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Testimony of Tanya Schardt, Legal Counsel and Director, State and Federal Policy
Support for SB 0624
Before the Maryland Senate Judicial Proceedings Committee
February 17, 2021

Chairman Smith, Vice Chair Waldstreicher, and Other Distinguished Members of the Maryland Senate Judicial Proceedings Committee,

Founded in 1974, Brady works across Congress, courts, and communities, uniting gun owners and non-gun owners alike, to take action, not sides, and end America's gun violence epidemic. Our organization today carries the name of Jim Brady, who was shot and severely injured in the assassination attempt on President Ronald Reagan. Jim and his wife, Sarah, led the fight to pass federal legislation requiring background checks for gun sales. Brady continues to uphold Jim and Sarah's legacy by uniting Americans from coast to coast, red and blue, young and old, liberal and conservative, to combat the epidemic of gun violence.

Brady thanks the Committee for taking action on this critical legislation. SB 0624 provides a strong defense to the proliferation and tragic impact of untraceable firearms throughout the state of Maryland.

This law is amongst the evidence-based policy solutions that we know will help address the gun violence epidemic in Maryland. And make no mistake, gun violence is an epidemic, both nationwide and in the state of Maryland. About 725 people die in Maryland each year, on average, due to firearm injuries.¹ Unlike most states, however, the majority of these deaths are due to homicide, which takes the lives of about 450 Marylanders per year.² Much of this high

¹ Five year average (2015-2019) of fatal firearm injury statistics from the Centers for Disease Control and Prevention. Web-based Injury Statistics Query and Reporting System (WISQARS). <https://webappa.cdc.gov/sasweb/ncipc/mortrate.html>. Accessed: February 14, 2021.

² Id.

homicide rate is driven by the disproportionate number of injuries and deaths: 2019 was the second deadliest year on record for the city of Baltimore, with nearly 350 homicides in a single year.³ In 2020, the city's homicide count reached 335.⁴ Firearms are the leading cause of death among both kids and teens in the state of Maryland.⁵ In Maryland, the lifetime risk of firearm death is 0.88%, meaning that 1 out of every 113 Marylanders is expected to die from firearm injuries if current death rates persist.⁶ We can expect all of these numbers to increase with unregulated access to unserialized firearms.

“Ghost Guns” are unserialized and untraceable firearms that can be built by anyone using parts that are currently completely unregulated under federal and Maryland law. Typically, ghost guns are constructed from gun components including unfinished receivers or “80 percent receivers,” which are often sold by online dealers as a part of a kit that includes all of the necessary component parts to turn the unfinished receiver into a fully functioning gun.⁷ Receivers are the part of the firearm that contains the operating parts of the firing mechanism. Ghost guns, whether handguns or assault weapons, have no serial numbers and are essentially untraceable by law enforcement, making these firearms uniquely dangerous. Each of these parts and processes have all been specifically designed to fall outside of federal, state, and local gun regulations and undermine existing gun safety laws. These weapons are, by design, perfect crime guns.⁸

Because Maryland has continued to prioritize public health and safety by enacting life saving gun safety laws that regulate traditional firearms, ghost guns are, and will continue to become more and more prevalent. It is critical to act proactively to stymie their proliferation, which has continued to dramatically increase over the last few years. Maryland is not the first state to understand the dangerous nature of ghost guns: New York, New Jersey, Connecticut, California, and Washington D.C. have all taken action to regulate or ban ghost guns, and several other states are considering similar legislation. **For these reasons, Brady strongly urges the Senate Judicial Proceedings Committee to pass SB 0624 with amendments.**

³ Travis Fedtschun, “Baltimore Sees Second Deadliest Year On Record in 2019, Homicide Clearance Rate Under 40 Percent,” Fox News, available at <https://www.foxnews.com/us/baltimore-homicide-rate-2019-crime-deadly-year-police-clearance>.

⁴ “Baltimore Had 335 Homicides in 2020.” U.S. News & World Report, January 1, 2021. <https://www.usnews.com/news/best-states/maryland/articles/2021-01-01/baltimore-had-335-homicides-in-2020>.

⁵ Everytown for Gun Safety, “Gun Violence in Maryland,” <https://everytownresearch.org/wp-content/uploads/2019/10/Every-State-Fact-Sheet-Maryland.pdf>.

