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DEPARTMENT OF JUSTICE



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August 04, 2005

Dr. Robert Cumberland

RE: Harrott v. County of Kings

Dear Dr. Cumberland:

This correspondence is in response to your letter dated May 13th, 2005 in which you posed three questions regarding *Harrott v. County of Kings* and "series" assault weapons.

Your first question was about the effect of the *Harrott* decision on California assault weapons law. In *Harrott*, the California Supreme Court upheld the Attorney General's authority to identify series assault weapons pursuant to Penal Code (PC) section 12276(e), but held that such firearms must first be included in the list of series assault weapons promulgated by the Attorney General pursuant to section 12276.5(h), before they are considered "assault weapons" under California law. Since the *Harrott* decision, the Attorney General's Office has carried out its legal authority by identifying assault weapons and periodically publishing the "Assault Weapons Identification Guide."

Your second question was whether the receiver of a semiautomatic rifle could be an "assault weapon" if it does not have any of the characteristics specified in PC section 12276.1 and it is not listed in PC section 12276. The answer is "yes". As affirmed in *Harrott*, the receiver of a semiautomatic rifle would be considered an "assault weapon" if it were specifically listed by the Department of Justice in the California Code of Regulations (CCR), as authorized under PC 12276.5(h).

Your final question was whether it is lawful under California law to purchase a stripped DSA "ZM4" receiver. The DSA "ZM4" is not listed in PC Section 12276 nor is it listed in CCR Section 979.11 (Title 11, Division 1, Chapter 12.9). Therefore, assuming it does not meet the characteristics criteria specified in PC section 12276.1 (such as a

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"pistol grip that protrudes conspicuously beneath the action of the weapon"), it could lawfully be purchased (or possessed) in California. If it did meet the characteristics criteria, it would be a prohibited assault weapon per PC section 12276.1(a)(1).

You should be aware that all DSA receivers, including the ZM4, will soon be added to the list of weapons that are considered "assault weapons" under California law. After the list is published, owners will have 90 days to register their firearms, pursuant to PC 12285.

If you have any additional questions regarding this issue, please feel free to contact me at (916) 263-0802.

Sincerely,



ALISON MERRILEES
Deputy Attorney General
Firearms Division