

**TESTIMONY IN SUPPORT OF SB 958,
AN ACT CONCERNING
CRIMINAL LAW – UNTRACEABLE FIREARMS**

TO: THE SENATE JUDICIAL PROCEEDINGS COMMITTEE

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Chair Smith, Vice Chair Waldstreicher, and Members of the Judicial Proceedings Committee: thank you for the opportunity to provide this testimony on behalf of Giffords Law Center to Prevent Gun Violence, the legal arm of the organization founded by former Congresswoman Gabby Giffords. I am writing in support of Senate Bill 958, “An Act Concerning Criminal Law – Untraceable Firearms,” which addresses the growing threat of untraceable firearms, often referred to as “ghost guns.”

Traditionally, when a firearm is manufactured or imported into the United States it must be marked with a serial number and additional information about the manufacturer and/or importer. Then, when it is sold by a retailer to a consumer, a background check is conducted on the consumer and the retailer retains records of the transaction. This process, which is imposed by federal law, is critically important for gun safety. When it works correctly, it prevents individuals who are prohibited from possessing firearms from buying one from a firearms retailer; it discourages trafficking; and it enables a critical law enforcement process known as “tracing.” Law enforcement use tracing as a tool when a firearm is recovered from a crime scene: using the serial number, the firearm can be traced through a chain of custody to the point of its first retail sale. Tracing is a key tool for law enforcement investigations that involve firearms.

Ghost guns disrupt this traditional process. Ghost gun purveyors avoid the range of federal laws pertaining to firearms by selling a set of parts that falls just short of the federal definition of “firearm.” Federal law defines a “firearm” as, among other things, “any weapon (including a starter gun) which will or is designed to or may readily be converted to expel a projectile by the action of an explosive” or “the frame or receiver of any such weapon.”¹ The frame or receiver—a “frame” on a handgun, or a “receiver” on a long gun—is the key component of the firearm that houses the firing mechanism.

Because a frame or receiver is characterized as a “firearm” under federal law, it is this component, and this component alone, that must carry a serial number, and that requires a background check before sale. Once an individual has acquired a frame or receiver, he or she can

¹ 18 U.S.C. § 921(a)(3).

obtain the rest of the parts needed to assemble a firearm without having to pass a background check.

To avoid federal firearm laws, ghost gun purveyors do not sell frames or receivers; instead, they sell “unfinished” frames or receivers, components that have been machined so that they are almost fully functional frames or receivers, but are not considered “frames” or “receivers”—and therefore are not considered “firearms”—for the purposes of federal law. As a result, ghost gun purveyors can sell unfinished frames and receivers, often packaged with all of the other components needed to assemble a firearm, without serializing the product and without conducting a background check. Their customers can then take the package, drill out the few holes needed to convert the “unfinished” piece into a fully functional frame or receiver, and use it to assemble an unserialized, untraceable firearm.

Ghost guns present a grave and growing danger to the public. Law enforcement are increasingly encountering trafficking rings that are mass-manufacturing and selling untraceable firearms.² And ghost guns are increasingly being used in shootings, particularly by individuals who would be unable to pass a background check.

To list just a few examples:

- A man who failed a background check and could not legally purchase a gun built an assault rifle from a ghost gun kit, then used it on a rampage at a college campus, firing 100 rounds and killing five people.³

² E.g., U.S. Attorney’s Office, Eastern District of California, *Eight Men Indicted for Manufacturing and Dealing AR-15 Type Rifles and Silencers Without a License*, DEP’T OF JUSTICE (Oct. 15, 2015), <https://www.justice.gov/usao-edca/pr/eight-men-indicted-manufacturing-and-dealing-ar-15-type-rifles-and-silencers-without>; Zusha Elinson, *The Rise of Untraceable ‘Ghost Guns,’* WALL ST. J. (Jan. 4, 2018), <https://www.wsj.com/articles/the-rise-of-untraceable-ghost-guns-1515061800>; Ryan Gillespie, *Kissimmee Man Sentenced to 5 Years for Building ‘Ghost Guns’ without Federal License*, ORLANDO SENTINEL (June 14, 2018), <https://www.orlandosentinel.com/news/breaking-news/os-kissimmee-ghost-guns-20180614-story.html>; Maxwell Reil, *Man Indicted After Selling ‘Ghost Gun’ in Hammonton*, PRESS OF ATLANTIC CITY (Apr. 13, 2018), https://www.pressofatlanticcity.com/news/man-indicted-after-selling-ghost-gun-in-hammonton/article_16aa48bc-519c-50d5-b66b-748689e9c5b4.html; Cassie Dickman, *Grass Valley Man Sentenced to 5 Years for Trafficking ‘Ghost’ Guns*, SACRAMENTO BEE (Sept. 22, 2018), <https://www.sacbee.com/news/local/crime/article218864215.html>; Jace Larson, *Undercover ATF Agents Bust Alleged ‘Ghost Gun’ Ring Dealing in AK-47s, Homemade Silencers*, DENVER CHANNEL NEWS (Dec. 4, 2018), <https://www.thedenverchannel.com/news/investigations/undercover-atf-agents-bust-alleged-ghost-gun-ring-dealing-in-ak-47s-homemade-silencers>; Tommy Rowan, *12 Arrested in Bust of Alleged Camden County ‘Ghost Gun’ Assault Rifle Ring*, PHILADELPHIA INQUIRER (Mar. 18, 2019), <https://www.philly.com/news/new-jersey-ghost-guns-assault-rifles-pistol-gun-trafficking-camden-county-20190318.html>; Emily Masters, *State Police: Downstate Cop Sold ‘Ghost’ Guns to Motorcycle Gang*, TIMES UNION (Mar. 1, 2019), <https://www.timesunion.com/news/article/State-Police-Downstate-cop-sold-ghost-guns-to-13656862.php>.