⁶ Sehgal, Ashwini R. "Lifetime Risk of Death From Firearm Injuries, Drug Overdoses, and Motor Vehicle Accidents in the United States." *The American Journal of Medicine* 133, no. 10 (2020): 1162-167. Accessed December 10, 2020. <https://doi.org/10.1016/j.amjmed.2020.03.047>.

⁷ Elizabeth Van Brocklin, ‘Ghost Gun’ Murders and Trafficking Cases Are a Law Enforcement Nightmare Come True, The Trace, (October 16, 2015), <https://www.thetrace.org/2015/10/ghost-gun-lower-receiver-california/>

⁸ Giffords Law Center Asks Internet Service Providers to Immediately Shut Down Websites for Businesses that Allow Dangerous Individuals to Make Untraceable Assault Weapons with No Background Checks, Giffords Law Center to Prevent Gun Violence, (November 28, 2017).

Brady Supports SB 0624 with Amendments

The bill before you today, SB 0624, is a strong defense to the proliferation of ghost guns and Brady supports this legislation with one necessary amendment. As written, SB 0624 does not explicitly mandate that gun dealers keep detailed records of their sales of unfinished frames or receivers. Section 5-704(c)(4) of the current legislative language specifies only that the records be kept “as required by federal law and regulation.” However, based on current interpretations of what is regulated as a firearm under federal law, there are no record-keeping requirements for unfinished frames and receivers. Therefore, as drafted, sellers would not be required to maintain any records of their sales of unfinished frames or receivers and the guns would remain untraceable by law enforcement.

Accordingly Section 5704(c)(4) should be amended to read as follows:

“A PERSON WHO SELLS OR TRANSFERS A FIREARM OR AN UNFINISHED FRAME OR RECEIVER THAT HAS BEEN MARKED IN ACCORDANCE WITH SUBSECTIONS (A) AND (B) OF THIS SECTION SHALL KEEP RECORDS OF SUCH TRANSFER OR SALE, INCLUDING THE SERIAL NUMBER OF THE PRODUCT, THE NAME AND ADDRESS OF THE PERSON RECEIVING THE PRODUCT, THE DATE OF THE TRANSFER OR SALE, AND THE HANDGUN QUALIFICATION LICENSE NUMBER OF THE PERSON RECEIVING THE PRODUCT, AND SHALL MAKE SUCH RECORDS AVAILABLE TO LAW ENFORCEMENT UPON REQUEST.”

With this addition, this legislation will be a comprehensive defense to the proliferation of unregulated and unserialized firearms necessary to protect all Marylanders. We must ensure that individuals who cannot, and should not, be in possession of firearms (like domestic abusers, gun traffickers, and convicted felons) cannot continue to access ghost guns. Ghost guns circumvent both federal and state law and their danger cannot be understated. The Maryland legislature must take swift action to halt their proliferation and use.

Ghost Guns Undermine Existing Gun Safety Laws and Are Designed for Crime

Ghost guns are untraceable firearms constructed by individuals using “unfinished” frames or receivers, pieces of a firearm which, because they contain essential operating parts of the firing mechanism, are the only part of a gun regulated under federal law. However, when a frame or receiver is “unfinished” by a small fraction, it is unregulated — a consequence of ATF not interpreting unfinished components as firearms.⁹ Ghost gun kits include all of the necessary

⁹ U.S. DEP’T OF JUST., BUREAU OF ALCOHOL, TOBACCO, FIREARMS & EXPLOSIVES, *Are “80%” or “Unfinished” Receivers Illegal?*, available at <https://www.atf.gov/firearms/qa/are-unfinished-receivers-illegal> (last visited May 29, 2020).

instructions and hardware to turn the unfinished frame or receiver into a fully functioning gun. These parts and kits are designed and marketed to circumvent federal regulations like Brady background checks because they can be purchased by anyone, even someone who, because they cannot pass such a check, would be prohibited from purchasing a fully assembled gun. This includes prohibited purchasers, domestic abusers, gun traffickers, persons subject to an extreme risk order, and even children and teenagers. Once a ghost gun is assembled, it looks, feels, and functions like a traditional gun, and is just as dangerous in the hands of someone who cannot responsibly possess it.

The process of converting parts into a ghost gun, whether it be a semi-automatic handgun or an AR-15 style assault rifle, involves just a few steps and can be completed in as little as 15 minutes without the consumer possessing any specialized skill or abilities. Once assembled, ghost guns are just as deadly and dangerous as traditional firearms and anyone can buy these kits without any background check or any other requirement mandated under federal or Maryland state law.

