are definitely affected by the fact that there are people out there who are out to kill them.

We are not deer and we are not animals that are hunted down like other animals. These bullets are designed to kill human beings, not designed to kill deer.

And that is on our mind, the fact that if one officer dies, or if one officer's life—just one officer's life can be saved by enacting this legislation, then we feel the legislation is worth it. It is worth the controversy if just one life, one human life can be saved.

Mr. NASH. Of your membership, what percentage would you say, wear the vest?

Mr. GALLEGOS. I would say based on personal knowledge, I would say 50 percent of the street officers is a safe assumption. And it is an assumption.

Mr. NASH. Thank you very much.

Mr. GREEN. Is that based on availability, 50 percent of the total that have it available to them or does it include all police departments including those that do not have it available to them?

Mr. GALLEGOS. What many departments are running into is they do not have the funds to issue them. So many officers I know in our department will go out and buy them. And I think in New York City they had a big promotional thing to try and get some vests for their officers. So I think the problem is that the departments do not have the funds to do so. And probably you would get a larger compliance if the departments could furnish the vests and even make the officers wear the vests.

Mr. GREEN. So your 50 percent figure is based on some police departments where an officer doesn't even have a choice; in some cases it is not even available to them. Correct?

Mr. GALLEGOS. Yes.

Mr. CASSIDY. Excuse me. Could I make one point that I believe is pertinent to this. I do not believe there is a department in the United States that mandates the use of the vests, even if they are available. I would stand corrected if any of the officers here know of any. But I do not believe there is one case in the country where vests are mandated.

And one of the reasons for that is that if they are mandated and the officer does not use that vest and he becomes a casualty, his medical benefits could become in question as they would be under Workers Compensation and anything else. And I believe that is one of the reasons that departments, even when they have vests, do not mandate their wearing them.

[The prepared statement of Mr. Gallegos follows:]

PREPARED STATEMENT OF GILBERT GALLEGOS

Mr. Chairman and members of the Subcommittee, I am Gilbert Gallegos, National Legislative Committee Chairman of the Fraternal Order of Police. I am also a police officer with the Albuquerque Police Department, and have 20 years of law enforcement experience.

I also would like to introduce Richard Boyd, our National FOP President, and Richard Lis, our National Vice-President. Also present is Tom Tague, President of the Washington, D.C. Lodge.

The Fraternal Order of Police appreciates the opportunity to express our views on the "cop-killer bullet" issue. The Fraternal Order of Police, with its 167,000 members, is the largest law enforcement organization in the United States. Our organization is comprised of law enforcement officers of all ranks from all types of law enforcement agencies. The bulk of our membership is comprised of the street officers who make up the front line in society's battle against crime.

We support legislation which controls the manufacture, distribution, and use of armor-piercing ammunition. This issue goes beyond the "teflon-coated" bullets. Devastator and regular armor-piercing ammunition must be included in this issue. Any citizen can purchase armor-piercing ammunition, which can also penetrate our lifesaving vests. In my view, there is no legitimate use, except for military purposes, for any type of handgun armor-piercing ammunition.

Since the early 1970's, many law enforcement officers have been wearing bullet-proof vests. Officers view them as a tool to possibly prevent their death. Many police departments issue the vests as standard equipment, and many officers buy personal vests if they are not issued. Across the country, citizen groups have supported law enforcement by raising money to purchase these vests for the protection of officers in their communities. The importance of a vest is self-evident. Armor-piercing ammunition makes these vests impotent. Our vest gives us that "second chance" on life, which can be taken away by the squeeze of a trigger.

In reality, armor-piercing handgun ammunition does not even have a tactical police use in the capture of barricaded suspects. I have spoken to SWAT team

members who have been in many tactical situations, and based on their experience ammunition of this type is not practical for police purposes. Therefore, the alleged law enforcement need does not exist. This ammunition is not practical for the regular officer on the street either. Additionally, this ammunition is not practical for the average sportsman who hunts or does target shooting. If these bullets are banned, I feel, the average citizen or sportsman will not be affected. They would still have the right to hunt wild game and target shoot with other types of more practical ammunition. The persons who would be affected would be that law enforcement officer on the street, because the ammunition in question has only one function--which is to kill a human being.

The Treasury Department has taken a stance that this ammunition is not a threat to law enforcement officers. The FOP strongly disagrees with the Department's position. We feel that the potential threat of an officer getting killed or wounded is just as important as an actual threat. It appears that the Department has minimized the threat.

The Treasury Department has also taken the position that "restricted handgun bullet" as mentioned in S-555 cannot be defined. We feel that it can be defined, and the Justice Department is also optimistic about a definition. I feel there is more of a reluctance, rather than an inability, to define these bullets. The effort to create a sound definition should be undertaken by a cross section of the law enforcement community rather than by just one entity.

There are an average of 100 law enforcement officers killed each year, and of this number it is unknown if any have been killed with armor-piercing ammunition. The number of officers killed or wounded by this ammunition is not at issue. The issue is the potential threat that does in fact exist. The media has been accused of creating the issue, however, I feel they pointed out the existence of a problem. I feel they have been the brunt of undeserved criticism as a means of diverting attention away from the real issue.

As a means to deal with the issue, some states enacted laws which created enhanced criminal penalties when this type of ammunition is used in the commission of a crime. This is admirable, however it creates a false sense

of security. It is after the fact, and is not a very proactive approach in dealing with the issue. We believe in a positive approach rather than a negative approach.

Our approach is simple and direct. "KTW type", armor piercing, and devastator handgun ammunition should not be manufactured except for specific military purposes. As I stated before, there are no legitimate or practical uses for this ammunition by either law enforcement officers or sportsman. If only one life can be saved, the enactment of this legislation will be worth the present controversy.

Again, I wish to thank the Subcommittee for giving the Fraternal Order of Police the opportunity to provide input on the present issue.

Mr. NASH. Thank you. Our last witness is Mr. Phil Caruso. He is the president of the New York City Patrolmen's Benevolent Association.

STATEMENT OF PHIL CARUSO

Mr. CARUSO. Thank you, Mr. Chairman. It has been a long day and I have heard a lot of discussion, some of which was quite stimulating, very interesting.

I represent 20,000 rank and file New York City police officers. And I think it is very important that I establish the tone, sort of characterize the climate of crime and violence that we are subjected to each and every day on the streets of New York.

In the first 2 months of this year, we have had 2 police officers killed and 10 others lay wounded and grievously injured as a result of gunshot wounds. And miraculously we have not sustained further losses.

I set this tone not to create panic or hysteria, but merely to establish the reality of what we are confronted with each and every day, not only in New York City, but in every major urban center of the United States. Consequently, we are concerned about the fate of this legislation, which we deem to be very important toward the protection of life and limb of police officers.

The New York City PBA was at the forefront of the movement toward providing bullet proof vests for police officers, not because we needed embellishment, some of an aesthetic nature, but because we were confronted with a real threat of instant, violent death.

It is a very sad commentary on the quality of life, not only in New York City again, but throughout the country. We did this. We created the focus, the attention, and it caught on nationwide to a point where the majority of police officers now find it necessary to wear vests.

And what we are confronted with now is kind of a very perverse dilemma, a technological paradox, because the same space age technology that created the innovation of soft body armor has also

created another instrument of death, killer bullets. And we can listen to pros and cons and it is very disturbing to me personally and to the people I represent to know that there are certain people who find it objectionable that the Congress of the United States would seek to provide us with another element of safety by restricting the sale, the manufacture, and distribution of instruments of death that have no valid place in this society. And I want to clarify something and make it very clear because the gentleman from the NRA is here; that I am a sportsman; I am a hunter; I enjoy the shooting sports; and I would say the vast majority of the people I represent are NRA members that also enjoy outdoor activities and shooting sports.

And by no stretch of the imagination do we imply or advocate the infringement of the right to keep and bear arms by any law abiding citizen in this country. We will aggressively and vigorously ensure that our citizens have that right. But somewhere, somehow commonsense has got to prevail. And all these accusations that we often hear directed toward NRA, that they have people who border on the lunatic fringe finds expression in their resistance to this type of legislation.

There is no rhyme or reason why these bullets have to be out there circulating in the society. We have 2 million illegal handguns in the city of New York. This is an estimate made by certain experts. I say it is probably higher than that. Police officers have to deal with that reality. Police officers now have to deal with the reality that the criminal element with its profound deviousness now are wearing bullet proof vests of a higher quality than police officers have while they perpetrate their dastardly crimes.

And they are equipping themselves with bullets that can penetrate police armor. Now, let me give you this analogy and ask you if you would like to be placed in this kind of a combat situation as a police officer. You confront an armed suspect perpetrating, let us say, a robbery. You find to your dismay that the individual is invulnerable to your shots, your fire. You think he is some kind of a superman. No, he is not superman. He is wearing a bullet proof vest that is better than yours.

