

Testimony of Ashley Hlebinsky
United States Senate
Subcommittee on the Constitution, Committee on the Judiciary
Stop Gun Violence: Ghost Guns
May 11, 2021

Chairman Blumenthal, Ranking Member Cruz, and distinguished Members of the Committee:

My name is Ashley Hlebinsky, and I am honored to testify today about the long history of firearms made by private individuals both in Europe and America, the role of serial number identification throughout history as well as touch on current discussions on today's home-built firearms. I will also discuss the proposal set forth by the Bureau of Alcohol, Tobacco, Firearms and Explosives (BATFE) on May 7, 2021 and their claims that 50+ year old definitions are outdated and in need of revision, despite the fact that many of the technologies cited, such as striker fired (also historically known as a linear hammer) operating systems and split receivers have been around for over a century and were common in America since their inception.¹ The technologies were known and available when these definitions were initially outlined, and for whatever reason they were previously disregarded.

I have spent the last fifteen years immersed in the study of firearms history, technology, and culture. I earned both a Bachelor's and a Master's Degree in American History from the University of Delaware and much of my work since then has surrounded the macro-history of firearms and how their developments have affected industry, culture and society for centuries. I have been fortunate to work in some of the largest collections in the United States, beginning my career as a researcher and fellow in the Smithsonian Institution's National Firearms Collection housed in the National Museum of American History. I have spent the past decade working with and ultimately running the only accredited firearms museum in the United States, the Cody Firearms Museum at the Buffalo Bill Center of the West.² That collection consists of around 7,000 firearms and about 20,000 other related artifacts. During my tenure, I also served as Project Director of the museum's full scale multi-million-dollar renovation. The renovated museum now tackles *all* of firearms' history, good, bad, and somewhere in between.³ It is my mission to

¹ Department of Justice. Bureau of Alcohol, Tobacco, Firearms and Explosive. 27 CFR Parts 478 and 479. <<https://www.atf.gov/rules-and-regulations/definition-frame-or-receiver>> Accessed May 9, 2021.

² The referenced accreditation process is defined by the American Alliance of Museums and is a standard by which museums must adhere in all areas of the preservation and exhibition of artifacts. Only 5% of all museums in the United States have this designation. < <https://www.aam-us.org/programs/accreditation-excellence-programs/accreditation/>> Accessed May 9, 2021.

³ If interested, the renovation received positive feedback from multiple news sources such as National Public Radio and the Wall Street Journal for its emphasis on safety and culture.

help provide the context that is severely lacking in much of modern and academic discussions on firearms, their role in today's society, and concerns of violence in our culture to facilitate a productive dialogue. I also have my own consulting firm. I provide guidance to museums as well other non- and for-profit organizations on the interpretation of firearms history and technology. Additionally, through this business I work as an expert witness on civil and criminal cases involving firearms and ammunition in the United States and Canada.

As a result of my work in this field, I am honored for every opportunity to discuss these topics. While some may or may not like these histories and have varied beliefs on their impact in today's culture, it is my hope that through this information we are empowered to have a more informed dialogue moving forward.

Firstly, I would like to touch upon the politically charged terminology that is common in today's firearms debate. This rhetoric often serves to evoke emotion rather than clearly describe the actual technology, and as a result, confuses much of the discussion that could be had on the efficacy of proposed policies.

Terminology

A lot of terms are used to describe firearms in the modern gun debate. Some are based on proposed legislation or are used as rhetoric and talking points, while others have real historical definitions yet are used in the wrong contexts.⁴ The problem is these names are often used interchangeably with unlike terms making this discussion even more confusing.⁵

<<https://www.npr.org/2019/08/25/753448348/firearms-museum-focuses-on-gun-safety-history-and-culture>>. Accessed May 9, 2021.

