

No. 23-852

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IN THE

**Supreme Court of the United States**

MERRICK B. GARLAND, ATTORNEY GENERAL, ET AL.,

*Petitioners,*

v.

JENNIFER VANDERSTOK, ET AL.,

*Respondents.*

*On Writ of Certiorari to the United States  
Court of Appeals for the Fifth Circuit*

**BRIEF OF THE QUEENS COUNTY DISTRICT  
ATTORNEY'S OFFICE AS *AMICUS CURIAE*  
IN SUPPORT OF PETITIONERS**

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Polymer 80, “How To,” <https://polymer80.com/how-to-manuals/>.....18n.7

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Press Release, Queens County District Attorney, *District Attorney Katz Launches State’s First Prosecution Of International Ghost Gun Trafficking Operation* (April 2, 2023) (<https://queensda.org/district-attorney-katz-launches-states-first-prosecution-of-international-ghost-gun-trafficking-operation/>) .....22n.11

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(<https://queensda.org/maryland-resident-charged-with-336-counts-of-criminal-possession-of-a-weapon-and-other-crimes-in-largest-bust-of-ghost-gun-kits-in-new-york-state/>)..... 23-24n.12

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prison-for-possessing-arsenal-of-illegal-ghost-guns](https://queensda.org/queens-man-sentenced-to-prison-for-possessing-arsenal-of-illegal-ghost-guns))  
.....25n.14

Office of the New York Attorney General, *Target on  
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([https://targettrafficking.ag.ny.gov/#:~:text=70%25  
%20of%20likely%2Dtrafficked%20guns,%2Dstate%  
20likely%2Dtrafficked%20guns/](https://targettrafficking.ag.ny.gov/#:~:text=70%25%20of%20likely%2Dtrafficked%20guns,%2Dstate%20likely%2Dtrafficked%20guns/)). .....13n.4

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**STATEMENT OF INTEREST OF *AMICUS CURIAE*<sup>1</sup>**

The Queens County District Attorney's Office (hereinafter, "QDA" or "the Office") is the chief law enforcement agency of Queens County in New York City. Under the leadership of District Attorney Melinda Katz, the Office aims to investigate and prosecute violations of New York State Law, ensure the fair and equitable administration of justice, and to keep all residents of Queens County safe. This safety is increasingly threatened by the emergence and proliferation of unserialized and untraceable firearms, also referred to as "ghost guns," made possible by new technologies and deliberate efforts to circumvent existing regulations. These deadly weapons can be readily manufactured using easily obtained firearm components, often purchased online or fabricated with 3D printers. The result is the distribution of the final steps in firearm manufacturing across the country, evading both the prior ATF regulations and state and local laws against the unregulated manufacture, sale, and use of firearms for criminal purposes. These weapons, often referred to as personally made firearms (PMFs), made the prior ATF regulations increasingly obsolete and have put countless untraceable weapons in the hands of criminals, rather than law-abiding citizens.

To combat this scourge, District Attorney Katz established the Crime Strategies and Intelligence Bureau (hereinafter, "CSIB"), tasked with investigating

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<sup>1</sup> Under Rule 37.6 of the Rules of this Court, *amicus* states that no counsel for a party authored this brief in whole or in part, and no counsel or party made a monetary contribution intended to fund the preparation or submission of this brief. No person other than *amicus* or its counsel made a monetary contribution to its preparation or submission.

and interdicting criminal activity *before* it happens. Since 2021, QDA, through CSIB, has led all of New York City in the number of PMFs recovered—hundreds of ghost guns seized as a result of dozens of investigations and prosecution of individuals engaged in the illegal manufacture, possession, distribution, and use of PMFs. This work has given QDA unique and ample expertise in this novel and rapidly developing field.

Indeed, according to data collected by the Queens District Attorney’s Office and NYPD, Queens County has led all of New York City in the total number of PMF recoveries for the past four consecutive years. In that time, Queens County accounts for 38.9% (494 of the 1,267) PMFs recovered in all of New York City—whereas in a typical year, Queens County accounts for approximately 16-18% of traditional firearms recovered annually in all of New York City. In the first six months of 2024 alone, Queens County accounted for 121, or 57.9%, of the 209 PMFs recovered citywide. This trend has been consistent over the past three years: from 2021 to 2023, Queens County accounted for 32.7% (86 of 263), 39.9% (174 of 436), and 31.5% (113 of 359) of PMFs recovered across New York City, respectively. Alarming, 2024 has thus far seen more than a 1,000% increase year-to-date in the number of 3D-printed PMFs—as well as unserialized lower receivers—recovered, with 41 such firearms recovered in all of 2023, compared to 74 recovered *thus far* in 2024.