It would be more than shocking and dismaying if the officer in that analogy situation would be shot and killed with a round that penetrated his vest and laid him to sleep. This can happen and I do not think we should wait until such a gross analogy becomes a reality.

We are looking for the ounce of prevention that will lead to not a panacea, because no amount of armament and protection will make our job 100 percent safe. Indeed, if you were to give us Sherman tanks, you would still suffer casualties and losses. We do not want Sherman tanks. We want a measure of concern and interest in giving us the edge of protection, the psychological lift that we need to perform a very difficult and complex function in this society. That is all we are asking for.

And I keep hearing about definitional problems and how insurmountable they are. Well, I suggest to you that they are not insurmountable and do not defy resolution. And I know that Washington is very deep with a profundity of knowledge. It is a font of wisdom. And it is beyond my comprehension that the people from

Treasury cannot come up with an applicable definition of what is needed to give us the edge.

And I will say this, I will bring a couple of New York City street cops here and we will give you the definition that is needed and we will not have to resort to law books and scholarly seminars given by some academicians. We will give you a definition if that is what is needed.

I am a sportsman, as I said. And I will reiterate that we do not advocate infringement of our constitutional guarantee as I view it. I have hunted throughout this country. Never have I come across the need for armor-piercing bullets of the type that you have seen exhibited here today. I have never run into a bull rhinoceros in the woods in this country.

Consequently, there is no need for any sportsman to engage in the use of these bullets. The people we do fear, the people we do come to grips with are the people within the criminal element who will, whether through televised scenarios of this nature or otherwise, will come to find that if they are going to commit crimes and gun down police officers more effectively, they will place this instrument of death within their arsenal and make our life a little more miserable.

And I suggest for the sake of promoting the best interests of NRA and all the legislators and the Congress, that something be done to reverse this pernicious trend, to minimize the risk factor. And it cannot be done at the local level because of the circulation ability of the free enterprise system of our Government. It has to be done on the Federal level.

Thank you very much for listening and I appreciate the opportunity.

[The prepared statement of Mr. Caruso follows:]

PREPARED STATEMENT OF PHIL CARUSO

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 ANTI-PERSONNEL 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.

Mr. NASH. I think Mr. Caruso's statement is a very strong and eloquent one. One of the problems that is always faced by the—not only the Criminal Law Subcommittee, but indeed I guess by any subcommittee of the Congress is to, No. 1, remedy the evil that is out there; No. 2, to do it in a way that can be enforced; and No. 3, draft a law in which people can be aware of its provisions and can thereby follow it, and that if they do not, those people can be identified and brought to justice.

I think some of those problems might be involved in this situation here. Suppose such a bill was passed that would ban the distribution, importation, and sale of this type of cartridge, and suppose policemen were still being killed by ones that were either available in current inventory or indeed made by the millions of people out there who handload their cartridges. How do we go about reaching that segment?

It seems that the criminal element in the drug area has far superior resources, more money, better radios, better boats, better airplanes than does the Government. And I would think that if there were a demand for cop-killer bullets, there would be a demand for people to handload those bullets for them.

How do you get at that problem? I think it is a problem here that is of concern to Senator Moynihan. It is a concern, I think, of all of the members of our committee. But they have to do it in a way that the law will not be flaunted, that indeed we can go and remedy that evil out there.

Mr. CARUSO. Mr. Chairman, we will never create a paradise here on Earth. But we must minimize the risk factor not only to police officers, but also to decent citizens. You know, you have people, merchants, New York City. I will look at New York City because that is my bailiwick; merchants who have to wear bullet proof vests, merchants who are carrying weapons because they have to. It is a way of doing business in the city. And if we can save the life of one police officer, minimally, or one decent, honest citizen—we place a high premium on human life.

And if this legislation can accomplish that, then we will have accomplished something.

Mr. NASH. Mr. Caruso, I spent 1 year of my life in Vietnam; during one period, the platoon which I commanded was given the responsibility for testing a new type of body armor. And it was truly body armor. It had a heavy ceramic plate that covered all the vital areas of the upper body. Had we been forced to continue to wear it for the expected duration of the test, it may have saved some lives. However, the problem with that body armor was that it

was so heavy in the front that it kept hitting us in the back of the neck. As a consequence virtually every member of the platoon suffered headaches. Since marines in combat must walk everywhere because we do not have as many helicopters as does the Army, our combat effectiveness was hurt. So we had to get rid of them.

While there is no one on this subcommittee that would not support your position relative to saving every possible life—unfortunately, tradeoffs have to be made in a real world. I cannot tell you how much we appreciate your testimony.

Mr. CARUSO. Mr. Chairman, one more point, incidentally, because it was raised as a question here as to how many police officers wear bullet proof vests. And I will say unequivocally in New York City 99.9 percent of the patrol officers, people on the line, wear those vests. And that includes summertime.

Mr. NASH. Does that change your rates for your insurance?

Mr. CARUSO. No, it absolutely has no impact whatsoever on the insurance.

Mr. NASH. There is no way of saying that the insurance companies will give you a break on your insurance rates if you wear it?

Mr. CARUSO. No, absolutely not. It has no bearing on the insurance coverage. The city of New York does not mandate the wearing of the vest, primarily because we went out and purchased our own vests.

Mr. NASH. The two men that you testified were recently wounded, were they shot through the vests or was that—

Mr. CARUSO. Ironically, the two who were wounded—actually more than two. We have had 10 wounded recently, two killed. The police officers who were killed, one was off duty and did not have a vest. The other officer was shot in the head and killed instantly. So no vest or armament would have protected him.

The other officers, ironically, were injured in areas that were not protected by the vest.

So, I will make another statement about the value of the vest. In recent years we have seen a reduction in the number of fatalities and I can document clearly instances where the vests have saved lives.

Mr. GREEN. It has been a long day and I think Phil has pretty well summarized why we had the hearing today and I think we can just end on that.

Mr. NASH. I want to apologize again to the members of this particular panel for the exigencies of the legislative process and unfortunately having staff conduct the last part of this hearing. It is uncomfortable for us, as I am sure it is for you.

Thank you.

[Whereupon, at 1:30 p.m. the subcommittee was adjourned.]

APPENDIX

ADDITIONAL STATEMENTS AND VIEWS

Testimony of Rep. Norman E. D'Amours
to the Subcommittee on Criminal Law

March 7, 1984

Mr. Chairman, I want to thank you for this opportunity to testify today on Senator Moynihan's bill, S. 555, which would restrict the sale of certain types of ammunition.

As a former criminal prosecutor, Assistant State Attorney General, and instructor at the New Hampshire State Police Training School, I can well understand and sympathize with Senator Moynihan's commendable desire to reduce the incidence of death and injury among our nation's law enforcement personnel. I firmly believe, however, that his proposed solution to this problem (S. 555) is inappropriate, ineffective, and unconstitutional.

Banning certain types of ammunition is an inappropriate solution because it will adversely affect millions of law-abiding sportsmen who use these bullets for hunting and target practice. Many of the bullets which would be banned under this legislation were developed with specific and reasonable hunting and target practice objectives in mind. They are not intended, and were not developed to pierce "bulletproof" vests, but just because they might be used for this purpose they would be banned under this legislation.

Banning certain types of ammunition is also inappropriate because it is difficult, if not impossible to define with any precision what types of ammunition should be banned. Technology changes too rapidly and new types of ammunition come on the market every day. It would be very easy if this legislation is passed to find reasons to ban more and more categories of bullets. Moreover, there arises the vexing question of how to deal with ammunition that may not be able to pierce "bulletproof" vests when fired from a handgun but which may be able to pierce a "bulletproof" vest when fired from a rifle.

Banning certain types of ammunition is ineffective because experience has shown that a determined criminal can and will obtain this ammunition through illegal means. Laws like this provide little deterrent to hardened criminals. They simply create additional obstacles and problems for law-abiding citizens. A much more effective deterrent would be legislation to make it a federal crime, with lengthy non-paroleable sentences, to use a firearm against law enforcement personnel who are in the performance of their duties. I am currently in the process of drafting such legislation. A federal law, combined with speedier and more effective state and local prosecution, would be a much better deterrent. If an individual is going to use a gun to commit a violent crime it will make little difference to him that the use of the bullet is illegal as well. A much more effective deterrent would be the certain knowledge that if a gun is used against a police officer it will result in harsh and speedy justice with no change for parole.

Banning certain types of ammunition is unconstitutional because it infringes upon the people's Second Amendment rights to "keep and bear arms." It also sets a dangerous precedent for the federal government to engage in prior restraint by banning bullets before they are used in a crime and even though they may be intended for lawful purposes.

