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April 6, 2006

March 22, 2006

Mr. Jason Davis  
Attorney at Law  
Trutanich Michel LLP  
180 East Ocean Boulevard, Suite 200  
Long Beach, CA 90802

Re: .50 BMG Rifle – Letter & Registration

Dear Mr. Davis:

I am writing in response to your letter dated March 2, 2006, requesting clarification about the registration program for .50 BMG rifles by the Department of Justice (DOJ). You asked about "an October 15, 2005 letter from the DOJ" and attached the first page of a letter dated October 15, 2004 with the name and address of the recipient deleted. It appears from a copy of a second page you later provided, that a field representative who no longer works for DOJ, David Witt, wrote the letter.

In your letter, you question whether the 2004 letter from Mr. Witt represents DOJ's current policy for registering .50 BMG rifles. It is difficult to analyze the accuracy of the advice Mr. Witt gave in his letter, considering that neither the identity of the person who asked for advice, nor the questions posed by that person, are known. It is also unknown whether the letter was reviewed and approved by Mr. Witt's supervisors before it was mailed.

The letter was written shortly after Assembly Bill 50 (Koretz, 2004) was signed into law and prior to the Firearms Division formally adopting its policies and procedures for registering .50 BMG rifles. While some of the information in the letter is correct (such as the statement that a person could manufacture a .50 BMG rifle, by adding "an upper .50 BMG to a FAB 10 lower receiver and then register[ing] it as a BMG .50 caliber rifle within the registration period"), other information in the letter is either incomplete or not consistent with DOJ's current practice and procedure for registering .50 BMG rifles.

For example, the letter states that "the manufacture of this weapon in this manner must be completed prior to the January 1, 2005 deadline." In fact, the manufacture of such a weapon would not have to be completed by January 1, 2005, as long as a fully functional serialized receiver (such as a FAB 10) were possessed prior to January 1, 2005 and registered by April 30, 2006.

The letter from Mr. Witt also states that DOJ "will not accept 'multi-caliber' registration since the BMG is defined only as a weapon that fires .50 BMG cartridge." In fact, DOJ does accept multi-caliber registration. The Firearms' Division's .50 BMG registration form includes a caliber field that allows registrants to register their rifles as multi-caliber. It is understandable that Mr. Witt may not have had complete information about the registration program in October of 2004, considering that AB 50 did not specifically address the possibility of registering lower receivers, or registering multi-caliber rifles.

Although it is unfortunate that the October 2004 letter from Mr. Witt with incomplete information is apparently posted on the internet, DOJ has fully informed the public about the details of the registration program. Information about the program is posted on the Firearms Division website: <http://caag.state.ca.us/firearms/50bmgfaqs.htm>. In December of 2004, DOJ sent an Informational Bulletin regarding the .50 BMG registration program to all of the state's firearms dealers, firearms manufacturers, assault weapon permittees, police chiefs, sheriffs and district attorneys. The Firearms Division sent letters, posters, displays and hand-outs to all of the the firearms dealers on the Centralized List of Firearms Dealers in order to educate the public about the registration program. Information was also mailed to several .50 caliber shooting clubs in the state. Therefore, accurate information about DOJ's .50 BMG registration program is available to the public.

Regarding the specific questions posed in your letter:

*Q1. What components of a firearm, when assembled, are necessary to render the assembly capable of firing a .50 BMG cartridge?*

A complete firearm (including a lower receiver, upper receiver, barrel, feeding device and trigger mechanism) is necessary to fire any cartridge. The ability of a particular firearm to fire a .50 BMG cartridge depends upon the dimension of the firearm's chamber, barrel and bore.

*Q2. Must a person register their property pursuant to Penal Code section 12280 under the following circumstances, where the property is possessed prior to January 1, 2005 unless otherwise stated:*

According to Penal Code section 12285(a)(2), "any person who lawfully possesses any .50 BMG rifle prior to January 1, 2005, shall register the .50 BMG rifle with the department no later than April 30, 2006 [emphasis added]." Alternatively, the person may transfer the .50 BMG rifle to a licensed firearm dealer who has a permit to buy and sell assault weapons in order to sell the .50 BMG rifle to a federally licensed firearm dealer in a state outside of California. The person

could also render the firearm permanently inoperable, or relinquish it to a law enforcement agency.

