August 19, 2021

By electronic submission to www.regulations.gov

U.S. Department of Justice
Bureau of Alcohol, Tobacco, Firearms and Explosives
Office of Regulatory Affairs, Enforcement Programs and Services
Attn: Andrew Lange
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Washington, DC 20226

Re: Definition of "Frame or Receiver" and Identification of Firearms (Docket No. ATF 2021R-05)

The Violence Policy Center (VPC) is pleased to submit comments on the proposed rule, *Definition of "Frame or Receiver" and Identification of Firearms*. The VPC is a national non-profit organization dedicated to reducing firearms violence. The VPC has a long history of studying, analyzing, and advocating on issues related to the gun industry. Some examples of our relevant publications include: *The Militarization of the U.S. Civilian Firearms Market* (June 2011), *Mass Shootings in the United States Involving Large Capacity Ammunition Magazines* (June 2021), *AR-15 and AK-47 Assault Pistols: Rifle Power in a Handgun* (March 2015), *Silencers: A Threat to Public Safety* (July 2019), and *Ghost Guns* (January 2021).[1]

Gaps in federal law have helped create a huge demand for parts used to build homemade firearms, including those commonly known as "ghost guns." Under federal law, individuals are allowed to manufacture a gun for personal use. Unlike guns produced by licensed manufacturers, such weapons are not required to be stamped with a serial number. As a result, they cannot be traced by law enforcement. To facilitate the construction of home firearms, kits that include all of the parts of a fully operable firearm minus the firearm "frame" or "receiver" can be purchased through retail sources, including over the Internet and at gun shows. Receivers house the parts

[1] All publications are available at www.vpc.org.

critical to a firearm's functioning and are defined by federal regulation as "that part of a firearm which provides housing for the hammer, bolt or breechblock, and firing mechanism and which is usually threaded at its forward portion to receive the barrel." They are treated as "firearms" under federal law and are therefore subject to background checks and other restrictions. However, ATF has previously taken the position that some receivers, receiver flats, and receiver castings that require only a modest amount of machining to be completed are not finished receivers and do not meet the definition of a firearm. This interpretation has created a whole new industry that manufactures what are now commonly known as unfinished or "80 percent" receivers. To circumvent marking requirements that facilitate tracing as well as background check requirements, criminals are now purchasing these unfinished receivers which, with minor additional machining, can be turned into finished receivers resulting in untraceable firearms.

The proliferation of privately made firearms including ghost guns presents an existential threat to America's gun laws. It is absolutely imperative that ATF take the steps outlined in the proposed rule to redefine the terms "firearm frame or receiver" and "frame or receiver" and to amend the definitions of "firearm" and "gunsmith." Providing definitions for the terms "complete weapon," "privately made firearm (PMF)," and "readily," are necessary to ensure that the new rule is effective. The Violence Policy Center strongly supports these changes and urges they be promulgated as a final rule without delay.

That privately made firearms are a growing threat to public safety is well documented. Some examples include:

- District of Columbia police recovered 115 ghost guns in 2019, up from 25 in 2018 and three in 2017. In 2021, 79 of 509 illegal guns seized in the first quarter

of the year were ghost guns.[2]

- In 2019, ghost guns made up four percent of all guns confiscated by the San Diego Police Department. That number jumped to 12 percent in 2020. As of April 2021, the number had risen to 22 percent.[3]

- Ghost guns are also implicated in rising homicide rates. In 2020, 44 percent of guns recovered in homicide cases in San Francisco were ghost guns according to the city's police chief.[4]

- A 2016 GAO report indicates that Mexican criminal organizations are trafficking unfinished receivers and firearm parts, further complicating authorities' efforts to prevent the illegal smuggling of firearms from the U.S. to Mexico and Latin America.[5]

- On May 29, 2020, Steven Carrillo and Robert Alvin Justus, Jr. carried out a premeditated attack at the federal courthouse in Oakland, California. While Justus drove, Carrillo opened fire on two guards with an assault rifle from inside a van. One guard died from his wounds. The other guard was seriously wounded. Eight days later, on June 6, 2020, Carrillo murdered a Santa Cruz County Sheriff's Deputy during an encounter in Ben Lomond, California. Law enforcement recovered an AR-15-style rifle from the area where Carrillo was arrested. According to the criminal complaint, "An examination of the rifle by ATF revealed that it appears to be a Privately Made Firearm (PMF) with no manufacturer's markings. The firearm is a short-barreled rifle with an overall length of approximately 23-1/8 inches. The weapon is 9x19mm caliber and accepts Glock-type magazines. A function test showed firing on the pull and release of the trigger. A test fire proved that this weapon fired two or three round bursts when the trigger was released and is classified as a machinegun." ATF

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[2] "D.C. Recovered 115 Ghost Guns in 2019, Up From 25 the Year Before," *Washington City Paper*, January 10, 2020, "Ghost guns, target of Biden agenda, account for 15% of illegal guns seized in DC this year," *wjla.com*, April 8, 2021.

[3] "San Diego Police confiscate 169% more ghost guns in 2020 compared to 2019; 2021 expected to surpass that," *CBS8*, April 8, 2021.

[4] "San Francisco Sues Three Online Retailers for Selling 'Ghost Guns,'" *The New York Times*, August 18, 2021.

[5] *Firearms Trafficking: U.S. Efforts to Combat Firearms Trafficking to Mexico Have Improved, but Some Collaboration Challenges Remain*, United States Government Accountability Office, Report to Congressional Requesters, January 2016.

determined that the rifle was used in both shootings. Law enforcement also recovered evidence that Carrillo identified with the “Boogaloo” movement.[6]



Photo of gun recovered from Steven Carrillo

- On August 7, 2021, District of Columbia police observed a man displaying on Instagram what appeared to be an illegal firearm. When the firearm was recovered it was determined to be an unserialized 9mm personally manufactured ghost gun firearm. The firearm was loaded with one round in the chamber and 36 rounds in an attached drum magazine and was outfitted with a “giggle switch” that rendered it capable of fully automatic fire.[7]

[6] Criminal Complaint, *United States of America v. Steven Carrillo*, U.S. Dist. Ct., case number 4:20-mj-70785-MAG, June 16, 2020.

[7] Criminal Complaint, *United States of America v. Ryan Parker*, U.S. Dist. Ct., case number 1:21-mj-00557, August 8, 2021.



Photo of gun recovered by District of Columbia police

- On June 15, 2021, William Scotts Simms, 73, was indicted for possession of 11 unregistered machine guns and possession of an unregistered silencer. According to court documents, Simms allegedly illegally manufactured 11 fully-automatic firearms he planned to sell for $10,000 each. Simms manufactured the machine guns without any identifying serial numbers.[8]

[8] "South Texas man indicted for manufacturing 'ghost guns' destined for Mexican drug cartel," ICE press release, June 15, 2021.

Ghost guns and other homemade firearms are a menace to public safety and threaten to undermine the integrity of America's gun laws. The Violence Policy Center urges that the proposed rule be finalized without delay.

Respectfully submitted,

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Violence Policy Center