As a former law enforcement official, I know first hand that we as a nation can and should do more for our law enforcement personnel. We should encourage the development of better "bulletproof" vests. We should provide them with the manpower and resources they need to effectively patrol our streets. We should provide them with a better criminal justice system so that criminals know that if they commit a crime they will be caught, prosecuted, and forced to serve time. We should let criminals know that we will back-up our police and that the use of a firearm against a police officer, or any other citizen, will result in particularly stiff sentences. I have personally prosecuted cases where a law providing stiffer and mandatory punishment for those convicted of using firearms in the commission of a crime was routinely disregarded by judges. I consider that lenient attitude more dangerous to police officers and citizens than the kind of ammunition this bill seeks to ban. Tougher penalties for illegal handgun use and consistent enforcement of those penalties will have an impact on violent crime in our nation, and will reduce the rate of injury to law enforcement personnel, without making criminals out of law abiding sportsmen, and without infringing upon their right to keep and bear arms for lawful purposes.

STATEMENT

OF

NORMAN DARWICK
EXECUTIVE DIRECTOR

INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE

THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE (IACP) WOULD LIKE TO THANK THE SUBCOMMITTEE ON CRIMINAL LAW FOR INVITING US TO EXPRESS OUR VIEWS ON S. 555, LEGISLATION TO BAN AMMUNITION SPECIFICALLY DESIGNED TO PENETRATE BULLET-RESISTANT APPAREL.

THE IACP IS A VOLUNTARY PROFESSIONAL ORGANIZATION ESTABLISHED IN 1893. IT IS COMPRISED OF CHIEFS OF POLICE AND OTHER LAW ENFORCEMENT PERSONNEL FROM ALL SECTIONS OF THE UNITED STATES AND MORE THAN SIXTY NATIONS. COMMAND PERSONNEL WITHIN THE UNITED STATES CONSTITUTE MORE THAN SEVENTY PERCENT OF THE MORE THAN 14,000 MEMBERS. THROUGHOUT ITS EXISTENCE, THE IACP HAS STRIVEN TO ACHIEVE PROPER, CONSCIENTIOUS AND RESOLUTE LAW ENFORCEMENT. IN ALL OF ITS ACTIVITIES, THE IACP HAS BEEN CONSTANTLY DEVOTED TO THE STEADY ADVANCEMENT OF THE NATION'S BEST WELFARE AND WELL-BEING. WE ADDRESS THIS SUBCOMMITTEE TODAY ON BEHALF OF OUR MEMBERS AND THE THOUSANDS OF LAW ENFORCEMENT OFFICERS WHOSE LIVES ARE THREATENED BY THE AVAILABILITY OF BULLETS CAPABLE OF PENETRATING THEIR SOFT-BODY ARMOR.

BULLET-RESISTANT VESTS HAVE BEEN AVAILABLE FOR QUITE SOME TIME; HOWEVER, BECAUSE THE EARLY VERSIONS WERE SO BULKY AND UNCOMFORTABLE, OFFICERS DID NOT WEAR THEM ROUTINELY. THE RAPID INCREASE IN POLICE INJURIES AND DEATHS DURING THE PERIOD FROM 1960 TO 1970 PROMPTED THE NATIONAL INSTITUTE OF LAW ENFORCEMENT AND CRIMINAL JUSTICE (NOW THE NATIONAL INSTITUTE OF JUSTICE) TO SPONSOR A PROGRAM TO DEVELOP LIGHTWEIGHT BODY ARMOR WHICH AN OFFICER COULD WEAR CONTINUOUSLY WHILE ON DUTY. THIS PROJECT WAS VERY SUCCESSFUL.

IT IS RECOGNIZED THAT IN ORDER TO PRODUCE A VEST THAT OFFICERS WILL WEAR CONTINUOUSLY, IT IS IMPOSSIBLE TO COMPLETELY PROTECT THEM FROM ALL THREATS. IN ORDER TO AID POLICE AGENCIES IN SELECTING GARMENTS APPROPRIATE FOR THEIR PARTICU-

LAR OFFICERS, IACP IN 1978 COMPLETED A COMPREHENSIVE REPORT ENTITLED "A BALLISTIC EVALUATION OF POLICE BODY ARMOR." IN THIS STUDY, SOFT-BODY ARMOR WAS CLASSIFIED ACCORDING TO FIVE THREAT LEVELS. AT EACH THREAT LEVEL, THE BULLETS AND CALIBERS WHICH THE ARMOR WAS CAPABLE OF PROTECTING AGAINST WERE IDENTIFIED. EACH DEPARTMENT COULD THEN DECIDE WHICH VESTS WERE NEEDED TO PROVIDE FULL-TIME PROTECTION AGAINST THE THREAT MOST LIKELY TO BE FACED BY ITS OFFICERS.

AS A RESULT OF ALL OF THIS RESEARCH, APPROXIMATELY FIFTY PERCENT OF ALL LAW ENFORCEMENT OFFICERS IN THIS COUNTRY CURRENTLY WEAR BULLET-RESISTANT VESTS. IF LEGISLATION INTRODUCED IN THE HOUSE BY CONGRESSMAN I. T. VALENTINE IS PASSED, ALL OFFICERS WILL BE PROVIDED WITH VESTS. THE BILL, H.R. 4346, AUTHORIZES FEDERAL FUNDS FOR THE PURCHASE OF SOFT-BODY ARMOR FOR POLICE OFFICERS.

THE RECORD SINCE SOFT-BODY ARMOR CAME INTO REGULAR USE BY LAW ENFORCEMENT OFFICERS HAS BEEN IMPRESSIVE. OFFICER FATALITIES HAVE BEEN SHARPLY REDUCED SINCE 1975, WHEN THE LIGHTWEIGHT VESTS WERE FIRST INTRODUCED IN QUANTITY, EVEN THOUGH THE ASSAULT RATE HAS NOT BEEN REDUCED. THE VESTS ARE CREDITED WITH SAVING THE LIVES OF SOME FOUR HUNDRED POLICE OFFICERS ACROSS THE COUNTRY. SPECIFICALLY, BETWEEN 1975 AND 1978, TWO HUNDRED FIFTY-FIVE OFFICERS WERE SHOT IN GUN BATTLES WHILE WEARING SOFT-BODY ARMOR. THE VESTS SAVED THE LIVES OF TWO HUNDRED FIFTY OF THESE 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 IS BEING VIOLATED. A REAL AND IMMEDIATE THREAT HAS BEEN POSED TO THE LIVES AND SAFETY OF PERSONS RELYING ON SUCH PROTECTIVE EQUIPMENT.

SOFT-BODY ARMOR IS MADE OF A LIGHTWEIGHT, PROTECTIVE MATERIAL CALLED "KEVLAR" (A REGISTERED TRADEMARK OF E. I. DUPONT DE NEMOURS AND COMPANY). UNOFFICIAL TESTS HAVE SHOWN THAT CERTAIN CALIBERS OF THE TEFLON-COATED KTW BULLET CAN PENETRATE UP TO SEVENTY-TWO LAYERS OF KEVLAR. THE MOST POPULAR SOFT-BODY ARMOR WORN BY POLICE OFFICERS IS COMPOSED OF ONLY EIGHTEEN 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.

IN ORDER TO PROTECT THEMSELVES AGAINST SUCH A MENACE, OFFICERS WOULD HAVE TO WEAR EXTREMELY BULKY, HEAVY PROTECTION. AS EXPERIENCE HAS SHOWN, THESE VESTS WOULD NOT BE WORN EXCEPT IN EXTRAORDINARY CIRCUMSTANCES WHEN THE OFFICER KNOWS THE SEVERITY OF THE DANGER HE IS ABOUT TO FACE.

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. FURTHERMORE, THESE BULLETS ARE NOT USED BY EITHER LAW ENFORCEMENT OR THE MILITARY. BECAUSE OF THEIR INCREDIBLE PENETRABILITY AND THE GREAT RISK THAT THEY MAY RICOCHET AND STRIKE AN INNOCENT BYSTANDER, AS WELL AS THEIR LACK OF STOPPING POWER, THESE BULLETS HAVE BEEN FOUND UNACCEPTABLE FOR USE BY LAW ENFORCEMENT AGENCIES. RIGHT HERE IN WASHINGTON, D.C. THE METROPOLITAN POLICE DEPARTMENT HAS EXPRESSLY PROHIBITED OFFICERS FROM CARRYING ARMOR-PIERCING AMMUNITION EITHER ON OR OFF DUTY. WHEN ARMOR-PIERCING AMMUNITION WAS OFFERED TO THE UNITED STATES MILITARY, IT WAS NOT INTERESTED.

TWO YEARS AGO, NORMAN DARWICK, THE EXECUTIVE DIRECTOR OF IACP, APPEARED BEFORE THE HOUSE SUBCOMMITTEE ON CRIME TO TESTIFY IN SUPPORT OF LEGISLATION SIMILAR TO THAT BEFORE THIS SUBCOMMITTEE. MUCH OF WHAT HE SAID THEN IS REPEATED HERE. HOWEVER, SINCE THAT TIME THE POSITION OF THE ASSOCIATION HAS GROWN STRONGER.