⁴ Several of these terms are discussed within the Cody Firearms museum such as assault weapons, military-style semi-automatic rifles, ghost guns, modern sporting rifles. For reference, I have served as an expert witness on Miller v Becerra (Case No. 3:19-cv-01537-BEN-JLB), an active lawsuit regarding the California Assault Weapons ban. As a result, I have traced the historical origins and commonality of all the features defined in these laws. A copy of that declaration can be found here: < <http://publicfiles.firearmspolicy.org/miller-v-becerra/2019-12-13-miller-notice-errata-corrections.pdf>> Accessed May 9, 2021

⁵ For example, typically the term assault weapon and assault rifle are used interchangeably. Assault weapon relates to legislation of semi-automatics firearms with specific features, although it does have a historic meaning separate from today's policies. The term assault rifle, however, arose to differentiate the technology with battle rifles because assault rifles accept an intermediate cartridge and battle rifles, a full rifle cartridge. Additionally, an assault rifle is selective fire meaning it has the ability of automatic fire, in which one trigger press fires the gun continuously until release, the firearm runs out of ammunition or jams. According to the Hugh's Amendment in the Firearms Owners and Protections Act, which bans civilians from owning machine guns made after 1986, modern assault rifles from this date on are not available to the public. Ones made before 1986 can be purchased with extensive background check systems, are tracked by a registry, and taxed with a \$200 stamp. These firearms tend to be acquired by enthusiasts that can afford a five or six-figure auction price.

Certain terms like, “Ghost Guns” evoke strong emotions, however, they also create a false sense of authority on the subject matter that can make discussions unproductive. It creates a perception about certain firearms that may not align with reality. For example, with the term, “Ghost Gun,” it is possible that someone could conflate that classification to mean *undetectable* rather than *untraceable*, meaning that people could assume the gun is able to bypass security scanners, which is understandably concerning to the general public, rather than be considered untraceable as a means of identification after a crime rather than prevent one. Upon closer examination, many of these names are often erroneous, flawed, and historically and factually inaccurate. Furthermore, the "understood" definitions for these words change depending on who is using them and the context in which it is used. It is of prime concern that organizations such as the BATFE, charged with knowing the technology and history behind the definitions they create, in this case alone, have largely ignored over 70 years of historical technology when creating the initial definitions being discussed today. The document in essence seems to be a reconciliation of previous omissions and errors.

The recent attempts to correct misused terminology often are dismissed as unnecessary semantics. However, the lack of precision in definitions and technical understanding has resulted in the fallout you see today. Simply stated, our laws and policies must be precise. A particular buzz word used today is the term, “loophole.” It would seem that loopholes tend to be blamed on manufacturers, individuals, and the court system. However, the lens also should be turned inward, as they are a direct reflection of the law as it was written – laws which are often celebrated as a complete success after its passing despite the fact much of it is open to interpretation and in many cases, poorly worded. More emphasis should be placed on getting it right at the outset. Instead of reacting after the fact, some of these concerns could have been identified and mitigated with more cooperation and education.

The ramifications of our language are significant: By using these inaccurate classifications or flowery language – we ultimately obfuscate comprehension of the technology and limit a meaningful dialogue on ways to reduce crime and violence. And by providing confusing, inaccurate and in some cases ambiguous definitions that are open to interpretation, the door is opened to not only legal challenges down the line, but in the end, do not actually ban the technology to which it claims. It is misleading to the public to hide behind pedantic documents, especially when these people may believe that the changes are more significant than they ultimately are. This may seem like you are just making it difficult for gun owners, who do not necessarily reflect your personal beliefs, but you are also letting down your constituency who may support gun control and think these laws are more substantial and infallible than they are.

As a historian, I have spent a great deal of time looking at today's culture concerning firearms and tracking where these perceptions and narratives began and why. I also work to determine if statements about guns and their technologies align with their history.

For this hearing, I will more precisely refer to “home-made” or “privately-made” firearms rather than “Ghost Guns.”⁶ In today’s law, certain receivers that would be considered 100% can be purchased and assembled with parts kits, however, those are already subject to serial number identification and background checks. It is the colloquially used 80% designation which is the topic of conversation as this is a more involved and time-consuming process, which does not fall under the same regulation of the aforementioned 100% receiver. While the term “Ghost Gun” is related to the latter, the two are often conflated and used interchangeably when discussing this with each other and the public.⁷

To reiterate, I will begin with a brief history of privately made firearms in both European and American history. I will then spend some time on the history of serial numbers and their obliterations by criminals for over a century. I will then examine a few terms and claims made by the BATFE in their recent proposal and conclude with a brief discussion on the type of people making privately-made firearms today as well as the tracing tools already a part of BATFE procedures that are not being utilized to their fullest.

