LEGISLATIVE PRIORITIES

New York State Law Enforcement Council

2009

PREFACE

The New York State Law Enforcement Council was formed in 1982 as a legislative advocate for New York's law enforcement community. The Council's members represent the leading law enforcement professionals throughout the state, including the Attorney General of the State of New York, the District Attorneys Association of the State of New York, the New York State Association of Chiefs of Police, the New York State Sheriffs' Association, the New York City Criminal Justice Coordinator, and the Citizens Crime Commission of New York City. Since its inception, the Council has been an active voice and participant in improving the quality of justice and in the continuing effort to provide for a safer New York.

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CREATE A REQUIREMENT THAT ALL NEW SEMI-AUTOMATIC HANDGUNS HAVE MICROSTAMPING TECHNOLOGY

In 2007, a staggering 21,780 violent crimes were committed with a firearm in New York State.[1] Yet perpetrators who use firearms to harm or take another's life often evade justice. Nationwide in 2005, only 62% of all homicides were cleared by arrest. That's down from 79% in 1976.[2] It translates to roughly 4,311 unsolved gun homicides.[3]

Microstamping is an inexpensive tool that will help law enforcement solve and deter gun crimes. By etching a simple alpha-numeric or geometric code onto the firing pin and barrel of a semi-automatic pistol, the technology provides an easy-to-follow trail back to the owner of the weapon. Instead of investing countless hours in the often fruitless search for the crime weapon, officers and forensics experts can use cartridge casings found at the crime scene to pinpoint suspects.

Microstamping technology puts more information into the hands of police early in an investigion. It is an inexpensive tool that will help law enforcement solve and deter gun crimes.

The Law Enforcement Council supports the requirement that all semi-automatic pistols manufactured by, or delivered to, any licensed firearms dealer in New York State be capable of microstamping.

1 This includes 502 out of a total of 800 homicides. N.Y. Div. of Crim. Just. Serv. Uniform Crime / Incident-Based Reporting Systems "New York State: Violent Crimes by Firearm: 2007" (June 2008).

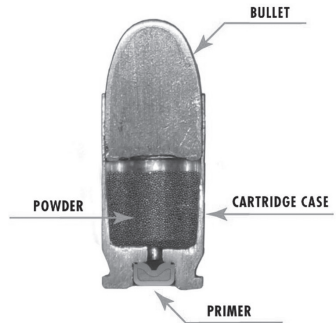
2 Fed. Bur. Of Inv., "Supplementary Homicide Reports, 1976-2005" *available at* www.ojp.usdoj.gov/bjs/homicide/cleared.htm.

3 According to the U.S. Dept. of Justice there were 11,346 gun homicides in 2005; 38 percent of those crimes, 4,311, were unsolved. "Homicide Trends in the U.S.: Weapons Used" (July 11, 2007), *available at* www.ojp.usdoj.gov/bjs/homicide/tables/weaponstab.htm.

WHAT IS MICROSTAMPING?

Microstamping uses lasers to etch "precise, microscopic engravings on the firing pin and breech face of a semi-automatic handgun."[4] The etched code is specific to that particular firearm. When the gun is fired, the markings are left on the cartridge casing.

When law enforcement arrives at a crime scene and the cartridge casing is recovered, the microstamp can be used to identify the gun that fired the bullet. Law enforcement can then track down the perpetrator in one of three ways: find a suspect in possession of that firearm; track the weapon back to its owner by following the paper trail generated by the sale of the weapon; or connect the weapon to other crimes where shell casings with the same microstamp were recovered.



4 Coalition to Stop Gun Violence "Microstamping: Frequently Asked Questions" (undated) *available at* www.csgv.org/site/c.pmL5JnO7KzE/b.3509373/k.1248/Microstamping_Frequently_Asked_Questions.htm.

Criminals rarely leave a gun at the crime scene, but they typically leave behind the cartridge case. Simply etching a code onto the firing pin and breech face of the weapon leaves the criminal's calling card at the scene of a shooting.

MICROSTAMPING IS FAST AND INEXPENSIVE

The machinery used to etch the microstamp can be accessed at numerous job shops or can be installed for use at a factory. Moreover, the technology can be employed with little or no disruption to the manufacturing process. The National Research Council, part of the National Academy of Sciences, estimates that each etching takes only approximately 200 milliseconds.

There has been some discussion about the real cost of producing a pistol with microstamping, with unfounded claims that it would cost upwards of $200. But the co-inventors of microstamping technology have testified that it will cost manufacturers between $0.50 and $1.00 per handgun. To support that estimate, Laserlight Technologies, Inc., the makers of the microstamping equipment say, "[e]ven in the worst case scenario … the service price would range between $0.50 and $3.00 per surface processed, based on volume."[5] To keep the technology affordable and give U.S. companies a market edge, co-inventor Todd Lizotte offered U.S. manufacturers a free license to use the technology without paying royalties.

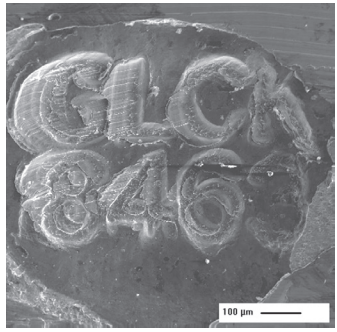
California has already passed a microstamping law that takes effect in 2010, and several other states including New Jersey, Connecticut, Wisconsin,

5 Coalition to Stop Gun Violence. "Microstamping Technology: Precise and Proven." *available at* www.csgv.org/atf/cf/{79FD0842-518D-42AC-8228-AE59B7990689}/microstamping-memo.pdf

Massachusetts, and Rhode Island are considering similar legislation. Because guns regularly travel across state lines, as more states enact legislation, more gun manufacturers will have the technology; as volume increases, cost will decrease.