Additionally, these weapons undermine and interfere with criminal investigations. Ghost gun dealers and manufacturers purposefully choose not to stamp serial numbers on these parts or other parts included in their firearms assembly kits. Thus, they are essentially invisible to law enforcement. This means that the Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF) cannot trace ghost guns from the manufacturer/importer to the retail purchaser, making it harder to identify the chain of possession and ultimate user of a gun recovered from a crime scene. In fact, if found at a crime scene, law enforcement has little means by which to trace the weapons' origin or ownership. This untraceable quality also interferes with law enforcement's ability to identify potential traffickers and to detect in-state and interstate patterns in the sources of crime guns. This makes the parts/kits used to assemble these weapons highly attractive to criminals and illegal gun traffickers.

The fact that these kits and parts can be purchased online with no background check, without having any human interaction (like with a federally licensed firearm dealer) also makes them attractive and accessible to individuals who fear they may not be able to pass muster at a responsible licensed dealer. This blatantly undermines both Maryland and federal law.

Ghost gun sellers and manufacturers know all of this and intentionally target prohibited purchasers, and other dangerous parties, by purposefully emphasizing the untraceable nature of ghost guns, namely, the absence of a serial number and the fact that their products can be purchased without a background check or interaction with a gun dealer as major selling points.

The Rapid Proliferation of Ghost Guns in the United States and in Maryland

Sales of the kits and parts to make ghost guns have increased significantly in recent years; not surprisingly, the use of ghost guns in crime has increased exponentially. These weapons have been linked nationwide to homicides, suicides, mass shootings, robberies, the shooting deaths of law enforcement officers, and acts of domestic violence. Ghost guns are also playing a role in the disproportionate impact of gun violence in communities of color as they flow into the illegal market. For example, in 2017, law enforcement in the District of Columbia recovered three; in 2018, three became 25; and, in 2019, ghost gun proliferation jumped to 116, at least three of which were subsequently connected to homicides.¹⁰ As of December 17, 2020, police had recovered 282 ghost guns in the city.¹¹

In the midst of a global pandemic, 62 ghost guns were recovered by Maryland police in the first three months of 2020 alone, compared to 117 in all of 2019.¹² About a quarter of the ghost guns recovered in Maryland in 2019 were recovered in the city of Baltimore, and as of December 1, 2020, Baltimore police have recovered over three times the number of ghost guns during all of 2019.¹³ On top of that, between 2016-2019, more than 12,000 ghost gun kits were shipped to Maryland, with sales increasing by almost a factor of four during this time period.¹⁴ Evidence suggests that these sales have only increased further in 2020, as gun sales have skyrocketed during the pandemic. In particular, ghost gun kits have recently been in extraordinarily high demand, with some of the most popular sites posting notice that these kits are backordered for as long as two months.¹⁵

The reality is that ghost guns have already started popping up in the hands of dangerous or prohibited purchasers in Maryland.¹⁶ In February of 2018, a Montgomery County high schooler brought a homemade handgun to his school. The 17-year-old was also in the middle of making an assault style rifle at home.¹⁷ Between September and November 2018, a Baltimore man who had previously been convicted for being a felon in possession of a firearm committed 10 armed

¹⁰ Press Release, Bowser Announces Emergency Ghost Gun Legislation, (Feb. 28, 2020) (on file with author).

¹¹ Jackman, Tom. "Attorneys General in D.C., Md. and Va. Support Lawsuit Demanding ATF Regulate 'Ghost Guns'," December 24, 2020. <https://www.washingtonpost.com/dc-md-va/2020/12/24/ghost-guns-litigation/>.

¹² Lepola, Joy. "ATF Finding More Untraceable Guns 'Ghost Guns' in Baltimore." WBFF. WBFF, November 28, 2020.

<https://foxbaltimore.com/features/operation-crime-justice/atf-finding-more-untraceable-guns-ghost-guns-in-baltimore>.

¹³ Lepola, Joy. "Number of Ghost Guns Recovered in Baltimore More than Triples." WBFF. WBFF, December 4, 2020.

<https://foxbaltimore.com/features/operation-crime-justice/number-of-ghost-guns-recovered-in-baltimore-more-than-triples>.

¹⁴ Lepola, Joy. "ATF Finding More Untraceable Guns 'Ghost Guns' in Baltimore." WBFF. WBFF, November 28, 2020.

<https://foxbaltimore.com/features/operation-crime-justice/atf-finding-more-untraceable-guns-ghost-guns-in-baltimore>.