History of Privately Made Firearms: Necessity and Innovation

Privately made firearms have been in existence since the first ignition system was developed close to 500 years ago, in the 1400s.⁸

This era lacked both the armories and manufacturing facilities that drove the Industrial periods. Therefore, making firearms for both civilians and the military often fell to the individual, not unlike clockmakers or blacksmiths.

⁶ Note that I am speaking more generally when using the term, “privately made firearms” in order to refer specifically to any guns made by an individual in a home or shop and not by an armory or a major manufacturer. The BATFE defines this differently in their latest proposal: Department of Justice. Bureau of Alcohol, Tobacco, Firearms and Explosive. 27 CFR Parts 478 and 479. <<https://www.atf.gov/rules-and-regulations/definition-frame-or-receiver>> Accessed May 9, 2021.

⁷ Additionally, please note that I will use the term firearm throughout this document primarily in the non-legal sense unless otherwise noted

⁸ Before the emergence of armories and standard manufacturing processes, everyone relied on gunmakers (ie individuals making guns privately) for both military and civilian arms. For references on the first ignition system, please look at some resources, such as: *Grant, R.G. Battle: A Visual Journey through 5,000 Years of Combat*. DK Publishing: New York (NY), 2005; *Weapon: A Visual History of Arms and Amor*. DK Publishing: New York (NY), 2006.

While private individuals were making arms for the military, it is important to note that civilian *owned* firearms have always had superior technology to the military as they are not bogged down by expense, time constraints, tactics, and bureaucracy like military firearms. For example, rifling was developed at the turn of the 16th century but was used almost solely in civilian guns and was not standardized into military arms until the 19th century.⁹ Additionally throughout history and even today, civilians have been able to purchase post-war weapons surplus (actual military firearms) for less expensive prices. For example, the Springfield Rifle-Musket from the American Civil War was available for purchase after the war for \$6 from the government directly. Others purchased through dealers and distributors.¹⁰

In the American colonies alone, it is estimated that around 2,500 to 3,000 gunmakers were making guns.¹¹ While these gunmakers were able to make firearms from scratch (carving wood, forging barrels, engraving metal, etc.), many ordered parts to assemble the guns even back then. For example, colonists could order parts like barrels and lock plates manufactured in England and Europe and more efficiently assemble firearms for their use. Lock plates possess spring mechanisms in order to function the cocking mechanism and while in appearance, they seem more like a “receiver,” the stock in fact is what holds the trigger, lock and barrel together.

Even in the 19th century, with the advent of significant manufacturing names, parts for guns were still made by individuals, many of whom started major manufacturing companies. For example, Eliphalet

⁹ Rifling refers to a spiral of lands and grooves inside the barrel of a gun that rotates a projectile in order to improve the accuracy of its flight path after leaving the muzzle or end of the barrel. Throwing a football is often referenced as a comparison. This online timeline does not get all its dates correct, but for the rifling information it is good. Gun Timeline. *PBS History Detectives*. < <https://www.pbs.org/opb/historydetectives/technique/gun-timeline/> > Accessed 1/4/2021. Additionally, the main factor that rifling was not standardized on the battlefield until the mid-19th century, is because of the available ammunition and military tactics. Until the development of a successful conically shaped bullet (rather than a round musket ball) by Claude Etienne Minie and modified by James Burton at Harpers Ferry, rifling was expensive and slow to load. For a round ball to effectively spin in rifling, it had to fit perfectly which slowed the loading process. However, it was perfect for target shooting (competitions dating to at least the turn of the 16th century) as well as hunting and specialized military use. Since tactics by the military were still shoulder-to-shoulder fighting, accuracy was not of prime importance, so militaries used smoothbore (unrifled) barrels for their standard equipment. Other things owned by civilians starting in the 1600s, were magazine-fed firearms, repeaters, gas sealed firearms, and even some early recoil operated guns.

¹⁰ Today, the Civilian Marksmanship Program sells post-war weapon surplus guns including several semi-automatic firearms such as the M1 Garand. For the statistic on the Rifle-Musket: “A Springfield Rifle Musket.” Springfield Armory National Historic Site. < <https://www.nps.gov/spar/learn/historyculture/a-springfield-rifle-musket.htm> >. Accessed 1/4/2021

¹¹ Moller, George D. *American Military Shoulder Arms: Volume 1*. University of New Mexico Press, 2011. P.107

Remington, founder of the now over 200-year-old company, started as a barrel maker.¹² Even Colt utilized barrels from Eli Whitney.¹³

Until the late 1700's and the emergence of armories, gun-making was primarily a civilian activity.¹⁴ And even after the development of armories, early government efforts focused on standardizing a pattern for everyone to make as individual gunmakers were scattered across the colonies. Even the British were using civilian made locks despite having their own armory.¹⁵

In America, gun-making at home was *essential* to the Continental Army, and typically, it was more practical and efficient to assemble rather than completely start from scratch.¹⁶ Despite the emergence of armories, mass production, and the innovation of prominent manufacturers, the role of the individual never went away and still exists today.