AT A MEETING OF THE IACP BOARD OF OFFICERS WHICH WAS HELD ON FEBRUARY 18, 1984, THE BOARD VOTED UNANIMOUSLY TO SUPPORT S. 555 AND ITS COMPANION BILL IN THE HOUSE, H.R. 953. IN THE PAST, WE VOICED CONCERN OVER THE DEFINITION THAT WILL BE USED TO IDENTIFY THOSE BULLETS THAT WILL BE BANNED. WE FEEL THAT THOSE RESERVATIONS MUST BE PUT ASIDE SO THAT LEGISLATION CAN BE PASSED TO PROTECT THE LIVES OF THE DEDICATED POLICE OFFICERS WHO DAILY RISK THEIR LIVES FOR THE WELFARE AND PROTECTION OF OUR CITIZENS. THIS BILL WILL PROVIDE THAT PROTECTION. NOT ONLY DOES IT ESTABLISH MANDATORY MINIMUM PRISON SENTENCES FOR PERSONS WHO USE OR CARRY ARMOR-PIERCING BULLETS DURING THE COMMISSION OF A FELONY, BUT IT ALSO IMPOSES PENALTIES ON PERSONS WHO IMPORT, MANUFACTURE OR SELL RESTRICTED BULLETS. AN EXCEPTION IS PROVIDED FOR THOSE SPECIFICALLY AUTHORIZED TO DO SO FOR PURPOSES OF THE MILITARY OR LAW ENFORCEMENT.

THE INTERNATIONAL ASSOCIATION OF CHIEFS OF POLICE CAN FIND NO LEGITIMATE USE, EITHER IN OR OUT OF LAW ENFORCEMENT, FOR THIS TYPE OF AMMUNITION. AS LONG AS THE MANUFACTURE AND SALE OF ARMOR-PIERCING AMMUNITION REMAINS UNREGULATED, THE POSSIBILITY THAT A POLICE OFFICER WILL BE KILLED OR SERIOUSLY WOUNDED REMAINS UNACCEPTABLY AND UNNECESSARILY HIGH. WE URGE YOU TO TAKE IMMEDIATE ACTION AND PASS S. 555.

THANK YOU.

Statement submitted by David J. Steinberg, Executive Director and Acting Chairman of the National Council for a Responsible Firearms Policy, to the U.S. Senate Committee on the Judiciary in support of S.555, a bill to stop the proliferation of "cop killer" bullets
March 20, 1984

The National Council for a Responsible Firearms Policy is a private, nonprofit organization established in 1967 under the leadership of the late James V. Bennett, who for about 27 years had been the highly esteemed Director of the Bureau of Prisons in the U.S. Department of Justice. Dedicated to public safety, and respectful of the rights and privileges of all Americans (those who own guns and those who do not), the Council is not and has never been "anti-gun", or "anti-handgun" per se. Nor is it "pro-gun" or "pro-handgun". It is "anti" the easy accessibility of guns and ammunition to persons who lack the crucial qualifications for safe, responsible possession of firearms, and "pro" policies that seek to prevent such accessibility. It advocates public-awareness programs on the dangers and special responsibilities of private possession of guns of all kinds. It seeks policies that clearly advance the overall public interest in every aspect of this subject.

Within the framework of these principles, the Council supports measures to prohibit production and sale, for private use, of handgun bullets capable of penetrating the protection-vests used by the police. These "armor-piercing" bullets are not needed by persons who use handguns for legitimate purposes. We understand that such ammunition is not even used by police departments. Many states and localities have already prohibited the sale and use of such bullets. A federal law along these lines is needed to ensure nationwide application of this stricture. We therefore support S.555.

In view of the possibility that definition of "armor-piercing" bullets to be banned may be a matter of some dispute, we suggest that the bill require the Secretary of the Treasury (in whose department the enforcement of firearms legislation is located) to provide appropriate and ample opportunity for gun owners, ammunition manufacturers and other interested parties to be heard on the question of which bullets deserve to be banned from public distribution pursuant to the purpose of this statute.

The American people have a huge stake in protecting their police officers against ammunition capable of nullifying the effectiveness of the special apparel these officers may wear for protection against hostile gunfire. Much more than this is needed to secure a firearms policy that fully advances the total public interest. Additional reforms apparently will be delayed until a much later time. Action on armor-piercing bullets is something for which an unusually wide range of public and police support should be, and may be, at hand. The public interest demands action now!

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 the Law Enforcement Officers' Protection Act of 1983 (S-555). This legislation would stop the proliferation of the certain restricted bullets, the so called "cop-killer" bullets.

The International Brotherhood of Police Officers is one of the largest police unions in the country. We are part of the National Association of Government Employees, and an affiliate of the Service Employees International Union (AFL-CIO). 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.

Local governments can improve the safety of police work through the use of modern equipment and through proper training and supervision. Under certain conditions however, there are limitations on the ability of local governments to protect their police and fight crime. Congress has long recognized that the federal government has an important role to play in fighting crime, and in protecting those who are on the front lines of that endeavor.

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 1-3/4 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 S-555 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 Senator Moynihan 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 five 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. There is no intention on the part of the sponsors, or supporters of the legislation, of which we are aware, to limit the availability of conventional ammunition to law abiding citizens for self defense and sporting purposes. This legislation is designed solely to exclude as bullets which have one purpose and only one purpose --- to kill police officers.

The Congress has already adopted a policy of restricting the availability and use of certain type of firearms and weapons in order to assist police officers fight crime. In Article 18, Section 922 of the United States Code, the Congress 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 a means of controlling their availability. This method has provided the best method for combatting 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 S-555, which protects police from the dangers of the Teflon bullet.

Finally we would like to thank Chairman Laxalt and members of the Sub-Committee for focusing national attention once again on this important problem. We would also like to thank Senator Moynihan for his leadership on this issue.

STATEMENT SUBMITTED TO THE SENATE JUDICIARY COMMITTEE
SUBCOMMITTEE ON CRIMINAL LAW
March 7, 1984

by
Donald E. Fraher
Legislative Director
Handgun Control, Inc.

Handgun Control, Inc., is a national citizens organization of over 821,000 Americans concerned about handgun violence. We are working for the passage of a federal law to keep handguns out of the wrong hands. HCI strongly supports the Law Enforcement Officers Protection Bill (S. 555) and applauds the tireless efforts of Senator Daniel Patrick Moynihan and Congressman Mario Biaggi to achieve passage of this vital legislation.

The proliferation of cop-killer bullets is of great concern to our supporters, many of whom serve in the law enforcement community. Handguns account for over 75% of police deaths in the line of duty. For that reason, nearly half of the nation's police wear bulletproof vests for protection. It is our firm belief that the production of handgun bullets designed specifically to defeat those vests should be stopped immediately.

When the Law Enforcement Officers Protection Bill was first introduced, Handgun Control, Inc., supported it and assumed it would pass the Congress virtually unopposed. Before long, however, we realized the bill faced a fierce challenge by the National Rifle Association. It was then that we joined the law enforcement campaign to urge the bill's passage. The basis for our involvement is perhaps best expressed in a letter from a woman in Alexandria, Virginia, who wrote:

Dear Congressmen:

As the mother of a local police officer I urge you to ban the cop-killer bullet. I'm tired of the NRA having control of everything connected with guns in this country. Aside from police officers one of you gentlemen or the President may well be the next target of one of these bullets!

Her sentiments are echoed by thousands of others -- police officers and their friends and families as well as concerned Americans with no other personal stake in this issue but the safety of our law enforcement community and public officials. Most compelling of all are the letters we've received from police themselves -- members of the rank and file who risk their lives every day in the line of duty. One such officer wrote:

The public needs to be aware of this situation that we police officers are in. It's not bad enough that they (meaning the bad guys) have vehicles that will leave us in the dust, and better equipment than the smaller Dept. can offer the officer, but to give them something of this quality that is capable of penetrating a vest that a police officer has gone to all the trouble to put on and then put up with all the hassle of wearing it. It just doesn't seem fair.

Thousands of these rank and file law enforcement officers have signed our petitions endorsing S. 555. Not only individuals, but the largest law enforcement organizations in the country as well have demanded a ban on cop-killer bullets. At last count, 36 police groups had officially endorsed S. 555, including the Fraternal Order of Police, the International Brotherhood of Police Officers, the International Association of Chiefs of

Police, and state and local police organizations from Las Vegas, Nevada to Reading, Pennsylvania.

In addition, we submit for the record a compilation of 136 editorials from all across America calling for passage of the Moynihan-Biaggi bill. More newspapers endorse the bill each week.

