RECOMMENDATION

RESOLVED, That the American Bar Association supports federal, state and territorial laws that would restrict the sale, distribution, transfer and possession of .50 caliber sniper weapons except to the United States military, and the National Guard and law enforcement agencies.

FURTHER RESOLVED, That the American Bar Association urges state and local bar associations, and all their respective members, to join with the ABA in the effort to pass such legislation.
REPORT

This report and its recommendations support federal, state and territorial legislation to restrict the sale, distribution, transfer and possession of .50 caliber sniper weapons to the military, National Guard and law enforcement agencies.

The .50 caliber sniper weapon is a blend of rifle and artillery that is capable of long-range explosive power. It was developed for and is in present use in the U.S. military. It is increasingly being sold in the United States to civilians subject to the same minimal federal regulations as shotguns, hunting rifles and smaller target rifles. .50 caliber rifles are, unfortunately, an ideal weapon for terrorists. These weapons can fire accurately and with devastating destruction to vehicles, aircraft, buildings and people from distances well beyond security perimeters and represent a serious and growing threat to law enforcement and national security.

In 1987, Barrett Firearms Manufacturing Inc., patented its self-described “armor penetrating” .50 caliber BMG sniper rifle. According to Barrett the rifle is capable of long range destruction of military targets at distances exceeding a mile. The purpose of developing the .50 caliber rifle was to provide a single soldier the ability to disable or destroy military targets such as armored personnel carriers, radar dishes, communications vehicles, missiles, aircraft, bulk fuel and ammunition storage sites, and to do so with the power of a rocket or mortar but with the precision of a sniper rifle. Barrett’s rifles can fire extraordinarily destructive ammunition developed for these weapons, including armor-piercing and armor-piercing incendiary ammunition, presently freely sold in interstate commerce.

The .50 caliber sniper weapon is specifically designed to engage and destroy material targets on the battlefield at long range. In civilian circulation, these weapons can easily be utilized from distances beyond security perimeters to reach soft targets such as airports and the aircraft in them, rail cars carrying hazardous materials, storage plants for bulk for fuel, chemicals and toxic materials and the trucks and rail cars which transport such materials. The threat to the refinery and chemical industry from such weapons is serious and substantial.

The number of such .50 caliber sniper weapons in civilian circulation is currently relatively small, in the thousands, due to factors of cost and general marketability. But several manufacturers have recently aggressively marketed knockoff versions and sales of these weapons have rapidly grown over the past several years. Despite its destructive potential, the .50 caliber weapon is sold like any other rifle. Under current law, one needs only be 18 years of age, have a driver’s license and pass a minimal background check in order to buy the gun.

The U.S. Congress has acted to restrict various weapons including specific firearms and ammunition. Rockets, mortars and ammunition over .50 caliber size cannot be sold or legally possessed by civilians. Machine guns, sawed-off shotguns, imported junk
handguns, silencers, guns made of plastic or otherwise undetectable by metal screening devices, destructive devices and some armor-piercing ammunition are currently banned or restricted under federal law. (18 U.S.C. § 922 et. Seq.) However, the current federal armor-piercing bullet prohibitions do not currently include .50 caliber ammunition or incendiary versions of it. Legislation in several states has been introduced in the past couple of sessions to address the .50 caliber weapon issue. California, in 2004, became the first state to enact law to regulate the gun, passing AB 50, which prohibits the manufacture, distribution, transportation, importation, keeping or offering for sale, giving or lending any .50 caliber rifle without a California Department of Justice-issued permit.

Several bills have been introduced in the 109th Congress proposing to regulate .50 caliber weapons. Among these is S.935, the .50 Caliber Sniper Weapons Regulation Act of 2005, introduced in the United States Senate on April 28, 2005 by Senator Dianne Feinstein (D-CA). S.935 would amend current federal law to require owners of .50 caliber weapons to pay a special tax, register their weapon, and obtain a license. Transfer or sale of the weapon would be subject to the same requirements. Other pending bills would ban the future civilian sale, distribution, transfer and possession of .50 weapons manufactured. The American Bar Association should endorse such legislation and join with bar leaders and others to support quick action to curtail the serious threat these weapons pose to national security.

**Background.**
Over a period of decades the ABA House of Delegates has considered and approved a range of policy recommendations aimed at preventing and reducing gun violence, including those couched in criminal law, in non-criminal regulatory policy, tort law and in public education and public health strategies. Several recommendations adopted by the House have direct relevancy to these proposed recommendations.

The ABA House of Delegates first addressed regulation of firearms in 1965, following the recommendations of a task force created in response to the assassination of President John F. Kennedy. Among its principal recommendations was a system of regulating sales of guns through licensing of dealers, prohibiting sales to felons, fugitives, persons under indictment, adjudicated mental incompetents and minors. The ABA was one of the leaders among national organizations in advocating for federal reforms in what became the 1968 Gun Control Act. In 1975, the House of Delegates approved a comprehensive set of recommendations, supporting amendments to federal law to, among other things, require background checks of prospective purchasers of firearms to prevent sales to persons prohibited from purchase, in order to provide an enforcement mechanism for the 1968 Gun Control Act prohibitions. The 1975 recommendation also put the ABA on record supporting severe, but not mandatory, penalties for offenses involving firearms. In 1993, the House of Delegates approved a recommendation supporting federal and state legislation that would restrict the sale and possession of assault weapons to the military and law enforcement organizations.

August 2005