At the height of the Civil War, there were two significant arsenals in America as well as a pre-war stockpile of arms and major manufacturer involvement.¹⁷ These companies and the government often relied on individuals to aid production. For example, Henry Deringer, Jr., who is better known for his single shot pistols, made lock plates for the military; and designers such as former Colt employee and inventor, Rollin White, helped fulfill government contracts.¹⁸

While companies like Winchester, Colt, and Remington had designers in house, they relied heavily on American ingenuity and the innovation of individuals to develop patents that could lead to manufacturing and the sale of finished products.

¹² Eliphalet Remington began making barrels in 1816. < <https://www.remington.com/about-us.html>> Accessed May 9, 2021

¹³ In 1798, Eli Whitney convinced the government he could deliver 10,000 muskets with interchangeable parts. < <https://gunvalues.gundigest.com/whitney-arms-company/15255/eli-whitney-sr-armory-muskets-1798-1824-1798-u-s-contract-muskets-types-i-iv/>> May 9, 2021

¹⁴ In 1794, Springfield Armory began making muskets. National Park Service. Springfield Armory National Historic Site: History and Culture < <https://www.nps.gov/spar/learn/historyculture/index.htm>> Accessed May 9, 2021

¹⁵ Many lock plates for Brown Bess Muskets (the standard musket used during the American Revolution) were not marked, "Tower" referencing their armory, but rather marked by individual lock makers such as, "Grice."

¹⁶ Moller, George D. *American Military Shoulder Arms: Volume 1*. University of New Mexico Press, 2011

¹⁷ These armories were Springfield and Harpers Ferry. Companies such as Colt and Remington made many firearms during this time period as well.

¹⁸ Rollin White not only devised and patented a bored-through cylinder, which was popularized and produced by Smith & Wesson, he also developed many magazine patents: Rollin White Patent No 12648 1855: <<https://patents.google.com/patent/US12648A/en>>. For additional information on him, please visit: < <http://www.nramuseum.org/guns/the-galleries/a-prospering-new-republic-1780-to-1860/case-11-firearms-innovations/rollin-white-arms-co-single-action-pocket-revolver.aspx>> Accessed May 9, 2021.

There are many individuals who could be referenced, but I will stick to a name most, even outside the firearms world, tends to recognize, John Moses Browning.¹⁹ Browning and his brothers were inventing and making firearms privately by the latter half of the 19th century. Browning sold patents to companies all over the world such as Winchester, Colt, Remington and Fabrique Nationale, but largely remained a private free agent. Unencumbered by regulations and transfer markings, he was able to develop all kinds of firearms, including machine guns, without a governmental concern for public safety. Many of these guns continue to be used in commercial and military markets today. One design, his M2 machine gun was designed in 1918, and was adopted by the military. It continues to protect our servicemen and women even a century later.²⁰ Without hobbyists, designers, and private individuals, much of this innovation would not have been possible. Additionally, the argument can be made that with the passing of the Hughes Amendment, which prohibited civilians from owning machine guns made after 1986, in addition to transfer regulations, that innovation has been stifled. And while some may see these innovations as negative, many of these inventions have included major developments of passive and active mechanisms that would make firearms safer.²¹

In the early to mid-20th century there is a short period in which the government began to play a more significant role in designing and distributing firearms for the military and other government agencies, But, by the post-World War II period, following the challenge and expense of making the M14 selective-fire rifle at Springfield Armory, and its subsequent closure, subcontractors were once again heavily relied upon.²²

Serial Numbers: History, Obliteration, Today

Serial numbers in a traditional sense really began to appear on firearms in the 19th century, and even then, it was more of an assembly number and guideline for those working in the factory, not a tool to trace crime. As the standardization continued and the federal government became involved in the 20th century, serial numbers had an expanded purpose; specifically, they became a tool for law enforcement