A complete .50 BMG rifle (including a lower receiver, upper receiver, barrel, feeding device and trigger mechanism) that is not an assault weapon or machine gun can be registered. In addition, a fully functional serialized receiver that can accommodate a .50 caliber upper receiver can be registered, as long as the receiver is not an assault weapon or machine gun. A receiver is "fully functional" when the manufacturing of the receiver is complete and the receiver is ready to be assembled with other parts that are necessary in order to create a functioning rifle.

i. *(1) The person possesses solely a Barrett Model 99 lower receiver.*

A person who lawfully possessed a serialized Barrett Model 99 .50 BMG lower receiver that was fully functional prior to January 1, 2005 could register the lower receiver, and would be required to register it prior to April 30, 2006 in order to lawfully retain it.

ii. *(1) The person possesses a Barrett Model 99 lower receiver;  
(2) The person possesses all of the components necessary to assemble an operable firearm that can fire a .50 BMG cartridge; and  
(3) The components are possessed in an assembled state.*

A person who lawfully possessed a serialized Barrett Model 99 .50 BMG lower receiver that was fully functional prior to January 1, 2005 could register the lower receiver, and would be required to register it prior to April 30, 2006 in order to lawfully retain it. In this example, it appears that the person possessed a fully assembled Barrett Model 99 .50 BMG rifle. Therefore, the person would be required to register it prior to April 30, 2006 in order to lawfully retain it.

iii. *(1) The person possesses a Barrett Model 99 lower receiver;  
(2) The person possesses all of the components necessary to assemble an operable firearm that can fire a .50 BMG cartridge; and  
(3) The components are possessed in a disassembled state.*

A person who lawfully possessed a serialized Barrett Model 99 .50 BMG lower receiver that was fully functional prior to January 1, 2005 could register the lower receiver and would be required to register it prior to April 30, 2006 in order to lawfully retain it. In this example, the receiver is not fully functional. Therefore, the receiver cannot be registered.

iv. *(1) The person possesses a Barrett Model 99 lower receiver;  
(2) But for a broken firing pin, the person possesses all of the components necessary to*

*assemble an operable firearm that can fire a .50 BMG cartridge;*

*(3) The components are possessed in a disassembled state.*

A person who lawfully possessed a serialized Barrett Model 99 .50 BMG lower receiver that was fully functional prior to January 1, 2005 could register the lower receiver and would be required to register it prior to April 30, 2006 in order to lawfully retain it. In this example, the receiver is not fully functional. Therefore, it cannot be registered. A broken firing pin would not affect the determination of whether this (or any other) firearm can or must be registered.

v. *(1) The person possesses a Barrett Model 99 lower receiver;*

*(2) But for a broken firing pin, the person possesses all of the components necessary to assemble an operable firearm that can fire a .50 BMG cartridge;*

*(3) The components are in an assembled state.*

A person who lawfully possessed a Barrett Model 99 .50 BMG rifle prior to January 1, 2005 would be required to register is prior to April 30, 2006 in order to lawfully retain it. In this case, it appears that the components - including a serialized Barrett Model 99 .50 BMG lower receiver - are assembled into a .50 BMG rifle. Therefore, the person would be required to register the rifle prior to April 30, 2006 in order to lawfully retain it. A broken firing pin would not affect the determination of whether this (or any other) firearm can or must be registered.

vi. *(1) The person possesses solely a lower receiver that is capable of being assembled with an upper receiver that is chambered for a .50 BMG cartridge, but was not originally manufactured as a .50 BMG rifle.*

A person is not be required to register a lower receiver that is not a .50 BMG lower receiver in order to lawfully retain it. However, a person cannot assemble the lower receiver with other parts in order to manufacture a .50 BMG rifle unless the lower receiver was serialized, possessed and fully functional prior to January 1, 2005, and registered as a .50 BMG rifle prior to April 30, 2006. Assuming that the person lawfully possessed a lower receiver that was serialized fully functional and assembled as a .50 BMG rifle prior to January 1, 2005, the person would be required to register it prior to April 30, 2006 in order to lawfully retain it.

vii. *(1) The person possesses a lower receiver that is capable of being assembled with an upper receiver that is chambered for a .50 BMG cartridge, but was not originally manufactured as a .50 BMG rifle;*

*(2) The person possesses all of the components necessary to assemble an operable firearm that can fire a .50 BMG cartridge; and*

*(3) The components are possessed in an assembled state.*

A person is not required to register a lower receiver that is not a .50 BMG lower receiver in order to lawfully retain it. However, a person cannot assemble a lower receiver with other parts in order to manufacture a .50 BMG rifle unless the lower receiver was serialized and fully functional prior to January 1, 2005 and registered prior to April 30, 2006. In this example, it appears that the person lawfully possessed a lower receiver that was fully functional and assembled as a .50 BMG rifle prior to January 1, 2005. Therefore, the person would be required to register it prior to April 30, 2006 in order to lawfully retain it.