Based on the expertise gained through QDA’s groundbreaking work investigating unlawful PMFs, QDA files this brief as *amicus curiae* in support of the Federal Government’s brief, which seeks to uphold a reasonable regulation issued by the Federal Bureau of Alcohol, Tobacco, Firearms and Explosives (hereinafter, “the ATF”) clarifying that weapons parts kits and



certain partially complete frames and receivers constitute “firearms” under the federal Gun Control Act of 1968 (hereinafter, “the ATF Final Rule” or “the Final Rule”). See Definition of “Frame or Receiver” and Identification of Firearms, 87 Fed. Reg. 24652 (Apr. 26, 2022) (codified at 27 C.F.R. pts. 447, 478, 479).

Based on QDA’s extensive experience investigating, interdicting, and prosecuting illegal privately made firearm manufacturers, the ATF Final Rule—though primarily applicable to manufacturers outside of New York State—has far-reaching implications within New York State, New York City, and particularly Queens County, as well as countless jurisdictions nationally. This is evidenced by the overwhelming number of unserialized and untraceable PMFs, their components, and related accessories recovered in Queens County over the last three years. Ensuring the ability to regulate and track these firearm parts is critical to the Office’s efforts in maintaining public safety and effectively combating gun violence. Recognizing weapon parts kits and partially completed frames or receivers as firearms under the Gun Control Act closes significant loopholes that have allowed these untraceable and deadly weapons to proliferate in our communities. Upholding the ATF’s Final Rule would boost the Queens County District Attorney’s Office’s abilities—and the abilities of all law enforcement agencies around the country—to prevent the manufacture and distribution of ghost guns, thereby enhancing our goal of protecting our citizens.

## INTRODUCTION

In 1968, Congress passed the Gun Control Act of 1968 (hereinafter, “the GCA”). Pub. L. No. 90-351, Tit. IV, 82 Stat. 225 (18 U.S.C. 921 et seq.). Congress

passed this law to regulate the manufacture and sale of firearms nationwide. § 901(a)(1), 82 Stat. 225. It defined the term ‘firearm’ as specifically including parts that could be “readily converted” to operable weapons. 18 U.S.C. §§ 921(a)(3)(A). It also imposed requirements of background checks and serialization, both with an eye towards keeping weapons in the hands of law-abiding citizens and allowing law enforcement to trace weapons used for criminal purposes. Decades ago, ATF attempted to effectuate these goals by adopting a more precise definition of firearms and imposing serialization, record-keeping, and background check requirements.

Technology and other developments, however, have rendered ATF’s regulations outdated and well on their way to obsolescence, thwarting Congress’s objectives. New firearm retailers have exploited the weak points in the rules to sidestep ATF’s initial regulatory scheme, distributing the final stages of firearm assembly nationwide—into the hands of individual purchasers—with no background checks and no serialization requirements. The conversion from firearm components to fully operable deadly weapon requires only minimal work, often involving the mere drilling of some holes using household tools and completing assembly of the disparate parts. The exploitation of these regulatory weak points, coupled with rapidly emerging new technologies have also allowed *anyone* to manufacture these weapons. Other new technologies, like 3D printers, from which fully functioning untraceable weapons can be made, similarly thwart Congress’s efforts to limit the ownership of these deadly weapons to law-abiding citizens. As QDA’s myriad investigations have demonstrated, ‘anyone’ includes teenagers as young as

13, licensed professionals, and felons with prior convictions ranging from illegal weapons possession to manslaughter.