¹⁹ Browning held 128 patents during his lifetime for firearms as well as developed many significant cartridges still in use today. Here is a search for some of his patents available online: <

<https://patents.google.com/?inventor=John+Moses+Browning>> Accessed May 9, 2021

²⁰ The M2 is only one of many military and commercial firearms and cartridges that are still in use today. *Chinn, George M. (1951), The Machine Gun: History, Evolution and Development of Manually Operated, Full Automatic, and Power Driven Aircraft Machine Guns, Department of the Navy, Bureau of Ordnance*

²¹ For more information, the BATFE website has a breakdown of these laws and definitions: <

<https://www.atf.gov/rules-and-regulations/national-firearms-act>> May 9, 2021

²² Visit or contact the National Park Service Springfield Armory National Historic Site website for more information on their history. < <https://www.nps.gov/spar/learn/historyculture/index.htm>> Accessed May 9, 2021. Even during the 1940s, "untraceable" firearms were available, including the Philippine Guerilla Gun, a cheap and similar concept to today's 3D printed guns.

investigations. These types of laws in addition to ones referenced in the BATFE proposal, started under the Federal Firearms Act of 1938.²³

While serial numbers became a tracing tool, it is a detailed and drawn-out process that only reliably tracks, if the records are kept diligently. Even in this case, firearms are associated with the last known possessor, which is not always the criminal.²⁴ While the firearms in this proposed amendment concern untraceable elements, it also ignores the fact that for over a century, criminals have been obliterating serial numbers off guns making them also untraceable. For example, I recently encountered a Thompson submachine gun that has an obliterated serial number.²⁵ Per the law, it was given an IRS number to make it legal to own. Many attempts were made to uncover that serial number in order to track provenance, or the history of ownership, and even modern technologies like radiology equipment have been unable to identify the serial number.²⁶

My point in sharing this anecdote about the Thompson is this: If criminals more than a century ago could get rid of serial numbers so well that today's modern technology cannot even find it, then the process of obliterating serial numbers today is probably much more expedient and effective than it was back then. Even “Quora” a simple question and answer website provides step-by-step instructions on how to file off a serial number. This should be far more concerning than how-to videos on Youtube for various types of privately made firearms that are in fact legal.²⁷

It is certainly easier to purchase an already made firearm that will definitely function, and file the serial number off to use in criminal activity rather than assembling a purchased parts kit onto a drilled and machined 80% receiver, which is not guaranteed to function correctly depending on skill and ability. Therefore, the idea that a serial number and markings are the be all to end all in tracing crime is simply not accurate and many other factors are utilized when trying to track down a criminal.²⁸

ATF Designations – Technology Drives New Definitions

²³ This is outlined in the BATFE proposal referenced earlier in this document: Department of Justice. Bureau of Alcohol, Tobacco, Firearms and Explosive. 27 CFR Parts 478 and 479. <<https://www.atf.gov/rules-and-regulations/definition-frame-or-receiver>> Accessed May 9, 2021.

²⁴ Ibid

²⁵ The Thompson submachine gun, commonly known as the “Tommy Gun” was a selective-fire firearm that was used by the military, law enforcement, and for a time the security force behind the US Postal Service. However, it is more often remembered for its use by gangsters.

²⁶ Further information will not be identified with this firearm as it is privately and legally owned.

²⁷ <<https://www.quora.com/How-do-you-file-off-a-serial-number-on-a-firearm-so-its-untraceable-by-federal-law-enforcement>> Accessed May 9, 2021.

²⁸ While I am not a law enforcement agent, when renovating the Cody Firearms Museum, we did extensive research and worked with law enforcement and forensic scientists on the tracing process.

The latest ATF proposal cited certain technologies they claim need to be considered since these fifty-year old definitions were implemented.²⁹ Even the AR-15 was created nearly seventy years ago and pre-dated the Gun Control Act of 1968. As per their referenced definition of firearm frame or receiver, it includes a “housing for the hammer, bolt or breechblock, firing mechanism...” Part of the concern in this new proposal surrounds the word, “hammer” and the need for expansion to include striker-fire.³⁰ Firstly, striker fired guns mechanically *are* and historically have been called linear hammers so by that definition, the term hammer applies. Additionally, striker fire has been around since at least the mid-1800s and were popular and available at the time of the first iteration of the legal definition.