- viii. *(1) The person possesses a lower receiver that is capable of being assembled with an upper receiver that is chambered for a .50 BMG cartridge, but was not originally manufactured as a .50 BMG rifle;*
- (2) The person possesses all of the components necessary to assemble an operable firearm that can fire a .50 BMG cartridge; and*
- (3) The components are possessed in a disassembled state.*

A person is not required to register a lower receiver that is not a .50 BMG lower receiver in order to lawfully retain it, but cannot assemble the lower receiver with other parts in order to manufacture a .50 BMG rifle unless the lower receiver was possessed prior to January 1, 2005 and registered prior to April 30, 2006. However, only a fully functional serialized receiver that can accommodate a .50 caliber upper receiver can be registered. A receiver is "fully functional" when manufacturing of the receiver is complete and the receiver is ready to assemble with other parts necessary to create a functioning rifle. In this example, the receiver is not fully functional. Therefore, the lower receiver cannot be registered.

- ix. *(1) The person possesses a lower receiver that is capable of being assembled with an upper receiver that is chambered for a .50 BMG cartridge, but was not originally manufactured as a .50 BMG rifle;*
- (2) But for a broken firing pin, the person possesses all of the components necessary to assemble an operable firearm that can fire a .50 BMG cartridge; and*
- (3) The components are possessed in a disassembled state.*

A person is not required to register a lower receiver that is not a .50 BMG lower receiver in order to lawfully retain it, but cannot assemble the lower receiver with other parts in order to manufacture a .50 BMG rifle unless the lower receiver was serialized, fully functional and possessed prior to January 1, 2005 and registered prior to April 30, 2006. However, only a fully functional serialized receiver that can accommodate a .50 caliber

upper receiver can be registered. A receiver is "fully functional" when manufacturing of the receiver is complete and the receiver is ready to assemble with other parts necessary to create a functioning rifle. In this example, the receiver is not fully functional. Therefore, it cannot be registered. A broken firing pin would not affect the determination of whether this (or any other) firearm can or must be registered.

- x. *(1) The person possesses a lower receiver that is capable of being assembled with an upper receiver that is chambered for a .50 BMG cartridge, but was not originally manufactured as a .50 BMG rifle;*  
*(2) But for a broken firing pin, the person possesses all of the components necessary to assemble an operable firearm that can fire a .50 BMG cartridge; and*  
*(3) The components are in an assembled state.*

A person is not required to register a lower receiver that is not a .50 BMG lower receiver in order to lawfully retain it. However, a person cannot assemble a lower receiver with other parts in order to manufacture a .50 BMG rifle unless the lower receiver was serialized, lawfully possessed, and fully functional prior to January 1, 2005 and registered prior to April 30, 2006. In this example, it appears that the person lawfully possessed a lower receiver that was serialized, fully functional and assembled as a .50 BMG rifle prior to January 1, 2005. Therefore, the person would be required to register the rifle prior to April 30, 2006 in order to lawfully retain it. A broken firing pin would not affect the determination of whether this (or any other) firearm can or must be registered.

- xi. *(1) The person possesses a fully assembled Barrett Model 99;*  
*(2) The person also possesses a lower receiver that is capable of being assembled with an upper receiver that is chambered for a .50 BMG cartridge, but was not originally manufactured as a .50 BMG rifle; and*  
*(3) The upper receiver for the Barrett Model 99 is compatible with the lower receiver.*

Assuming that the person lawfully possessed a Barrett Model 99 .50 BMG rifle prior to January 1, 2005, the person would be required to register it prior to April 30, 2006 in order to lawfully retain it. The person would not be required to register a lower receiver that is not a .50 BMG lower receiver in order to lawfully retain it. However, the person could not assemble the lower receiver with other parts in order to manufacture a .50 BMG rifle unless the lower receiver was serialized, fully functional and possessed prior to January 1, 2005, and registered prior to April 30, 2006.