These investigations demonstrate that the new methods of manufacture of PMFs have circumvented both Congress's and the ATF's efforts to regulate the manufacture and sale of weapons and keep untraceable firearms out of the hands of criminals. Since 2021, QDA has recovered a wide array of PMFs, weapons parts kits, and related items highlighting the urgent need for stringent regulations. The Office has seized hundreds of unserialized and untraceable firearms, assault weapons, machine guns, 3D-printed firearms, weapons parts kits, machine gun conversion devices, firearm components, such as slides, frames and lower receivers, explosives, and written manifestos — indicating a high level of premeditation and intent to cause harm utilizing these weapons. One notable example involved a Queens man who used a PMF in a multi-jurisdictional shooting spree, resulting in one fatality and three injuries, underscoring the deadly potential of these untraceable firearms.<sup>2</sup> Yet another example included the recovery of several PMFs and homemade improvised explosive devices along with anti-government and anti-authority propaganda with “hit lists” that included “judges and politicians.”<sup>3</sup>

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<sup>2</sup>Press Release, Queens District Attorney, *Man Indicted in Scooter Shooting Spree* (July 19, 2023) (<https://queensda.org/man-indicted-in-scooter-shooting-sprees-that-left-one-dead-and-two-others-wounded-in-queens/>) (last accessed July 1, 2024).

<sup>3</sup>Press Release, Queens District Attorney, *Brothers Charged After Seizure of Homemade Explosives, Ghost Guns in Their Astoria Apartment* (Jan. 29, 2024) (<https://queensda.org/brothers-charged-after-seizure-of-homemade-explosives-ghost-guns-in-their-astoria-apartment-photo/>) (last accessed July 1, 2024).

While there is a history of home-based gun making for law-abiding hobbyists, PMF builders are all too frequently neither law-abiding nor hobbyists. As discussed herein, our investigations have uncovered illegal PMF traffickers; individuals who utilize PMFs in furtherance of drug trafficking operations; teenagers selling to other teenagers in local gangs; grade school and undergraduate students; previously convicted felons; and other individuals who, because of prior domestic violence convictions or mental health confinement, would otherwise have been ineligible to legally obtain a firearm.

These developments necessitated updated regulations so that Congress's original intent in passing the GCA would continue to be effectuated. ATF properly amended its rules in a way that ensures that PMFs are serialized and that proper background checks are performed. These regulations seek to restore controls that were in place previously. The regulations do not seek to push beyond the intent of the former rules or of Congress.

Federal law requires firearm dealers and manufacturers to keep records of, conduct background checks on, and serialize firearms to prevent them from falling into the hands of children or criminals—and to allow the weapons to be traced if they are used to commit crimes. 18 U.S.C. §§ 922(t), 923(g), (i). These requirements are essential to preventing and solving firearm-related crimes. Because new technologies and marketing schemes have circumvented ATF's prior attempts to effectuate these goals, this Court should uphold their promulgation and use.

### SUMMARY OF ARGUMENT

This Court should reverse the Fifth Circuit's decision striking down the ATF's new regulations. The ATF's updating of increasingly obsolete regulations was consistent with Congress's intent under the original Gun Control Act. The recognition of weapon parts kits and partially complete frames or receivers as firearms under the Gun Control Act is crucial to achieve Congress's goals of serializing firearms to make them traceable and imposing background checks before deadly weapons are delivered to individuals bent on using them for criminal purposes. Given the breakneck speed at which technological developments have aided in the manufacture of untraceable firearms, the ATF must have the authority to lawfully regulate the components, kits, and products that are readily converted to these firearms—and the authority to further regulate in the future to meet this rapidly changing landscape.

Congress enacted the GCA to regulate the manufacture and sale of firearms, ensuring that weapons are serialized and traceable to prevent their use in criminal activities and mandating background checks to keep guns in the hands of responsible law-abiding citizens. *See Huddleston v. United States*, 415 U.S. 814 (1974). However, new technologies and retail marketing schemes, such as polymer-based weaponry and easily assembled firearm kits, have made it possible for individuals to produce unserialized, untraceable guns at home and not only subvert a background check, but the original intent of the GCA along with it. Recognizing this national problem, the ATF took proactive measures to address the issue before Congress's intent was completely undermined.