³ Robert Cavnar, *Santa Monica Shooter Built His Gun from Parts He Bought Online*, HUFFINGTON POST (June 15, 2013), https://www.huffingtonpost.com/robert-l-cavnar/santa-monica-shooter-buil_b_3447220.html.

- A man who was prohibited from owning a gun and under prosecution for multiple crimes assembled two assault-style ghost guns from parts he ordered online and went on a rampage with them, killing six people and injure 10 more.⁴
- A sixteen-year-old boy used a self-assembled untraceable firearm in a school shooting in Santa Clarita, CA, killing two students and injuring three others.⁵
- Several months ago, in Washington, D.C., two reserve police officers were fired on by an untraceable assault-style weapon.⁶ Since 2018, four people have been killed with untraceable guns in the District.⁷

Ghost guns have repeatedly been used to threaten law enforcement in Maryland. In the summer of 2016 detectives responded to shots fired in West Baltimore, only to be fired on themselves by a man who was firing an assault-style ghost gun.⁸ Since that time the threat to public safety has grown even more severe: the Washington Post has reported that police in “Baltimore and suburban Maryland” have “said they are seeing more of the weapons.”⁹ In late summer of 2019 police recovered a loaded ghost gun equipped with a high-capacity magazine from a man also charged with drug trafficking,¹⁰ and in December of 2019 a ghost gun trafficker was sentenced in

⁴ Ray Sanchez, Jason Hanna & Phil Gast, *Gunman in Northern California Rampage Was Not Supposed to Have Guns*, CNN (Nov. 15, 2017), <http://www.cnn.com/2017/11/15/us/california-tehama-county-shootings/index.html>; Damon Arthur, *Sheriff: Tehama Shooter Built His Own Illegal Guns*, RECORD SEARCHLIGHT, (Nov. 15, 2017), <http://www.redding.com/story/news/2017/11/15/tehama-shooter-built-his-own-illegal-guns/868737001/>.

⁵ Dakin Andone, *The Gunman in the Saugus High School Shooting Used A ‘Ghost Gun,’ Sheriff Says*, CNN (Nov. 21, 2019), <https://www.cnn.com/2019/11/21/us/saugus-shooting-ghost-gun/index.html>.

⁶ Peter Hermann, *Officers Who Were Fired On ‘Could See the Muzzle Flashes, Police Say*, Washington Post (Dec. 13, 2019), https://www.washingtonpost.com/local/public-safety/officers-who-were-fired-on-could-see-the-muzzle-flashes-police-say/2019/12/13/72d645e2-1dcb-11ea-b4c1-fd0d91b60d9e_story.html.

⁷ Peter Hermann, *D.C. Mayor, Police Chief Want to Keep Untraceable ‘Ghost Guns’ Out of District*, Washington Post (Feb. 28, 2020), https://www.washingtonpost.com/local/public-safety/dc-mayor-police-chief-want-to-keep-untraceable-ghost-guns-out-of-district/2020/02/28/5bc8f1d6-5a5e-11ea-9000-f3cffee23036_story.html.

⁸ *Homemade, Untraceable Guns Pose Threat to Police*, WMAR Baltimore (Sept. 22, 2016), <https://www.wmar2news.com/news/crime-checker/baltimore-city-crime/homemade-untraceable-guns-pose-threat-to-police>; see also David Collins, *Police: Man Fired Several Shots at Officers in West Baltimore*, WBALTV (July 18, 2016), <https://www.wbalTV.com/article/police-man-fired-several-shots-at-officers-in-west-baltimore/7101771>.

⁹ Peter Hermann & Tom Jackman, *District Seeks to Ban ‘Ghost Gun’ Kits as Seizures of Homemade Weapons Soar*, Washington Post (Feb. 27, 2020), https://www.washingtonpost.com/local/public-safety/district-seeks-to-ban-ghost-gun-kits-as-seizures-of-homemade-weapons-soar/2020/02/27/d12be0da-5416-11ea-9e47-59804be1dcfb_story.html.

¹⁰ Erika Butler, *Edgewood Man Sleeping on Bel Air Sidewalk had ‘Ghost Gun,’ Drugs, Police Say*, Baltimore Sun (Aug. 16, 2019), <https://www.baltimoresun.com/maryland/harford/aegis/cng-ag-belair-gun-arrest-0816-20190816-kqoovj7jhzgbxful3qriywrme-story.html>.

Montgomery County after supplying ghost guns to organized crime members and other persons prohibited from possessing a firearm.¹¹

SB 958 would protect Maryland residents from these dangers by cutting ghost gun makers off at the source. It would prohibit the possession and sale of unserialized, unfinished frames and receivers, which are the building blocks of not just individual ghost guns but the entire ghost gun industry. By requiring that these products be serialized in accordance with federal laws and regulations for the serialization of completed firearms, it would close the loopholes that the purveyors of these dangerous products exploit, and would thus make it much more difficult to obtain an untraceable firearm in Maryland.

I therefore request a favorable report of SB 958. I am happy to answer any questions about my testimony, or to otherwise be of service to the Committee.

Respectfully Submitted,

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ABOUT GIFFORDS

Giffords is a nonprofit organization dedicated to saving lives from gun violence. Founded and led by former Congresswoman Gabrielle Giffords, Giffords inspires the courage of people from all walks of life to make America safer.

¹¹ Kyle Cooper, *Long Prison Term for Maryland Man Who Sold Untraceable Guns to Criminals*, WTOP News (Dec. 4, 2019), <https://wtop.com/montgomery-county/2019/12/long-prison-term-for-maryland-man-who-sold-untraceable-guns-to-criminals/>.