Historically and technically speaking, the first striker fired guns date to the 1830s, with predecessors to bolt actions, such as the Dreyse Needle gun.³¹ Bolt actions since then are considered to have a linear hammer, ie a striker. In America, a precursor to the Winchester lever action, also incorporated striker fire. Specifically, the Holt Volitional Rifle which was developed in the 1840s.³² In total, striker fired guns were common in the commercial and military markets by the turn of the 20th century.

The development of John Moses Browning's FN Model 1899/1900 semi-automatic pistol was striker fired as well.³³ It was so popular and successful that there were more than 500,000 made only eight years after its initial production.³⁴ Interestingly, it was developed in 1896 – two years before the United States Gun Control Act of 1968 cutoff date for what is and is not legally a firearm under the definition, “Antique.” As a result, some striker fired guns could also not be considered legally firearms due to that definition, which is not mentioned in this proposed amendment.³⁵

²⁹ As previously stated, and will be further explored, these technologies are not. However, for a full read on their interpretation, see the proposed amendment: Department of Justice. Bureau of Alcohol, Tobacco, Firearms and Explosive. 27 CFR Parts 478 and 479. <<https://www.atf.gov/rules-and-regulations/definition-frame-or-receiver>> Accessed May 9, 2021.

³⁰ Ibid

³¹ Initial versions of this were developed in the 1830s with adoption in the 1840s. Examples of this gun and relevant information can be found in the Cody Firearms Museum, Buffalo Bill Center of the West. The earliest can be found under the collection number: 1988.8.1361. Buffalo Bill Center of the West, Cody, WY, USA. Gift of the Olin Corporation, Winchester Arms Collection.

³² Walter Hunt. Patent Number US6663A. Patent Date: August 21, 1849. <<https://patents.google.com/patent/US6663?oq=walter+hunt>>. Accessed May 9, 2021. The only known surviving example can be found in the Cody Firearms Museum collection. It also has a tubular magazine patent.

³³ One patent that went towards this firearm was: John Moses Browning. Patent Number 580926. Patent Date: April 20, 1897 < <https://patents.google.com/patent/US580926A/en>>. Accessed May 9, 2021.

³⁴ In 1904, the 100,000 model was made. In 1906, the 250,000. And in 1908, the 500,000 Model 1900 was produced. Source: Vanderlinden, Anthony. *FN Browning Pistols: Side Arms that Changed that Shaped the World. Expanded Edition*. Wet Dog Publications. Pages 12-13

³⁵ According to the BATFE after the Gun Control Act of 1968, certain firearms, with the exception of machine guns, made before 1898 are not legally firearms, rather they are classified as antiques. For the complete definition: Department of Justice. Bureau of Alcohol, Tobacco, Firearms and Explosives <

In addition to being the first striker-fired semi-automatic, Browning's FN Model 1899/1900 was also the first semi-automatic to utilize a slide – which is another trait in the BATFE's proposal which is cited mainly in reference to Glocks – as being a split receiver.³⁶ The BATFE claims that Glocks and AR platform firearms may need serial numbers on both the upper and lower receivers to address this, but technologies similar to these were in production in the early 20th century.

The BATFE proposal makes an erroneous claim that single frame revolvers and break open shotguns were the most popular at the time these definitions were made.³⁷ This is false. Since their inception in the 1880s, semi-automatic rifles and firearms have been incredibly popular. Slide action, lever-action, and semi-automatic shotguns have been made since the 1890s as well. Again, this may be a new discovery for the BATFE, but the government has been ordering them and private gun owners have enjoyed their popularity for over a century.

Split/ Mod Receivers.

The BATFE claims that some guns like Glocks and AR-15 type firearms have brought about the possible need to put serial numbers on both the upper and lower receivers. However, split receivers in the many forms outlined in the proposal have been around for over a century as well.

20th century: Popular Guns with Split Receivers

All Winchester Self Loaders (semi-automatics), including but not limited to the Models 1903, 1905, and 1907 semi-automatic rifles, were popular firearms with a split receiver as you can see in **Appendix B**. You will notice despite 100-year-old technology; they are very similar to the upper/lower components on modern guns. They were so reliable and popular, in fact, that the FBI ordered the 1907 for their agents, and the army ordered them for use in World War 1. Even the Winchester 1911 semi-automatic shotgun, not to be confused with the Colt Model 1911 semi-automatic handgun, had a split receiver.³⁸ The Remington Model 8 semi-automatic rifle, most famous for its use in the capture of notorious criminals, Bonnie and Clyde, had a split receiver as well.