The ATF's actions are consistent with the GCA's concept of firearms being "readily converted" from kits to operational weapons. Often sold at "80% completion,"—a marketing term created by retailers and not rooted in any historical or technical underpinning—these weapons parts kits require minimal effort to finish. QDA's frequent recovery of completed weapons—alongside hundreds of additional disparate parts—further highlights the necessity of these updates. While there is a history of personal firearm manufacture in the United States, the current situation—with thousands of weapons parts kits being sold, and unregistered firearms produced—effectively constitutes unregulated firearms manufacturing *and* distribution. This diffuse production has caused a shift from the illegal trafficking of firearms through what is known as the "Iron Pipeline" to what QDA has coined the now prevalent "Polymer Pipeline," and represents precisely what Congress sought to prevent: the unregulated manufacture of untraceable weapons falling into the hands of those who are not law-abiding. The ATF's updated regulations are therefore necessary and appropriate to uphold the original intent of the GCA.

## ARGUMENT

### I. ATF'S DECISION TO UPDATE INCREASINGLY OBSOLETE REGULATIONS WAS CONSISTENT WITH CONGRESS'S INTENT IN ENACTING THE GUN CONTROL ACT OF 1968.

The ATF Final Rule recognizing weapons parts kits and certain partially completed lower receivers as firearms is not only consistent with the regulatory authority granted to ATF by Congress, but furthers Congress's original intent in requiring the serialization

of manufactured firearms and in enacting background check requirements so that these firearms do not fall into the hands of non-law-abiding citizens and those who are not competent.

A. THE INTENT OF CONGRESS UNDER THE GCA WAS TO REGULATE THE MANUFACTURE AND SALE OF FIREARMS AND TO KEEP FIREARMS OUT OF THE HANDS OF INDIVIDUALS CONGRESS DEEMED TO BE IRRESPONSIBLE.

Congress enacted the Gun Control Act (GCA) of 1968 to regulate the manufacture and sale of firearms and to prevent firearms from reaching those who Congress deemed dangerous. As this Court held in *Huddleston v. United States*, 415 U.S. 814 (1974), when Congress enacted the GCA, “it was concerned with the widespread traffic in firearms and with their general availability to those whose possession thereof was contrary to the public interest.” *Id.* at 824. This Court emphasized in *Huddleston* that “Congress determined that the ease with which firearms could be obtained contributed significantly to the prevalence of lawlessness and violent crime in the United States.” *Id.* As this Court explained, “[t]he principle purpose of the federal gun control legislation, therefore, was to curb crime by keeping ‘firearms out of the hands of those not legally entitled to possess them because of age, criminal background, or incompetency.’” *Id.* (citations omitted).

The primary means by which Congress, and ATF through its regulations, sought to achieve these ends were to funnel the sale and purchase of firearms through federally licensed firearms dealers, thereby restricting the “mail order and generally widespread commerce in them,” *id.* at 825; to serialize weapons, making them traceable when used for criminal purposes; and to ensure background checks to prevent

firearms from falling into the hands of those who are not law-abiding citizens or not competent to handle them. *Id.* The GCA sought to establish a comprehensive framework where all firearms could be traced from manufacturer to end-user, thereby reducing the likelihood of firearms being acquired by prohibited persons or being used in criminal activities.

In doing so, Congress sought to regulate not just completed and fully operable firearms, but also the manufacture, sale and possession of major parts of firearms that could be readily converted to operable weapons. To this end, Congress included in the scope of the GCA “any weapon . . . which will or is designed to or may readily be converted to expel a projectile by the action of an explosive,” “the frame or receiver of any such weapon,” “any firearm muffler or firearm silencer,” and “any destructive device.” In this sweeping language, Congress made clear its intent that the reach of the statute, and the regulations promulgated under it, be sufficiently broad to achieve its goals.

The ATF's initial regulations properly sought to achieve Congress's goals by putting a system in place to ensure that the mechanisms Congress outlined for achieving its goals were made operable and effective. This included the licensing of federal firearm dealers, mandatory background checks of purchasers and a means of accomplishing those checks, and the required serialization of all generally manufactured weapons. ATF also ensured that Congress's intent to broadly include firearm parts as well as finished and operable weapons by providing reasonable definitions of the words “frame” and “receiver” that would, at that time, encompass most major components of firearms that could be converted to operable weapons.