The reasons for this public outcry are sound. It may be true that bulletproof vests were never intended to protect the wearer from every firearm attack. But they were designed to defend police from the most common and deadly attack -- by handguns. FBI crime statistics show that street criminals simply do not kill police with long guns, fists, bottles, bricks, knives, or any other conceivable weapon nearly as often as with handguns. The same is true for our elected officials -- the chief threat to our President and other prominent public figures is the concealable handgun. The purpose of bulletproof vests is to protect against handgun fire, and since 1975 they've been doing a good job. According to the Department of Justice, approximately 400 police lives have been saved by the vests, and in the first years the vests were used (1974 - 1981), police deaths declined 31%.

That's why cop-killer bullets are such a terrible threat. When fired from an ordinary handgun, these bullets negate any benefit of wearing a bulletproof vest.

Perhaps defense of these bullets would be feasible if they had any legitimate use. Opponents of the cop-killer bullet ban are hard-pressed to find any such purpose. Law enforcement has refused to use them, despite any contention by their manufacturers that they are designed for police. Aside from the fact that police rarely require a handgun bullet capable of penetrating walls, cement blocks and steel, the bullets are simply too dangerous to use. If they hit their target, they are quite likely to keep on going and injure innocent bystanders or even people beyond walls. They also ricochet far more than ordinary bullets and, again, increase the risk of hitting the wrong target.

Responding to the widespread opposition to continued sale of cop-killer bullets, at least 10 state legislatures and the City Council of the District of Columbia have outlawed them. Kansas, Oklahoma, Alabama, Rhode Island, Illinois, Hawaii and California paved the way in 1982. In 1983, Florida, Indiana and Texas joined them. These states represent every geographical area of the United States, and the margins by which their legislatures enacted cop-killer bullet bans were universally overwhelming.

The problem is that state laws end at state lines. Even those states that have acted on this threat are subject to proliferation of the bullets from their neighbors. We need a uniform national law to stop the cop-killer bullet. Even President Reagan acknowledged that fact when he addressed the National Rifle Association's national convention last year.

Despite its broad-based support, the Law Enforcement Officers Protection Bill has still to be enacted three years after its original introduction. The Reagan administration must accept partial responsibility for this failure. The Department of Justice promised to provide Congress with a test for identifying cop-killer bullets by the end of last summer, but has continually delayed. However, the National Rifle Association and the peddlers of cop-killer bullets, whose sole concern is profit, are far more culpable. They have sought to deceive the Congress about the true impact of this legislation.

The most misleading argument against S. 555 claims that cop-killer bullets cannot be defined and any legislation to ban them would inevitably outlaw a host of commonly used sporting ammunition. Yet the very proponents of that argument simultaneously assert that the manufacturers of cop-killer bullets have been instructed by the Treasury Department to sell them to police only, and therefore they pose no threat. There is something wrong with this logic. First, if the bullets can't be defined adequately, how did the Treasury Department manage to make an agreement with their manufacturers to restrict their sale? Second, if opponents of S. 555 believe that such an agreement was a positive step, why do they balk at making that agreement the law, with effective enforcement and mandatory sentencing for violators to back it up? As William Summers of the International Association of Chiefs of Police put it:

Claims that this ammunition is designed for police use only are merely a ludicrous ploy to gain market acceptability, since no enforcement of the regulation is possible.

This point is illustrated by the experience of Arthur Kassell, Chairman of the California Narcotics Authority. During an interview in 1982 on the NBC Magazine television program, he explained how he had purchased KTW bullets, labeled "For Police Use Only."

One of the stores that was mentioned, we contacted them and just said we'd like to get some KTW bullets. . . And they said fine. And I gave them my address and they sent them to me C.O.D.

Mr. Kassell was never asked if he was a police officer or if the bullets were for police use. It isn't difficult to imagine this scenario repeated hundreds, perhaps even thousands, of times throughout the country, whether the bullets are intended for police use only or not. As long as no law governs their sale, cop-killer bullets will be available to criminals and assassins.

A second argument, repeated often by the NRA, is that cop-killer bullets simply are not used to kill police and therefore no threat has been demonstrated. This reasoning fails to acknowledge that information on police shootings is not always complete with details of the type of ammunition used. The FBI did not even note until 1980 whether or not a slain officer wore a bulletproof vest. Furthermore, police only began wearing bulletproof vests in the mid-seventies, and so it was not until after that time that criminals had any reason to even contemplate means of defeating soft body armor.

There are in fact at least two documented cases of cop-killer bullets being used against police. The bullets caused the death of one victim and the disability of another. How many police need to die before the NRA is convinced that the threat is real? Twenty? One hundred? Waiting for tragedy to provide evidence of the danger is irresponsible when legislation to help prevent such tragedy awaits passage.

In the face of Congressional inaction and NRA pressure, an alternative to banning cop-killer bullets has been offered in the House and incorporated in the Criminal Code Bill (S. 1762), which passed the Senate last month. This alternative is mandatory sentencing for using cop-killer bullets in the commission of a crime. Proponents of the measure say it overcomes any confusion over defining the bullets. The sentence only would be imposed on criminals who carry bullets that could penetrate a

bulletproof vest if fired from the handgun used in the particular crime in question.

Many well-meaning legislators agree that this idea may be the answer: it evades the question of definition while focusing on criminals. Yet successful execution of this idea would have to be next to impossible. Its implication would be that every time a criminal were caught with a handgun, the law would require local police to test the bullets contained in the weapon to determine whether or not they were in fact armor-piercing when fired from that particular gun. Given the number of armed criminals arrested every day, one has to wonder where police would find the facilities, time and interest to perform ballistics tests routinely in an effort to enforce this law. Aside from any testing problems associated with mandatory sentencing alone as a means of stopping cop-killer bullets, the fact remains the mandatory sentencing proposals do not address the central issue: saving police lives. S. 555 would impose mandatory sentences for using cop-killer bullets in crime while taking the crucial step of stopping their manufacture and sale. It is of the slightest consolation to the spouses, families, friends and colleagues of a slain police officer to know that his killer is behind bars -- if, that is, the killer is one of the few that is caught, convicted, and sentenced. Those who have recognized the cop-killer bullet threat and therefore endorsed the mandatory sentencing proposal have simply stopped short of a real answer. If the Moynihan-Biaggi bill saves even one life, it will have done a far better job than mandatory sentencing alone ever can.

There is only one objective for which we should all be working: protecting our police. The nation's largest police organizations, newspapers from across America, thousands of rank and file police who have signed our petitions, and 10 State legislatures are asking the Congress to stop cop-killer bullets. 17 Senators and 182 Congressmen have responded by cosponsoring the Moynihan-Biaggi bill. Handgun Control, Inc., urges this Committee to take action as well and favorably report the bill. Remember that until these bullets are outlawed, no police officer, nor even our President himself, can feel protected by his bulletproof vest. In the words of an officer in Iowa City, Iowa:

The odds for the officer out on the street aren't always good to begin with, and as for myself, knowing these bullets are available to the average man on the street won't make me feel any better when I put on my vest every night before work.

Surely our police deserve whatever protection the law can afford. Each and every day these men and women risk their lives for our safety and security. The very least we can do in return is to pass the Law Enforcement Officers Protection Bill. Thank you.

Statement By
The Wildlife Legislative Fund of America

In Opposition to
S. 555

The Wildlife Legislative Fund of America, on behalf of hunting and shooting sportsmen, takes strong objection to S. 555 in its present form, by which "restricted handgun bullets" as defined by the Secretary of the Treasury may not be imported, manufactured or sold in this country.

We object because the potential breadth of prohibition by the bill will make types of bullets illegal which are used by hunters and target shooters, and which have posed no problem to law enforcement officers of the sort to which the bill is directed.

What will be prohibited by the bill will depend upon the regulations adopted by the Secretary of the Treasury. The only standards given him by the bill are a five-inch barrel and that the bullet must be "capable of penetrating body armor", which is defined as "a commercially available, soft, lightweight material with penetration resistance equal to or greater than that of eighteen layers of Kevlar".

The bill leaves variables to the discretion of the Secretary of the Treasury that will have a significant effect on the coverage of the law, and thus whether it will unnecessarily and adversely affect innocent users.

We respectfully call the committee's attention to the statement of Rudolph Giuliani, Associate Attorney General, U.S. Department of Justice, before the Subcommittee on Crime, Committee on Judiciary, House of Representatives, on May 12, 1982, pointing out that the Department had been unable to describe armor-piercing handgun ammunition in a way that

reaches all rounds capable of defeating soft body armor without including a number of popular handgun bullets which have long been widely used for legitimate sporting and recreational purposes.

Also, as noted by Robert E. Powis, Department of the Treasury, in criticizing a similar bill, the performance of a bullet is dependent upon a number of factors including the quantity and type of propellant power used to assemble the bullet into a cartridge. The bill before this committee totally overlooks this fact. Mr. Powis stated: "Many sporting rifle cartridges would end up being restricted by this bill"-- because the cartridges are usable in a handgun, and thus would fall under the bill's prohibition.