<https://www.atf.gov/firearms/firearms-guides-importation-verification-firearms-national-firearms-act-definitions-antique>>. May 9, 2021.

³⁶ Department of Justice. Bureau of Alcohol, Tobacco, Firearms and Explosive. 27 CFR Parts 478 and 479. <<https://www.atf.gov/rules-and-regulations/definition-frame-or-receiver>> Accessed May 9, 2021.

³⁷ By this time, so many available ignition systems were being used by civilians and the government. By the time of the Gun Control Act, the standard adopted firearm was a semi-automatic and the AR-15 was already in existence.

³⁸ This information is chronicled in many books, found in **Appendix A**. Additionally, examples can be found in the Cody Firearms Museum collection, as well in their archival material.

The Mauser C96 semi-automatic pistol developed in 1896 (again some qualify as antiques because of their production date) has a split upper and lower; it was available as a carbine; and it had a split selective-fire lower available.³⁹ By the Glock definition “with an upper slide assembly and lower grip module,” the majority of semi-automatic handguns since the 1890s could fit that definition.⁴⁰

Essentially, both split receiver and striker fired guns were standard, used by civilians, and the government knew about them well before the Gun Control Act of 1968 and as previously stated, some of these technologies were not legally considered firearms because of the GCA definition of “antique.”

While not a correction to terminology, the ATF's proposal qualifies that many of these guns were developed for the military. That also is not true. They reference the Colt 1911. The Colt 1911 was adopted for the military but was based on the Models 1900, 1903, and 1905s, which were all commercial guns well before the government tested them. And after the adoption, the 1911 was prevalent in both the military and civilian market.⁴¹

In conclusion, the ATF is claiming that their firearm terminology is outdated. We know this to be false because several things they claim to be recent technological advancements, thereby necessitating these changes, were commonly used and in existence long before 1968.

With the historical inaccuracies behind the technology still in the current proposal, there is a safe bet with the imprecise and convoluted definitions created by the BATFE in the past; they will claim a need to propose even more changes in the future. For example, the reclassification of bump stocks as machine guns have already been overturned in some courts. And in 2004, the BATFE reported that a shoelace could technically be defined and regulated as a machine gun.⁴² Where does it end? And if these things have been readily available the entire time-- would changing it make a difference? Would there be a

³⁹Paul Mauser Patent No: 584479. Patent Date: June 15, 1897.

<<https://patents.google.com/patent/US584479A/en>> Accessed May 9, 2021

⁴⁰ Department of Justice. Bureau of Alcohol, Tobacco, Firearms and Explosive. 27 CFR Parts 478 and 479.

<<https://www.atf.gov/rules-and-regulations/definition-frame-or-receiver>> Accessed May 9, 2021.

⁴¹ See examples in the Cody Firearms Museum collection

⁴² In 2004, the BATFE determined a shoestring could be a machine gun. In 2007, they decided that a shoestring alone did not constitute a machine gun. Copies of the actual letters from the BATFE can be found in this online resource < <https://www.everydaynodaysoff.com/2010/01/25/shoestring-machine-gun/>> Accessed May 9, 2021. Additionally, here is the rule that defined a bump stock as a machine gun: < <https://www.atf.gov/rules-and-regulations/bump-stocks>> Accessed May 9. Furthermore, the US Court of Appeals for the Sixth Circuit (Michigan) ruled: “It is not the role of the Executive [branch] — particularly the unelected administration state — to dictate to the public what is right and what is wrong....That judgment is reserved to the people through their duly elected representatives in Congress.” In the proposed BATFE amendments on privately made firearms, it gives power to the Director of the BATFE as a sole authority on the interpretation of these firearms definitions, not the role of Congress as it is meant to be.

measurable outcome changing the definition of something already in existence, which would at best have a limited impact on crime rates?

Parts Kits

Current firearms frames and receivers that are considered 100% completely machined already require a background check.⁴³ As previously stated, however, ordering parts and assembling firearms have been around for centuries. You can even buy parts kits for modern reproductions of antique firearms.⁴⁴

Whether purchasing a parts kit for a flintlock muzzle-loading musket or a modern firearm, these projects are typically the work of hobbyists, enthusiasts, and people who enjoy tinkering. While these kits can be assembled through varying levels of difficulty, it is important to note that their simple creation is far different than making it function properly. A lot of fitting, filing, and other adjustments are needed in order to ensure the firearm runs right.

