



1 March 2021

The President
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Request on Behalf of Law-Abiding Owners of Non-Firearm Receiver Blanks and Non-Commercial Manufacturers of Home-Built Firearms

Dear Mr. President:

Recent reports indicate that your administration is considering Executive Action to “require buyers of so-called ‘ghost guns’—unmanufactured non-firearms or non-commercial manufactured firearms— to undergo background checks.”¹

This report follows hot on the heels of the “virtual discussion with leaders of gun violence prevention advocacy groups” hosted by your Domestic Policy Advisor Susan Rice and your White House Public Engagement Director and Senior Advisor Cedric Richmond.²

Gun Owners of America, Defense Distributed, and JSD Supply are collectively writing to you to advocate on behalf of the millions of non-commercial manufacturers of homemade firearms— law-abiding Americans who make up our grassroots supporters and customers. These people are engaging in lawful activities that are as old as our republic itself.

We find it necessary to remind you and your administration that, at present, there is no federal prohibition on manufacturing non-commercial firearms for personal use. “Congress did not draft the GCA [Gun Control Act of 1968] to develop a categorical anti-gun approach to firearm regulation.” Even the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) believes that the legal dispute over “ghost guns” is, “at its core, a policy dispute.”³

ATF maintained on January 11th of 2021 that “in any event, because receiver blanks do not fall within the plain meaning of the GCA’s definition of “firearm,” the consequences of that definition are for Congress to address.”⁴

Any attempt to force the federal government to further regulate non-firearms commonly referred to as “ghost guns” would therefore be both arbitrary and capricious.

Forcing ATF to adopt a new approach to the classification of non-firearms would greatly expand ATF authority beyond the GCA; it would also violate rights protected by the Second Amendment by imposing restrictions on otherwise lawful activity excluded from the GCA.

The website for the ATF provides answers to many commonly asked questions which your administration officials seem to be asking.

One such question the ATF answers is: “Does an individual need a license to make a firearm for personal use?”⁵ ATF correctly provides the following response: “No, a license is not required to make a firearm solely for personal use. However, a license is required to manufacture firearms for sale or distribution.”⁶

We represent gun owners who are not engaged in the business of manufacturing firearms for sale but who instead legally manufacture firearms for non-commercial personal use.⁷

Further, the term “80% receiver” is a term of art used to describe an “unfinished receiver” or “receiver blank” that is not yet to a sufficient stage of completeness to be considered a firearm. The term is not found in any statute or regulation because such items are *not* firearms and are *not* regulated by federal law in any way.⁸

The ATF website⁹ also sets out the question: “What is an ‘80%’ or ‘unfinished’ receiver?” The response provided is: “‘80% receiver,’ ‘80% finished,’ ‘80% complete’ and ‘unfinished receiver’ are all terms referring to an item that some may believe has not yet reached a stage of manufacture that meets the definition of ‘firearm frame’ or ‘receiver’ according to the Gun Control Act (GCA).¹⁰ These are not statutory terms and ATF does not use or endorse them.”

The ATF has long taken the position that “[r]eceiver blanks that do not meet the definition of a ‘firearm’ are not subject to regulation under the Gun Control Act.”¹¹ In fact, “ATF has thoroughly considered the efforts, steps, and tools needed to convert receiver blanks into firearms, along with the time necessary to do so when relevant or appropriate, going back to as early as 1983.”¹²

A “firearm” is defined as “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.” This definition includes “the frame or receiver of any such weapon.”¹³

A “handgun” is defined as “(A) a firearm which has a short stock and is designed to be held and fired by the use of a single hand; and (B) any combination of parts from which a firearm described in subparagraph (A) can be assembled.”¹⁴

On November 30, 2020, the ATF filed a Motion to Dismiss a complaint brought by the State of California and an anti-Second Amendment group, seeking to force the ATF classify 80% receivers as firearms.¹⁵

The ATF’s position in that case, as of November 30, 2020, is as follows: “ATF defines a ‘receiver’ 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.’¹⁶ A receiver blank does not yet ‘provide[] housing for the hammer, bolt, or breechblock, and firing mechanism,’ and is therefore not a ‘receiver’ within this definition.”

And further, “[a] receiver blank in which no ‘machining of any kind’ has been ‘performed in the area of the trigger/hammer (fire-control) recess (or cavity)’ has no space yet that can ‘hous[e] ...

the] firing mechanism,' 27 C.F.R. § 478.11, and therefore ATF's interpretation of 'receiver' to exclude receiver blanks is not inconsistent with the regulation."

Neither 3D printed gun files nor unfinished receiver blanks constitute "firearms" or "handguns" because they are not "firearms."

Additionally, an unfinished receiver sold as a kit with other unregulated gun parts is not a "combination of parts from which a firearm [...] can be assembled" because the unfinished frame must first be *manufactured* before it can be *assembled*.

And no amount of additional unregulated parts sold alongside an unregulated unfinished receiver blank can magically transform a non-firearm into a "firearm" or a "handgun."

In the aforementioned case, ATF even acknowledged¹⁷ the "ancillary rights" protected by the Second Amendment, including "a corresponding right to obtain" the 'necessary' arms and ammunition, including through means such as purchase, private transfer, and private, non-commercial assembly or manufacture."¹⁸

It is imperative that your administration respect the Bill of Rights amended to our Constitution and refrain from infringing on the rights of gun owners—whether enumerated or ancillary.