The National Rifle Association has called this bill a "Trojan horse". We find this a most fitting description for a bill that on its face offers much, but in its effect will result in something very different and undesirable.

STATEMENT OF
JOHN M. SNYDER
DIRECTOR OF PUBLICATIONS AND PUBLIC AFFAIRS
CITIZENS COMMITTEE FOR THE RIGHT TO KEEP AND BEAR ARMS

Mr. Chairman and Members of the Subcommittee:

Please accept my thanks for this opportunity to present my views on legislation pending before this Subcommittee.

The Citizens Committee for the Right to Keep and Bear Arms opposes S. 555, by Sen. Daniel P. Moynihan of New York, and H. R. 953, by Rep. Mario Biaggi of New York.

While these proposals to outlaw all handgun bullets capable of penetrating the 18-layer Kevlar vest except those for military and police use have been hailed in some quarters as great humanitarian initiatives designed to eliminate so-called "cop killer" bullets from the general public, this really is not the truth of the matter.

The truth is that the "cop-killer" bullet argument is a bogus argument. Passage of the Moynihan-Biaggi measure would ban the vast majority of the ammunition currently available to the general shooting public, including jacketed cartridges and military-type cartridges.

Available evidence suggests that the so-called "cop-killer" bullet designation given certain ammunition by certain individuals and groups is in reality a phony designation since there is in fact no such thing as a "cop-killer" bullet in the first place.

Proponents of the legislation in question have not demonstrated that the designated ammunition is necessarily the ammunition of choice of criminals who murder police officers - the real "cop killers." Nor have they shown that, even if that were the case, its elimination from the general shooting public would result in a reduction of murders of police officers.

The truth of the matter is that ammunition subjected to the "cop-killer" designation is legitimate ammunition used by millions of law-abiding American shooters.

The legislative attempt to ban so-called "cop-killer" ammunition must be seen for what it really is - a cheap political attempt to trick members of this body into denying Americans the right to keep and bear arms by denying them the right of access to the ammunition used in many of those arms.

If proponents of this legislation really want to stop the murder of police officers, they should get after the real cop-killers, criminals who murder police officers, and not ammunition currently on the market to tens of millions of law-abiding American gun owners.

It's important to see the KTW-bullet ban movement for what it really is, an attack on legitimate shooting in general under the bogus humanitarian argument of protecting police officers from criminals.

A concise analysis of this entire subject was prepared last summer as a monograph by Douglas Zimmer, Public Affairs Director of the Second Amendment Foundation. For the benefit of the Members of the Subcommittee, I respectfully request that the full text of Mr. Zimmer's monograph be included in the record of these proceedings.

Research Reports

 **Second Amendment Foundation**
James Madison Building, 12500 N.E. 10th Place, Bellevue, WA 98005

#5

KTW Bullets: Deadly Controversy or Media Hype?

Introduction

A great deal of controversy has been generated recently over the existence of KTW-type "super bullets" with plastic-coated tips capable of zipping through police soft body armor as though it were cheese. Cries for the banning of such "cop-killer" bullets echo through the halls of government, yet government agencies such as the U.S. Justice and Treasury Departments have called the furor a tempest in a teapot and have said that proposed bans would be unworkable, unenforceable and impractical.

Unfortunately, due to the smoke screen created by the media, many Americans do not fully understand this highly complex and often confusing issue.

In January of 1982, NBC Magazine aired a program depicting in a spectacular fashion how specialized bullets can penetrate soft body armor of the type currently worn by many policemen. The sensationalistic program left a false impression that such high-penetration bullets were being used solely to kill policemen.

Not to be outdone, CBS devoted broadcast time to the subject in June and later did a Sixty Minutes segment on it. Both programs deplored the existence of high-penetration ammunition and implied that it was easily available to criminals as well as the general public. Both suggested that by banning bullets capable of penetrating Kevlar-type vests, communities would be safeguarding the lives of their policemen without depriving sportsmen of legitimate sporting ammunition. The programs left the impression that bullets capable of penetrating soft body armor served no sporting purpose or, indeed, any purpose except to kill policemen.

The truth of the matter is that the existence of such bullets is not new information to either police or knowledgeable gun enthusiasts. Bullets capable of piercing the Kevlar vests existed long before the vests themselves did. It may, however, have been news to criminals.

During the month following the networks' first programs about KTW-type bullets and their effect on police body armor, four vest-wearing officers -- two in Chicago, one in Detroit and one in Columbus, Ohio, were killed by head or neck shots. Informed by the media that police were wearing armored vests, criminals responded not by using exotic ammunition, but simply by shooting at exposed, non-armored, portions of the body.

Military forces have been using armor-piercing ammunition since the turn of the century and police forces have been using such bullets since the 1930s to stop suspects fleeing in vehicles. The KTW bullet itself was developed over a dozen years ago by two policemen and a county coroner in Ohio because they

wanted police to have a bullet that would reliably shoot through a car door. The KTW name itself comes from the first initials of their last names: Kopsch, Turcus and Ward.

Yet since its development in 1968, there is no evidence that the so-called "cop-killer" round has ever been used in a crime or an assault on a police officer. KTW ammunition is expensive (\$1.50 per round) and is sold only to law enforcement personnel. The majority of the limited amounts produced each year are exported to foreign governments for use by their domestic police forces. As a result, most knowledgeable firearms experts do not regard KTW-type bullets as a great threat to the lives of our nation's policemen.

Unfortunately, the press and some uninformed politicians have continued to call for a ban on armor-piercing bullets, coated bullets, or bullets "capable of piercing a policeman's bullet-proof vest." The problem with such proposed laws is that they are often based on some type of penetration criteria, such as penetrating 17 layers of Kevlar -- the standard strength of type-1 body armor. Unfortunately, such a ban would eliminate virtually all bullets used by big-game hunters.

Armor-Piercing Bullets and Bullet-Proof Vests

Body armor comes in many types and grades. Many manufacturers produce several grades of armor, offering increasing protection with corresponding increases in expense and weight. Many of the best grades will stop KTW bullets. The lowest grades are insufficient to stop many types of standard pistol ammunition. Only a few extremely heavy vests will stop standard rifles using hunting ammunition.

Most vests are sold with a chart showing what types of ammunition they will withstand. Some will absorb certain types of rounds when fired from a short-barreled gun, but not when fired from one with a longer barrel which develops more velocity. Even using the same gun, certain brands of ammunition achieve greater penetration than others.

The problem that becomes clear, then, is that bullets cannot be simply divided into classes that will or will not pierce body armor. Any attempt to define anti-cop bullets runs a serious risk of banning many types of ammunition now used by sportsmen.

What is an Armor-Piercing Bullet?

Due to its greater power and much greater velocity, most standard hunting ammunition will penetrate all but the heaviest body armor. Incidentally, the government has classified many traditional rifle rounds as handgun ammunition, since there are handguns chambered for those loads. Even the famous .30-30 is today classified as a handgun round.

The military "hard-ball" surplus ammunition used by many plinkers and target shooters would be banned by such criteria as would many types of bullets designed for handgun hunting and loaded for high velocity and penetration. In fact, such a ban based on penetration would wipe out nearly all but the weakest, slowest loads and calibers.

The mass media have made much of the green Teflon coating on KTW bullets; many believe that the bullet owes most of its penetrating power to the plastic. In reality the plastic coating on the KTW's and other armor-piercing rounds is a lubricant used mainly to protect gun barrels from the extra wear created by the fast-moving, extra-hard bullets. At best, the lubricating effect of the coating adds 10 or 20 percent to the depth of penetration of the target.

Unfortunately, an attempt to ban "coated bullets" would also end up outlawing the plastic-coated bullets now used on many indoor target ranges to decrease the amount of lead fumes released into the atmosphere. Lead is highly toxic and in the past, shooters have become seriously ill from firing lead bullets in enclosed spaces. Some manufacturers have begun coating their target loads with plastic to reduce these fumes as well as decreasing the "leading" of the bores of fine target guns.

Many bench shooters in pursuit of pin-point accuracy have begun using super-hard, plastic-coated bullets both for greater ballistic stability and reducing the barrel wear on their expensive rifles. These shooters also would be denied their sport by a general ban on coated bullets.

Ironically, KTW bullets are probably among the least threatening to police officers because of their small production numbers, high cost and limited distribution. Also their enhanced penetration makes them unlikely to cause death or maiming unless they hit a specific vital area, such as the heart. Otherwise the wound channel they create tends to be much smaller and the hydrostatic shock to the victim is much less than that created by standard soft-nosed ammo.

As a matter of fact, armor-piercing rounds, since that is what a KTW really is, are not new at all. Nor are the fully jacketed rounds that drive straight through all but the heaviest body armor. Oddly enough, they were once thought of as a "humanitarian" advance in the art of warfare.