As the Fifth Circuit acknowledged in its decision in this case, however, while ATF's 1978 definitions sufficiently captured most firearms of the era, modern firearms "have developed such that many firearms no longer fall within that definition." *VanDerStok v. Garland*, 86 F. 4<sup>th</sup> 179, 184 (2023). As explained below, technology and deliberate efforts to thwart Congress's and ATF's controls soon made these definitions woefully under inclusive and inconsistent with the purposes of the GCA.

**B. ATF'S INITIAL REGULATIONS BECAME OUT OF DATE AS NEW TECHNOLOGY AND RETAIL SCHEMES SOUGHT TO CIRCUMVENT THEM.**

The development of polymer-based weapons and easily assembled firearm kits has made it significantly easier for individuals to manufacture unserialized and untraceable guns in diffuse locations around the country and around the world. These technological advancements have rendered the original regulatory framework insufficient, necessitating updates to address the current realities of firearm manufacturing and distribution.

Importantly, modern developments in consumer 3D printing and the availability of firearm "build kits" have made it significantly easier for individuals to acquire firearm components that were previously difficult to obtain and consequently assemble untraceable and unserialized weapons. These major parts of firearms are widely marketed through the modern equivalent of mail order (order by email), and have resulted in the proliferation of PMFs, which pose a unique challenge for law enforcement, as the manufacture and use of unlawful PMFs are difficult to track and interdict. The ATF Final Rule, which

mandates the serialization and background checks for key firearm components, is a necessary response to these technological shifts, ensuring that regulations keep pace with the evolving methods of firearm production and preventing the unchecked spread of deadly untraceable weapons. By clarifying the statutory definition and issuing the Final Rule, the ATF can close existing loopholes and enhance the ability of law enforcement agencies to track and regulate otherwise untraceable firearms, ultimately safeguarding communities from the escalating dangers posed by the proliferation of unregulated PMFs. Not only are these regulations necessary today, but ATF's ability to promulgate and enforce similar regulations in the future will be crucial in addressing further advances in the private manufacture of firearms.

The ease with which individuals can now procure—or 3D print—an unserialized and unfinished lower receiver has had a harrowing impact on law enforcement's ability to stem the flow of illegal firearms into New York. In the case of the traditional 'Iron Pipeline' method to traffic firearms purchased from southern states up the Interstate-95 corridor and into New York and surrounding states, an illegally obtained commercially manufactured firearm can still be traced to its original purchaser. These traces allow law enforcement to ascertain where the firearm was originally purchased, who purchased it, and what, if any, additional firearms were purchased along with it. To stem the flow of illegal commercially manufactured firearms into New York City, the answers to these questions are paramount when conducting a trafficking investigation into the origin of a firearm unlawfully possessed, or used to commit a violent crime, in Queens County.

With a ghost gun, however, law enforcement is unable to answer any of these questions—yet we know that the vast majority of these 80% lower receivers originated outside of New York State, similar to the origin of commercially manufactured firearms illegally possessed in New York State.<sup>4</sup> However, without the ATF Final Rule, law enforcement cannot know who assembled any particular ghost gun, or how many others were assembled and illegally distributed along with it. Without serialization, background checks, and traceability provided through the ATF Final Rule, law enforcement agencies are merely left to surmise the number of ghost guns produced from any given “manufacturer.” QDA’s investigative experience shows that the number of ghost guns produced by an at-home manufacturer is far greater than the single PMF that was recovered in connection with a street crime—often totaling dozens of illegal ghost guns, before the individual is apprehended.

Technology in the PMF arena is advancing rapidly, but our regulations largely remain stagnant. In 2013, the first 3D-printed firearm in the U.S., a single-shot handgun known as the Liberator, was released. Just over a decade later, there are now dozens of 3D-printed firearm designs that can fire multiple rounds without reloading, are as durable as commercially manufactured firearms, and can be fabricated with a 3D printer costing less than \$300.

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<sup>4</sup>Office of the New York Attorney General, *Target on Trafficking, New York Crime Gun Analysis* (<https://targettrafficking.ag.ny.gov/#:~:text=70%25%20of%20likely%2Dtrafficked%20guns,%2Dstate%20likely%2Dtrafficked%20guns>) (last accessed July 1, 2024).