¹⁵ Fletcher, Lisa. "As Demand for DIY, Serial Number-Less 'Ghost Guns' Rises, so Does Demand for Tougher Laws." WJLA.

WJLA, July 24, 2020. <https://wjla.com/features/7-on-your-side/washington-dc-ghost-guns-tougher-laws>.

¹⁶ Ibid.

¹⁷ Baca, "Ghost Guns: Untraceable firearms in hands of hobbyists, felons, and children," ABC7 (2018),

<https://wjla.com/features/7-on-your-side/ghost-guns>

robberies at five separate banks in Baltimore, White Marsh, Bel Air, and Arbutus.¹⁸ He also committed robberies at liquor stores in Dundalk, Middle River, and Baltimore.¹⁹ The gun discharged by the man in two of these robberies was an untraceable ghost gun.²⁰ In August of 2019, a man was arrested for possessing a loaded ghost gun. The man was already on probation for a prior handgun violation in Baltimore.²¹ In December of 2019, a man living in Silver Spring pled guilty for selling ghost guns to prohibited purchasers.²² The FBI arrested three men in Maryland on January 16, 2020 for planning to incite racial violence using homemade guns. The men had made an assault style ghost gun which they planned to use at the January 20, 2020 gun rights rally in Richmond and specifically discussed using the guns to kill police officers and to encourage a “race war.”²³

California may serve as a cautionary tale to Maryland lawmakers - it is another state with effective gun safety legislation, yet proliferation of ghost guns in that state has been especially egregious. Ghost guns have been used in three mass shootings that received national media attention: in Saugus (2019), Tehama County (2017), and Santa Monica (2013). These shootings combined resulted in 12 deaths, with dozens more injured, and were all perpetrated by individuals prohibited from legally purchasing or possessing firearms.²⁴ Ghost guns have also been used in multiple shootings of law enforcement officers across the state: In August 2019, a convicted felon with an extensive criminal background killed one officer and wounded two others with a ghost gun in Riverside, California.²⁵ In May 2020, a man used a ghost gun to shoot two security officers who were guarding a federal building in downtown Oakland, killing one of them.²⁶ A week later, the Oakland shooter used the same unserialized assault rifle to shoot at law enforcement officers outside his home, killing one Santa Cruz deputy and injuring two others.²⁷

¹⁸ Montcalmo, Chris. “Man Who Robbed White Marsh Bank, Middle River Liquor Store Sentenced to 21 Years in Prison.” Nottingham MD, November 12, 2020. <http://www.nottinghammd.com/2020/11/12/man-who-robbed-white-marsh-bank-middle-river-liquor-store-sentenced-to-21-years-in-prison/>.

¹⁹ Ibid.

²⁰ Ibid.

²¹ Butler, “Edgewood man sleeping on Bel Air sidewalk had ‘ghost gun,’ Baltimore Sun (2019), <https://www.baltimoresun.com/maryland/harford/aegis/cng-ag-belair-gun-arrest-0816-20190816-kqoovj7jhzbxf3qriywzrme-story.html>

²² Cooper, “Long prison term for Maryland man who sold untraceable guns to criminals,” WTOP news (2019), <https://wtop.com/montgomery-county/2019/12/long-prison-term-for-maryland-man-who-sold-untraceable-guns-to-criminals/>

²³ Stephens, “They Planned to Start a Race War. DIY Gun Kits Allowed Them to Build an Arsenal,” The Trace (2020), <https://www.thetrace.org/2020/01/white-supremacists-the-base-fbi-virginia-diy-ghost-gun/>

²⁴ See Alain Stephens, Officials Confirm Santa Clarita Shooter Used A Ghost Gun, LAIST.com, (Nov. 20, 2019), available at https://laist.com/2019/11/20/feds_investigating Whether_saugus_santa_clarita_shooter_used_ghost_gun.php; Joseph Serna, Woman Attacked Months Ago by Rancho Tehama Gunman 'Knew This Was Going to End Bad', L.A. Times (Nov. 30, 2017), available at <http://www.latimes.com/local/lanow/la-me-ln-tehama-shooting-neighbor-20171130-story.html>.

²⁵ Winton, Richard. “Rifle Used in Deadly Riverside Shooting Was Untraceable ‘Ghost Gun,’ Sources Say,” August 14, 2019. <https://www.latimes.com/california/story/2019-08-14/rifle-used-in-deadly-riverside-shooting-was-untraceable-ghost-gun-sources-say>.