- xii. *(1) The person possesses a fully assembled Barrett Model 99;*  
*(2) The person also possesses a lower receiver that is capable of being assembled with an upper receiver that is chambered for a .50 BMG cartridge, but was not originally manufactured as a .50 BMG rifle;*

- (3) The person possesses an upper receiver for the Barrett Model 99; and*
- (4) The upper receivers for the Barrett Model 99 are compatible with the lower receiver.*

Assuming that the person lawfully possessed a Barrett Model 99 .50 BMG rifle prior to January 1, 2005, the person would be required to register it prior to April 30, 2006 in order to lawfully retain it. The person would not be required to register a lower receiver that is not a .50 BMG lower receiver in order to lawfully retain it. However, the person could not assemble the lower receiver with other parts in order to manufacture a .50 BMG rifle unless the lower receiver was lawfully possessed, serialized, and fully functional prior to January 1, 2005 and registered prior to April 30, 2006. Neither upper receiver is required to be registered. Neither upper receiver can be registered.

- xiii (1) The person possesses an upper receiver for the Barrett Model 99.*

An upper receiver is not required to be registered. An upper receiver cannot be registered.

- xiv (1) The person possesses an upper receiver for the Barrett Model 99; and*
- (2) The person, after January 1, 2005, acquires and possesses a completely assembled firearm with a lower receiver that is capable of being assembled with an upper receiver that is chambered for a .50 BMG cartridge, but was not originally manufactured as a .50 BMG rifle.*

An upper receiver is not required to be registered. An upper receiver cannot be registered. In this example, the person apparently acquired a fully assembled .50 BMG rifle after December 31, 2004. The rifle cannot be registered.

- xv (1) The person possesses a complete registered Barrett Model 99 after January 1, 2005; and*
- (2) The person, after January 1, 2005, acquires and possesses a complete firearm with a lower receiver that is capable of being assembled with an upper receiver that is chambered for a .50 BMG cartridge, but was not originally manufactured as a .50 BMG rifle.*

Assuming that both firearms were acquired after December 31, 2004, neither firearm can be registered. If the Barrett Model 99 was acquired before January 1, 2005, it may be registered and must be registered prior to April 30, 2006 in order to be lawfully retained.

- xvi (1) The person possesses an upper receiver for the Barrett Model 99 and all components necessary to assemble a Barrett Model 99, except the lower receiver.*

Neither an upper receiver, nor the components necessary to assembly a Barrett Model 99, can be registered.

*Q3. For issues i through xvi in item 2 above, if the DOJ's response is that registration is prohibited, is it also the DOJ's position that prosecution is equally prohibited?*

The ability to register a particular firearm does not necessarily correlate with the ability of a district attorney to prosecute the person who owns the firearm. For example, a .50 BMG rifle obtained after December 31, 2004 cannot be registered. However, the owner of such a rifle could be prosecuted for possession of an unregistered .50 BMG rifle. Whether registration of a particular firearm is allowed or required depends on the characteristics of the firearm. Likewise, the ability of a district attorney to prosecute a person for failure to register a .50 BMG rifle depends on the circumstances of that person's case.

*Q4. For issues i through xvi in item 2 above, if the DOJ's response is that registration is required, is it also the DOJ's position that registration is allowed for all receivers required to be registered.*

Registration is allowed for all .50 BMG rifles and fully functional serialized receivers that can accommodate a .50 caliber upper receivers possessed prior to January 1, 2005. Registration is required for all .50 BMG rifles. Assuming that prior to January 1, 2005, a person lawfully possessed a .50 BMG rifle, the person would be required to register it prior to April 30, 2006 in order to lawfully retain it. Likewise, a person who lawfully possessed prior to January 1, 2005 a fully functional serialized receiver that could accommodate a .50 caliber upper receiver and the person intended to assembled it with other parts to make a .50 BMG rifle would be allowed to register the receiver, and required to register it in order to manufacture a .50 BMG rifle in the future, but not required in order to retain the lower receiver as a non-.50 caliber rifle.

I hope this information was helpful. Please feel free to contact me again if you have any additional questions.

Sincerely,



ALISON Y. MERRILEES  
Deputy Attorney General

For BILL LOCKYER  
Attorney General