Conclusion

The BATFE recognizes the legitimate process of privately-made firearms. As well, a prohibited person buying a kit to make a firearm is unlawful. Further, it was stated multiple times in the BATFE document that the markings are really a post-crime resource (so not necessarily reducing crime in this instance, rather making it easier to track the firearm used in a crime to the last known possessor).⁴⁵

As members of the Committee of the Judiciary, you recognize there are currently laws addressing these issues. Straw Purchases are referenced in the BATFE Proposal as a great means of enforcement. However, in 2017, 112,000 straw purchases were attempted. Federal investigators had names and addresses of all these people, but they only prosecuted 12 of them.⁴⁶

⁴³ In fact, the BATFE even explained as late as April 2020, why these components were or were not firearms. Department of Justice. Bureau of Alcohol, Tobacco, Firearms & Explosives. < <https://www.atf.gov/firearms/qa/are-%E2%80%9C80%E2%80%9D-or-%E2%80%9Cunfinished%E2%80%9D-receivers-illegal>> Accessed May 9, 2021

⁴⁴ A simple yahoo search can return many websites of how to assemble historic guns and places to purchase < https://search.yahoo.com/search;_ylt=A0geKaDdbphgnH0ACWhXNyoA;_ylc=X1MDMjc2NjY3OQRfcgMyBGZyA21jYWZlZQRmcjldc2ltdG9wBGdwcmlkA1J0VmpEb3RFVHphMk1oeINTUzZPdUEEbl9yc2x0AzAEbl9zdWdnAzEEb3JpZ2luA3NIYXJjaC55YWhvby5jb20EcG9zAzAEcHFzdHIDBHBxc3RybAMwBHFzdHJsAzQ1BHF1ZXJ5A3BhcnRzJTlwa2l0cyUyMHVjJTlWYnVpbGQlMjB5b3VyJTlwb3duJTlWYW50aXF1ZSUyMGZpcmVhcm1zBHRfc3RtcAMxNjJwNjAyNjly?p=parts+kit+s+to+build+your+own+antique+firearms&fr2=sb-top&fr=mcafee&type=E211US714G0> Accessed May 9, 2021

⁴⁵ The legality of these things can be found outlined on the BATFE's website. Department of Justice. Bureau of Alcohol, Tobacco, Firearms & Explosives < <https://www.atf.gov/rules-and-regulations/national-firearms-act>> Accessed May 9, 2021.

⁴⁶ United States Government Accountability Office. "Few Individuals Denied Firearms Purchases are Prosecuted and ATF should asses use of warning notices in lieu of prosecution." September 2018. < <https://www.gao.gov/assets/gao-18-440.pdf>> Accessed May 9, 2021.

As this document has highlighted, throughout all of firearms' history, except for the past fifty or so years in terms of machine guns, civilians have always had superior technology to the military when it comes to firearms. The terms set forth by laws and the BATFE come with a lot of baggage and open the door for inaccuracy, misunderstanding, error, and an openness for interpretation in the future. It also gives the Director of the BATFE power and authority of these determinations, rather than Congress. Furthermore, some of the technologies being addressed could have been addressed sooner. Additionally, privately made firearms have been not only around, but have been essential for innovation and even government contracts since the beginning of the country.

I utilize these terms daily and I recognize how confusing they can be, especially with colloquialisms for everything. But as a firearms historian and museum professional, who must abide by federal, state, and local gun laws in my profession, there are unintended consequences to arbitrarily changing definitions of certain technologies. Making an executive decision to rewrite history can criminalize Americans who are trying to comply with the laws. And through these regulations, not only are *you* bogged down in this never-ending cycle of definitions and qualifications, but you also neuter the changes promised to your constituencies. Ultimately, whether intentional or unintentional, you run the risk of erasing certain history in the process – something that we can all learn from.

Thank you, Chairman Blumenthal, Ranking Member Cruz. I look forward to answering your questions and the questions of your esteemed colleagues.

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Appendix B: Photo of takedown Winchester Model 1907. Note the upper and lower (split) receiver