As technology advances, particularly with 3D printing and the emergence of privately designed firearms,<sup>5</sup> it is crucial that the ATF have the authority to adapt and change regulations over time. The rise of 3D-printed firearms and the ease with which individuals can design and manufacture untraceable guns at home have outstripped existing regulatory frameworks. The ATF's Final Rule, which mandates serialization and background checks for key firearm components, is a significant step forward. And the ATF needs ongoing authority to refine and update these regulations to keep pace with technological advancements that continuously evolve the landscape of firearm manufacturing and trafficking.

PMFs have become much easier to manufacture, much easier to distribute, and unlike for licensed gun owners, there are no background checks or restrictions to obtain these firearms. Despite the lack of regulatory oversight, these homemade weapons are just as lethal as their commercially manufactured counterparts—and in some cases more. Numerous recently released privately designed firearms have been made to look like children's toys, often being mistaken for exactly that by civilians and, in some cases, law enforcement. As the number one leading cause of child death in the United States, there is no need to add to the risk of adolescent gun death by leaving unregulated the concealment of deadly firearms as toys. The proliferation of these untraceable firearms poses a significant challenge to law enforcement and highlights the urgent need for the

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<sup>5</sup> A privately designed firearm is a firearm that is designed by an individual rather than a commercial manufacturer. This process typically involves creating unique designs or modifications that are not typically available in commercially manufactured firearms.

commonsense regulatory measures like the ATF Final Rule to limit the spread of such deadly weapons.

C. ATF CORRECTLY RECOGNIZED THIS AS A NATIONAL PROBLEM AND TOOK ACTION.

The ATF correctly recognized the rise of PMFs as a national problem and took action to prevent Congress's intent from being fully thwarted. The ability to circumvent serialization and background checks has rapidly escalated the issue. By implementing the Final Rule, the ATF aimed to restore the integrity of the GCA's original intent, ensuring that all firearms, regardless of how they are manufactured, are subject to the same regulatory scrutiny.

The proliferation of PMFs undermines the GCA's regulatory measures and poses a distinct challenge to law enforcement's efforts to prevent gun violence and illegal trafficking. In response to this evolving threat, ATF implemented the Final Rule recognizing weapon parts kits and certain unfinished frames and receivers as firearms under federal law. This regulatory update is a reasonable step in closing loopholes that have allowed PMFs to flood our communities and to defeat the original intent of Congress.

While New York and other state and local agencies have attempted to deal with the problem presented by new technologies, the ATF's Final Rule is essential to address what is, at base, a national problem. In 2021, recognizing the danger posed by the unfettered proliferation of unserialized and untraceable firearms, New York State enacted two laws to address the issue of ghost guns: the Scott J. Beigel Unfinished Receiver Act and the Jose Webster Untraceable Firearms Act. These laws, which were passed in 2021 and took effect in April 2022, introduced several critical

measures to combat the proliferation of PMFs. The Scott J. Beigel Unfinished Receiver Act prohibits the possession and sale of partially completed frames and receivers, *inter alia*, requiring serialization and registration of these components. Scott J. Beigel Unfinished Receiver Act, S.13-A, 2021 Leg., 2021 N.Y. Laws Ch. 134. The Jose Webster Untraceable Firearms Act criminalizes the possession, sale, and manufacture of unserialized firearms, *inter alia*, ensuring that only licensed gunsmiths can legally handle such items. Jose Webster Untraceable Firearms Act, S.14-A, 2021 Leg., 2021 N.Y. Laws Ch. 13.

While New York State's two laws have given local law enforcement some of the needed additional tools to combat the influx of firearm components and subsequent manufacture of illegal firearms into Queens County, their collateral effect has underscored the need for the ATF Final Rule, and its ability to regulate this space, nationally, in the future. For example, as noted herein, after New York's ban on the possession and sale of unserialized and/or unfinished lower receivers, New York City has seen a drastic increase in the recovery of 3D-printed unfinished and unserialized firearm lower receivers, as well as several instances where these firearm components were purchased out-of-state and either shipped into New York or trafficked by other individuals for resale. Once again, the lightning pace at which illegal PMF manufacturers can adapt to a new regulatory framework—quite literally inventing new techniques and utilizing technology to end-run the effect of the regulation. The ATF Final rule can close this door and ensure that the ATF has the ability to adapt faster than the non-law-abiding citizen seeking to illegally obtain—or create—a firearm.