History of Armor-Piercing Bullets

In the latter part of the 19th century, with the advent of smokeless powder, manufacturers discovered that the increased temperatures and speeds of the new ammunition were literally melting the lead bullets as they raced through the gun barrel. To overcome that problem, bullet manufacturers began experimenting with various metal covers or "jackets" for the soft lead cores. These jacketed bullets did stand up to the higher temperatures and velocities of the new cartridges but at the same time manufacturers discovered that they had much higher penetration than the earlier soft-lead bullets. These new bullets, the military soon discovered, would go right through a target without expanding and without expending much of their velocity upon impact.

Initially this was thought to be a great advantage -- a humanitarian stroke in the terrible field of civilized warfare. Now it was considered possible to shoot an enemy "cleanly" without leaving the terrible crushing wounds of the type that dismembered so many soldiers in the American Civil War where both sides primarily used soft lead bullets. Now a soldier who was hit on the field of battle stood a much better chance of survival because of the "clean" wounds left by the non-expanding bullets.

Unfortunately, the disadvantages of these jacketed bullets soon became apparent to soldiers pitted against a truly committed enemy. Their high penetration characteristics often made them zip right through an oncoming foe, delivering a mortal wound but leaving enough mobility in the wounded man for him to push home his attack, often with fatal results to the surprised shooter.

To counteract this unsatisfactory state of affairs, several nations experimented with expanding bullets designed to "mushroom" upon impact to create greater shocking power and larger wound cavities, resulting in quicker kills.

These "dum-dum" bullets, so called because an early British experiment in such matters had taken place at the Dum-Dum arsenal in British India, were much more effective in stopping fanatical tribesmen, but were generally deplored for use against civilized troops. Indeed, during the Boer War at the turn of the century,

both sides had a tendency to arbitrarily execute any prisoners found to be carrying soft-nosed bullets.

As the world progressed into World War I and developed more sophisticated methods of making the other fellow die for his country, a military philosophy arose that declared it was more effective to wound your enemy than to kill him, since wounded men require care -- often taking as many as nine men out of combat to care for one casualty. Jacketed bullets, now called "hard-ball," became the accepted "humane" cartridge for military purposes. In fact, they were certified as such by the famous Geneva Convention.

World War I also saw the advent of armored vehicles on the battle field and it didn't take long for the armorers of both sides to realize that by reinforcing the jackets of the bullets just a bit, they could be made to penetrate much of the so-called armor plate. By the end of World War II, such "armor-piercing" bullets were so common that they made up about one in four of the rounds fired in battle.

With the cessation of hostilities, millions of military firearms, no longer needed by the belligerent nations, became available to the civilian population along with millions of rounds of military ammunition. Because of their condition and availability, these weapons were sold at bargain-basement prices, often through the mail, and found their way into the hands of thousands of Americans across the nation.

Although armor-piercing ammunition was of little interest to many civilian shooters because its over-penetration made it unsuitable for hunting, many target shooters picked up on it because of its accuracy and especially because of its low price as the military dumped large stocks of aging ammo on the civilian market. Much of this hard-ball ammo was picked up by weekend shooters and plinkers for recreational target shooting. More was purchased by shooters who favor self-loading handguns because many auto-loaders will not function properly with soft-nosed ammo. For years, surplus "hard-ball" ammo was a bargain bonanza for economy-minded shooters.

At the same time, police generally deplored the use of soft-nosed ammo as inhumane and used hard-nosed rounds specifically for humanitarian reasons.

Crime Control and Armor-Piercing Bullets

Unfortunately, the American criminal is more enterprising than humane and with the development of heavier and stronger handgun cartridges and high-impact hollow-point bullets, police began to find themselves outgunned and firing markedly inferior bullets. Many departments slipped back into using soft-nosed or hollow-point bullets to increase bullet impact on suspects and decrease officer injuries. This, in turn, created more problems as the soft-lead low-velocity bullets were incapable of penetrating barriers such as car doors and garbage cans -- allowing criminals safely ensconced behind their garbage cans with their superior magnum-granted firepower to shoot and kill officers with near impunity.

The result was the increased use of body armor by police, beginning as attempts by individual officers to protect themselves and increasing to the point where nearly half the police in the country are wearing some form of bullet-resistant body armor. The lives of hundreds of policemen have been saved by vests absorbing rounds from suspect's firearms. Yet no officer has been killed with an armor-piercing round. There is no evidence that criminals have sought out such exotic ammunition with criminal intent. There is evidence, however, that they have responded to the broadcasts in a different way.

With the increased publicity about body armor and the bullets required to penetrate it created by the media's anti-KTW campaign, police deaths have begun to rise again. Not from the use of armor-piercing rounds, or the failure of vests to perform; neither of these have ever occurred. Alerted by the media that many policemen wear body armor and that their bullets might not pierce it, criminals have begun to shoot at areas of the body not protected by the vest-type armor. Thus what began perhaps as a well-intentioned crusade by the media to aid police has become a serious problem to sportsmen and a deadly horror to police officers.

Conclusion

Although it is clear that criminals do not seek out armor-piercing bullets to counter police body armor, and although the experts all agree that banning jacketed ammunition would not be a workable solution, some politicians and much of the media continue to call for totally needless and unenforceable bullet bans.

Richard C. Davis, president of one of the nation's largest body armor manufacturers put the whole KTW controversy in prospective in his testimony before Congress in March of 1982: Davis was testifying against KTW-ban proposals although his customers are the vest-buying police ban proponents say are most threatened by the 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," Davis said. "In spite of news stories -- it just hasn't happened."

Davis went on to point a finger at the real problem in the whole issue. "My general feeling," Davis said, "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. Everybody in law enforcement has to realize that vest publicity of any kind kills cops! Somebody talks, somebody else dies."

Douglas Zimmer
Public Affairs Director
Second Amendment Foundation

June 14, 1983

SUGGESTED READING

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Second Amendment Foundation

Testimony of the
National Association of Police Organizations (NAPO)
in Support of S. 555

The National Association of Police Organizations (NAPO) is an organization which represents some 45,000 working police officers nationwide, and is primarily concerned with national legislation which affects the well-being of public safety officers throughout the United States.

Of all the legislation concerning public safety officers it would seem that this bill, S. 555, and H.R. 953, introduced by Congressman Biaggi in the House, is one upon which all segments of the law enforcement community and the executive and legislative branches of government could agree. We frankly do not understand the opposition to this bill, nor the foot-dragging that has blocked the passage of this legislation for over two years.

As an organization which represents "line" police officers we know only too well the statistics which point up the cases of death and serious injury to officers who might be unfortunate enough to be the targets of a criminal weapon without the light body armor which many of our police officers now wear. We also know the statistics which show the high incidence of lives saved and serious injuries avoided as the result of the use of protective vests. This alone should be enough "evidence" to support the ban on the manufacture, importation, and sale of ammunition which can penetrate the most common protective vests.

But the statistics alone can never tell the whole story. The personal tragedy of losing a police officer in the line of duty is one which we unfortunately live with on a daily basis. When police officers are killed by criminals, it is a loss to their family and friends, to their colleagues, and to the community as a whole. For it is the community which has lost an individual who has said he will risk his life to insure public safety and order. The United States Congress has the opportunity, through the passage of this legislation, to affirm that it values the sacrifice of its public safety officers, and that it will not allow even one life of policemen to be lost if it could have been saved.

This is not an anti-sportsman bill nor is it an anti-gun bill. We have precise enough knowledge of what kind of ammunition pierces light body armor and what kind does not. The time for debate has now passed. We ask for action on this bill now.

TESTIMONY OF MICHAEL K. BEARD, PRESIDENT, THE NATIONAL COALITION
TO BAN HANDGUNS, REGARDING S.555, THE "LAW ENFORCEMENT
OFFICERS PROTECTION ACT OF 1983"

America must do everything it can to ensure the safety of its police officers. Because of this, the National Coalition to Ban Handguns (NCBH) strongly urges that The Subcommittee on Criminal Law act favorably on S.555, the "Law Enforcement Officers Protection Act of 1983."

Founded in 1975, The National Coalition to Ban Handguns consists of 31 national organizations, including such groups as the National Urban League, the U. S. Conference of Mayors, and the American Association of Suicidologists. The combined membership of these groups is over 10 million. NCBH also has over 120,000 individual members.

NCBH's goal is to ban the private possession of handguns in America (with the exception of military and law enforcement personnel, target shooters, and collectors whose handguns have been rendered inoperable). NCBH focuses only on handguns, and is not concerned with long guns. Because the Coalition recognizes the legitimate sporting uses of rifles and shotguns, a main concern of NCBH was that S.555 would not have any undue impact on rifle ammunition. After analysis of the bill, and assurances from its sponsors that every effort would be made to ensure that it would not, NCBH fully supports S.555.