²⁶ Winton, Richard, Maura Dolan, and Anita Chabria. “Far-Right ‘Boogaloo Boys’ Linked to Killing of California Law Officers and Other Violence.” Los Angeles Times. Los Angeles Times, June 17, 2020. <https://www.latimes.com/california/story/2020-06-17/far-right-boogaloo-boys-linked-to-killing-of-california-lawmen-other-violence>.

²⁷ Gartrell, Nate, and Fiona Kelliher. “Authorities Charge Alleged Santa Cruz Deputy Killer with Assassinating Federal Cop in Oakland, Link Attacks to Boogaloo Movement.” The Mercury News. The Mercury News, August 28, 2020.

In September 2020, a man walked up to a police car outside a Metro station and shot two Los Angeles County deputies with an untraceable ghost gun.²⁸ Because California has not taken immediate action to regulate ghost guns prior to the sale of unfinished receivers, the use of ghost guns in crime has simply exploded in recent years. Carlos A. Canino, the Special Agent in charge of ATF's Los Angeles Field Division, explained in early 2020 that “forty-one percent, so almost half our cases we’re coming across, are these ghost guns.”²⁹

Both California and Maryland have enacted strong gun safety laws, and both are facing an outsized proliferation of ghost guns on their streets. Maryland legislators must act now to proactively prevent the further proliferation of ghost guns in their state.

3-D printing will increase access to untraceable guns

Recent technology has opened the door to a new type of dangerous unregulated ghost gun-- firearms and high-capacity magazines made with three-dimensional printers (“3-D printers”). In 2012, a company called Defense Distributed began exporting technical data related to firearms through the publication of Computer Aided Design (“CAD”) files, without restriction, on the Internet. These CAD files are essentially blueprints for the creation of guns and gun components via a 3-D printer.

Similar to traditional ghost guns, 3-D printed guns are manufactured without serial numbers and cannot be traced by law enforcement, and therefore undermine criminal investigations and circumvent federal law and Maryland law. Also, 3-D printed ghost guns can be made entirely of plastics, rendering most modern security devices like metal detectors ineffective in detecting the presence of the weapon.

This means that anyone, even those who have been deemed unfit to possess a firearm, could be armed anywhere and at any time. For example, a person prohibited from purchasing a firearm could manufacture a firearm on a 3-D printer, and then could evade metal detectors at an airport or in a courthouse without any problem. The risks of this are incalculable.

Conclusion

These unregulated and untraceable weapons are both being made and transported into Maryland, into the criminal market, and into the hands of those prohibited from owning firearms. It is

<https://www.mercurynews.com/2020/06/16/santa-cruz-deputys-alleged-killer-charged-with-assassinating-federal-cop-in-oakland-ambush/>.

²⁸ Chris Harris, “Suspect ID'd in Ambush Shooting of Los Angeles Deputies Who Were Sitting in Patrol Car.” PEOPLE.com, October 1, 2020. <https://people.com/crime/suspect-arrested-los-angeles-sheriff-deputies-shooting/>.

²⁹ Brandi Hitt, “Ghost Guns” Investigation: Law Enforcement Seeing Unserialized Firearms on Daily Basis in SoCal, ABC 7 (Jan. 30, 2020), available at <https://abc7.com/5893043/>

important to act proactively and aggressively to prevent the continued proliferation of these weapons.

For these reasons, Brady strongly urges the Maryland House Judiciary Committee to pass SB 0624, with an Amendment to Section 5-704(c)(4), such that it reads as follows:

“A PERSON WHO SELLS OR TRANSFERS A FIREARM OR AN UNFINISHED FRAME OR RECEIVER THAT HAS BEEN MARKED IN ACCORDANCE WITH SUBSECTIONS (A) AND (B) OF THIS SECTION SHALL KEEP RECORDS OF SUCH TRANSFER OR SALE, INCLUDING THE SERIAL NUMBER OF THE PRODUCT, THE NAME AND ADDRESS OF THE PERSON RECEIVING THE PRODUCT, THE DATE OF THE TRANSFER OR SALE, AND THE HANDGUN QUALIFICATION LICENSE NUMBER OF THE PERSON RECEIVING THE PRODUCT, AND SHALL MAKE SUCH RECORDS AVAILABLE TO LAW ENFORCEMENT UPON REQUEST.”

Thank you for your time and for taking action on this critical piece of legislation.