Disregarding our Constitution, rule of law, and longstanding regulatory precedent, anti-gun politicians and lobbyists may demand the federal government abuse Title 18 U.S.C. § 921(a)(29) to arbitrarily regulate "ghost guns."

But implementing such ludicrous requests could result in a solid block of aluminum or polymer packaged together with other unregulated firearms parts being considered a handgun under the statute, even though it would require milling or molding into a functional firearm frame before assembly.

It is in part because of its longstanding policy, ATF must not adopt an entirely new interpretation of the application of federal law to 80% receiver blanks.

So-called "ghost gun" owners and manufacturers reasonably fear the consequences of arbitrary criminalization through potential Executive Action.

ATF investigations and raids are conducted by armed federal agents. When this occurs at private homes, the person who answers the door may be the person who bought or manufactured the arbitrarily criminalized material or may be the wife or husband or child or parent or grandparent of the purchaser, who has no idea why armed federal agents are demanding that unregulated firearms parts be immediately located and surrendered.

The vast number of persons purchasing non-firearm receiver blanks or manufacturing homemade firearms are law-abiding American citizens who enjoy "do-it-yourself" projects and want to take on the challenge of attempting to manufacture a firearm, *as has been legal under federal law literally since the ratification of the Constitution*.

It is certainly possible that law enforcement raids on homes, wherein government officials

demand that property be surrendered, will lead to intimidation, threats, abusive treatment, and even weapons being pulled on American citizens by ATF agents. This will result in serious mental, emotional, and, in a worst-case scenario, bodily injuries and death of law-abiding American citizens.

The ATF agents tasked with enforcing any new Executive Action may likewise face unnecessary danger, as they could trigger actions in reasonable defense of self, family, and home, by persons who are known to be law-abiding gun owners. In many states, homeowners may use deadly force to repel unlawful invasions, and no bureaucrat or lobbyist can be certain how these armed encounters will occur or how dangerous or even deadly they will be.

ATF should not be permitted to go door-to-door rounding up “ghost guns” or regulate any non-firearm receiver blanks without the passage of any new laws and based only on the authority of ATF to re-classify—on the fly—unregulated items that are popular within the shooting community. Operating arbitrarily, your administration and the ATF should not engage in the partisan and reckless business of making lawful items unlawful, making lawful companies guilty of felonious behavior, or making lawful purchasers at risk of being visited by armed government agents. Certainly such action should not be taken against property that the ATF itself said was lawful to manufacture, sell, and possess.

Yours in liberty,

Aidan Johnston
Director of Federal Affairs
Gun Owners of America

Jordan Vinroe
President
JSD Supply

Defense Distributed

¹ See <https://www.politico.com/news/2021/02/23/biden-gun-safety-pandemic-471064>

² See <https://www.whitehouse.gov/briefing-room/statements-releases/2021/02/10/readout-of-the-white-houses-meeting-with-gun-violence-prevention-advocacy-groups-2/>

³ See *State of California, et al. v. ATF, et al.*; Civil Action No. 3:20-cv-06761-EMC, Docket No. 29. *Defendants' Reply in Support of Their Motion to Dismiss 1.*

⁴ See *State of California, et al. v. ATF, et al.*; Civil Action No. 3:20-cv-06761-EMC, Docket No. 29. *Defendants' Reply in Support of Their Motion to Dismiss 9.*

² See <https://www.atf.gov/firearms/qa/does-individual-need-license-make-firearm-personal-use>

⁶ C.f. 18 U.S.C. § 922(o), (p) and (r); 26 U.S.C. § 5822; 27 CFR § 478.39, 479.62 and § 479.105.

⁷ C.f. 18 U.S.C. § 921(a)(22)

⁸ See <https://www.atf.gov/firearms/qa/are-%E2%80%9C80%E2%80%9D-or-%E2%80%9Cunfinished%E2%80%9D-receivers-illegal> (last access 12.12.2020).

⁹ See <https://www.atf.gov/firearms/qa/what-%E2%80%9C80%E2%80%9D-or-%E2%80%9Cunfinished-receiver>

¹⁰ See <https://www.atf.gov/rules-and-regulations/gun-control-act>

¹¹ See <https://www.atf.gov/firearms/qa/are-%E2%80%9C80%E2%80%9D-or-%E2%80%9Cunfinished%E2%80%9D-receivers-illegal>

¹² See *State of California, et al. v. ATF, et al.*; Civil Action No. 3:20-cv-06761-EMC, Docket No. 29. *Defendants' Reply in Support of Their Motion to Dismiss 9.*

¹³ See 18 U.S.C. § 921(a) (3) (A)

¹⁴ See 18 U.S.C. § 921(a)(29)

¹⁵ See *State of California, et al. v. ATF, et al.*; Civil Action No. 3:20-cv-06761-EMC, Docket No. 29.

¹⁶ See 27 C.F.R. § 478.11.

¹⁷ *id.* (quoting *Jackson v. City and County of San Francisco*, 746 F.3d 953, 967 (9th Cir. 2014))

¹⁸ See *Bezot v. United States*, 276 F. Supp. 3d 576, 605 (E.D. La. 2017) (restrictions on 'the use of imported parts to assemble a firearm . . . likely impinge on the rights of law-abiding, responsible citizens . . . to acquire' firearms), *aff'd* 714 F. App'x 336, 341 (5th Cir. 2017)[.]”