A study by Lucien Haag presented to the National Academy of Sciences featured this Glock firing pin after 1400 rounds (image reversed).

Finally, the microstamped code is visible using equipment in standard labs. No new or expensive equipment is required to take advantage of microstamping.



Scanning Electron Microscope (SEM) image from a Glock.

MICROSTAMPING IMPROVES ON EXISTING TECHNOLOGY

Ballistic forensics is nothing new. Every semi-automatic weapon leaves a unique set of markings on the bullet casing, called unintentional markings. Currently, ballistics experts use the unintentional markings to match

a bullet casing with a known weapon. Yet this system has inherent limitations that can be improved upon.

The method of reading unintentional markings requires a good deal of discernment. The ballistics expert must analyze the markings and then hope to match them to a database entry or, in a case where the gun was actually recovered, to a test-fired bullet. The orientation of the markings – which side is up and which is down – is not necessarily clear. Moreover, the markings are random and may be difficult to match to the correct firearm.

Microstamping, on the other hand, leaves a clear alpha-numeric or geometric code on the casing that can be more easily read and matched. Because each firearm's bill of sale will indicate the serial number and microstamped codes for that weapon, it is easy to trace the code back to the owner of the firearm; the weapon need not be recovered to make this trace.

Microstamping is the logical next step in ballistics. In many ways, reading unintentional markings can be compared to fingerprinting, while microstamping is comparable to DNA in terms of technological advancement and accuracy.

NO NEW DATABASE IS REQUIRED

The microstamping law neither requires the creation of a new database nor mandates that licensed firearm dealers or law enforcement enter microstamping information into an existing database. The process is fairly straightforward. When a bullet casing is recovered at the scene of a crime, ballistics experts will look at the microstamped imprint that was transferred onto the

casing. That imprint will lead law enforcement to the gun's manufacturer. The manufacturer is required to keep a record of serial numbers and can identify the licensed firearm dealer to whom the gun was sold. That dealer has a copy of the bill of sale noting who purchased the firearm.

Microstamping technology also has the *potential* to enhance the effectiveness of existing databases. Law enforcement currently relies on two databases to match guns used in crimes with firearm owners. New York State's Combined Ballistic Identification System (CoBIS) collects information specific to new firearms sold in New York State. New guns are test-fired and the identifying information – in this case the unintentional markings the gun makes on the shell casings – is entered into the database. More than 200,000 entries have been made since the database was started in 2001. Adding microstamped code would create a level of information that could help link a firearm used in the commission of a crime with a database entry.

A ballistics database already exists at the national level, too. In its current configuration, the National Integrated Ballistic Information Network (NIBIN) collects information on guns that have already been used in the commission of a crime, not on newly manufactured guns. The National Research Council (NRC) studied the notion of expanding this database to include information on new and imported guns sold in the United States. While they did not support that expansion using existing technology, the NRC said that if pistols had microstamping technology they "would have the advantage of imposing uniqueness as a characteristic of ballistic evidence."[6]

6 Daniel L. Cork, et al., Eds., "Ballistic Imaging," Committee to Assess the Feasibility, Accuracy and Technical Capability of a National Ballistics Database, National Research Council (2008).

MICROSTAMPING DETERS STRAW PURCHASES

When someone prohibited from buying a firearm recruits a third party to submit to a background check and purchase a gun from a licensed dealer, it is referred to as a straw purchase – and it is a state and federal offense.[7] Microstamping will deter this practice because a gun used in a crime will be readily traceable to the purchaser.

It will also give law enforcement important insight into trafficking patterns. Licensed dealers who are repeatedly found to have sold trafficked firearms will be easy to identify and prosecute.

MICROSTAMPING PRESERVES CONSTITUTIONAL RIGHTS AND PROTECTS GUN OWNERS

Law abiding citizens have the right to bear arms and to be protected from predators and lawless members of society bent on using guns to kill people. Microstamping aims to help law enforcement catch criminals, not to track responsible gun owners.

More than 1,000,000 semi-automatic pistols were manufactured in America in 2006.[8] They are the choice of most law enforcement specialists because, as one senior investigator put it, "the cops carry them because the criminals carry them." Microstamping, which is specific to semi-automatic pistols, targets the group of people who use their firearm in the commission of a crime. Newburgh Police Lt. Charles Browne says that this makes sense because, "most of [the] firearms that are recovered [from crime scenes] are semiautomatic weapons.'"[9] Microstamping does not create a database

7 N.Y. Pub. Law 265.75 §14-9(2); Title 18, United States Code §§ 922(a)(6), 924(a)(2).

8 Office of FESD, Bureau of Alcohol, Tobacco, Firearms and Explosives, "Annual Firearms Manufacturing and Export Report 2006" (Jan. 29, 2008), *available at* www.atf.gov/firearms/stats/afmer/afmer2006.pdf.

9 Heather Senison, "Ammunition Stamping Bill Being Debated," Legislative Gazette (Apr. 21, 2008).

of all gun owners, and it does not make it more burdensome for gun owners to purchase or maintain their firearms.

SUMMARY

Microstamping has been likened to the "known and accepted practice of placing a serial number on all guns sold in the United States."[10] It provides a simple, discernible tool to trace a bullet casing back to the owner of a gun when that gun is used in a violent crime. Microstamping is an inexpensive and efficient way to quickly put critical information into the hands of law enforcement and to reduce gun violence.

10 Cork, et al., Eds., "Ballistic Imaging," (2008).