Since 1974, over 950 police officers have been killed in the line of duty--two thirds of them by handguns. Were it not for the availability of police body armor this number would have been much higher. Over the past ten years, over 400 police lives have been saved by these vests, and more than half of America's 528,000 policemen now wear them.

These vests can stop the majority of handgun bullets. But there are armor-piercing handgun bullets, readily available, that can cut right through them. These bullets are commonly known to both the police and public as "cop killer bullets."

Handgun bullets that can shoot through concrete block, an automobile engine block, or armor plate have no legitimate hunting or target shooting purpose. Even police have found no use for armor-piercing bullets because of their low stopping power and tendency to ricochet unpredictably. They are amazingly suited for one thing though--shooting through body armor.

Arthur M. Kassel, chairman of the California Addict Evaluation Authority has stated that "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." The gun lobby's response to statements like this has been predictable. Neal Knox, former National Rifle Association (NRA) lobbyist and Board Member, stated in 1982 that, "There's no such thing as a good bullet or a bad bullet." And a 1983 NRA Issues Brief assures the reader that "No police officer has ever been shot with a KTW [one of the 8 known types of armor-piercing bullets that the FBI has identified as being available in America]. No criminal misuse of this ammunition has ever been documented since the bullet was developed twelve years ago."

Unfortunately, both of these statements are false. Three law enforcement officers have already been shot with armor-piercing handgun bullets.

In 1976, State Highway Patrolman Phillip Black and visiting Canadian policeman Donald Irwin were shot and killed with 9mm KTW ammunition in Broward County, Florida. Their killers were arrested shortly after the murders with more of the bullets in their possession.

In 1974 Protective Service Officer John Rixham, Jr. was patrolling the Social Security Building in Woodlawn, Maryland when he came upon a drunken man and woman in a parked car. The man grabbed Rixham's revolver and shot him at point-blank range. Rixham's bulletproof vest stopped the slug. Seconds later another shot was fired by the woman from a second handgun. The bullet, a 9mm armor-piercer, penetrated the back of Rixham's vest, cut a hole through his abdomen and exited through the front of the vest. Rixham is now permanently disabled. The criminals escaped.

The gun lobby is aware of these facts, but will not acknowledge them. And even if they did, it is unlikely that they would view only three known 'misuses' of these bullets as adequate reason for banning them. These are the same people that consistently tell us that 23,000-24,000 annual handgun deaths are a fair price to pay for the approximately 200 times a year handguns are used by civilians to kill criminals.

Although some have tried to deal with the problem of "cop killer bullets" by denying it, others have taken more concrete action. Kansas, Oklahoma, Alabama, Rhode Island, Illinois, California, Florida, Texas and Indiana have already outlawed armor-piercing handgun bullets. Bills have been filed in other states, including Pennsylvania, Ohio, Connecticut, Massachusetts, and New York.

Police groups across the country, including the International Association of Chiefs of Police, the International Brotherhood of Police Officers, The National Association of Police Officers, The Fraternal Order of Police, the New York Patrolmen's Benevolent Association, and the Los Angeles Police Department have also called for this ammunition to be banned.

The gun lobby's efforts to stop S.555 are based on neither reasoned analysis of the facts, nor concern for human life. Their actions are based on fear--the fear of establishing banning as a precedent in national legislation.

They have made their choice. It is now the responsibility of Congress, with the support of the police and public, to pass this legislation and increase the safety of our nation's police.

America must do everything it can to protect its police. To this end, the National Coalition to Ban Handguns strongly urges that this committee act favorably on S.555.

Mr. Chairman, I would also like to submit for the record the names of the 31 national organizations that are the National Coalition to Ban Handguns. They are: the American Association of Suicidology; American Ethical Union; Americans for Democratic Action; American Jewish Congress; American Psychiatric Association; American Public Health Association; Black Women's Community Development Foundation; B'nai B'rith Women; Board of Church & Society, United Methodist Church; Center for Social Action, United Church of Christ; Church of the Brethren, Washington Office; Friends Committee on National Legislation; International Ladies' Garment Workers Union; Jesuit Conference, Office of Social Ministries; National Alliance for Safer Cities; National Association of Social Workers; National Council of Jewish Women Inc.; National Council of Negro Women; National Jewish Welfare Board; National Urban League, Inc.; Political Action Committee, Women's National Democratic Club; The Bible Holiness Movement International; The Program Agency, Presbyterian Church, (USA); Union of American Hebrew Congregations; Unitarian Universalist Association; United States Conference of Mayors; United States Student Association; United Synagogue of America; Women's Division, Board of Global Ministries, United Methodist Church; Women's League for Conservative Judaism; Young Women's Christian Association of the U.S.A., National Board.

**NATIONAL
ASSOCIATION
of
COUNTIES**

440 First St. NW, Washington, DC 20001
202/393-6226

March 6, 1984

The Honorable Paul Laxalt
Chair, Criminal Law Subcommittee
United States Senate
SD-148 Dirksen Senate Office Building
Washington, D. C. 20510

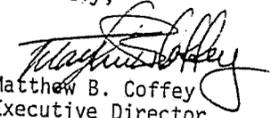
Dear Senator Laxalt:

The National Association of Counties' Justice and Public Safety Steering Committee has closely followed Senate Bill S. 555 and the companion House Bill H.R. 953 that would prohibit the manufacture, importation and sale of the armor-piercing handgun bullet, except as specifically authorized for the purposes of public safety or national security. The Committee was very pleased to learn that the Criminal Law Subcommittee will be holding hearings on S. 555 on March 7, 1984, and wishes to commend you for providing an opportunity for discussion of this important legislation.

At their January 24, 1983 meeting, the Justice and Public Safety Steering Committee passed a resolution that encourages Congress to enact legislation that would ban the future manufacture, importation or sale of armor-piercing bullets, except as specifically authorized for the purposes of public safety or national security. This resolution was approved by NACo's membership at their July 1983 Annual Conference in Milwaukee, Wisconsin. A copy of the resolution is enclosed for inclusion in the hearing record.

NACo fully supports S. 555 and urges that your Committee give it full consideration. Donald Murray of my staff will be happy to answer any questions regarding this issue.

Sincerely,


Matthew B. Coffey
Executive Director

MBC:bw

Enclosure

ADOPTED AT NACo's
48th ANNUAL CONFERENCE

July 19, 1983
Milwaukee, Wisconsin

RESOLUTION ON THE ARMOR-PIERCING BULLET

WHEREAS, certain bullets have been designed specifically for the purpose of armor penetration; and

WHEREAS, these armor-piercing bullets were intended for police and military use, but are available commercially; and

WHEREAS, these bullets can pierce an auto engine block, the side of a house and go through several bullet-proof vests without losing substantial velocity; and

WHEREAS, these bullets can pierce the Kevlar bullet-proof vest that has been credited with saving the lives of 400 police officers over the last 10 years; and

WHEREAS, these bullets endanger the lives of law enforcement officers, public officials and private citizens; and

WHEREAS, law violators use these armor-piercing bullets to diffuse the effectiveness of law enforcement activities; and

WHEREAS, our nation's law enforcement officers need and deserve the best protection that we can provide them; and

WHEREAS, there is considered to be no legitimate use of these bullets by private citizens; and

WHEREAS, the banning of armor-piercing bullets should not interfere with the rights of the legitimate sportsman; and

WHEREAS, numerous cities, counties and states have passed their own legislation banning armor-piercing bullets;

THEREFORE BE IT RESOLVED, that the National Association of Counties urges Congress to enact legislation, with heavy penalties, that would ban the future manufacture, importation, possession or sale of armor-piercing bullets, except as specifically authorized by a governmental agency for the purposes of public safety or national security.

Des Moines Police Burial and Protective Association

Municipal Court Building
DES MOINES, IOWA 50309



20 March 1984

Mr. Bill Miller
U.S. Senate Judiciary Committee
Subcommittee on Criminal Law
Washington, D.C. 20510

Dear Mr. Miller:

On 14 March 1984, a special meeting of the Des Moines Police Burial Association was held and the following is the resolution which passed unanimously:

1. The Des Moines Police Burial Association opposes Senate Bill 555 because of the provisions in this particular bill which will ban most sporting rifle ammunition and much legitimate pistol ammunition in the name of protecting police officers against armor piercing bullets.
2. We support the testimony of Lt. Kayne Robinson before the U.S. Senate. We endorse the proposal outlined by the Treasury and Justice Departments for strong mandatory sentences without parole or probation for use of firearms or armor piercing bullets.
3. Since most police officers are killed by dangerous criminals on early release from a previous conviction, we believe police lives can be saved by keeping such persons in prison longer.
4. We will support legislation which prevents criminal misuse of armor piercing ammunition without interfering with lawful private firearms ownership.

Sincerely,

Dennis C. Westover, President
Des Moines Police Burial Association

○

END