D. THE FINAL RULE IS CONSISTENT WITH THE LANGUAGE OF THE GCA.

The ATF's Final Rule is consistent with the GCA's language, particularly regarding firearms being "readily converted" from kits to fully operational weapons. These kits are often sold at 80% completion, requiring minimal effort to complete the manufacturing process. The ease with which these weapons can be assembled and the frequent recovery of completed weapons alongside parts underscore the urgency of updating regulations.

Under the Gun Control Act of 1968, a firearm includes any item or collection of items that "may readily be converted to expel a projectile by the action of an explosive." 18 U.S.C. § 921(a)(3)(c). "Readily," as relevant here, is defined as "without much difficulty: easily."<sup>6</sup> Thus, an item that is "readily convertible" can be transformed into a functional firearm with relative ease, speed, and minimal technical skill or additional parts. The ATF evaluates several factors to determine if an item is readily convertible, including the time required for manufacturing, the level of difficulty involved, the amount of technical knowledge needed, the tools required, and the availability of remaining necessary parts.

In the context of PMFs, many weapons kits and lower receivers are sold in a state where they can be quickly and easily assembled into fully functional firearms. These kits often come with most of the

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<sup>6</sup>See Merriam-Webster Online Dictionary, "Readily" (<https://www.merriam-webster.com/dictionary/readily#:~:text=manner%3A%20such%20as-,a,%3A%20without%20much%20difficulty%20%3A%20easily>) (accessed July 1, 2024).

necessary components, and instructions for assembly can be found online, making them “readily convertible” under the GCA. For instance, an 80% lower receiver can be completed with basic tools and limited expertise, allowing individuals to bypass traditional regulatory measures such as background checks and serialization.<sup>7</sup>

Countless individuals have taken advantage of the ease with which handguns and other weapons can now be manufactured in the home, and these untraceable weapons have increasingly been used for criminal purposes. According to data compiled by the New York City Police Department,<sup>8</sup> in 2020, unregistered and unlawful PMFs comprised less than three percent of all guns recovered at crime scenes citywide. In 2021, that number almost doubled, and nearly tripled in 2022. By the end of 2023, a total of 11% of all guns recovered at crime scenes were PMFs, demonstrating the growing need to eradicate this threat.

Because Congress, in its definition of firearm in the GCA, demonstrated their intent to regulate component parts that are “readily converted” into firearms, ATF's Final Rule addressing the new technological means by which such conversions can readily take place is well within Congress's original intent and their grant of authority to ATF.

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<sup>7</sup>Polymer 80, a manufacturer of weapons kits and unfinished lower receivers, has posted several guides on its website, detailing how to assemble various types of rifle and handgun lower receivers. Polymer 80, “How To,” <https://polymer80.com/how-to-manuals/> (last accessed July 1, 2024).

<sup>8</sup>The NYPD is the police department that services the City of New York and its five counties (also known as boroughs), which include Queens, Kings, New York, Bronx, and Richmond Counties.



E. THE NATION'S HISTORY OF THE PERSONAL PRODUCTION OF FIREARMS DOES NOT ENCOMPASS THE MODERN MANUFACTURE OF PMFS.

Personal firearm manufacture in the United States has been linked to the nation's cultural and historical context. *See VanDerStok v. Garland*, 86 F. 4th at 185. Traditionally, personal firearm manufacturing occurred by individuals on a small scale, often for personal use or hunting. This activity was generally carried out within the existing legal framework and *did not* involve the large-scale, mass production or distribution of firearms. The personal manufacture of firearms was not aimed at circumventing the legal framework and did not undermine public safety.

In stark contrast, the current practice of manufacturing PMF's is a significant departure from this historical context. Modern PMF production leverages advanced technologies such as 3D printing and polymer-based components to mass produce untraceable firearms and firearm components. Modern technology, unlike traditional personal manufacture, allows PMF builders to quickly and easily manufacture numerous firearms. This is fundamentally different from the historical norm, as it deliberately seeks to circumvent regulatory controls and facilitates the illegal trafficking of untraceable weapons.

The diffuse and largely hidden nature of contemporary PMF manufacturing further complicates the issue. What was once a localized and transparent practice has evolved into a widespread and opaque network of illegal firearm production and distribution. The ease with which individuals can acquire kits and components online, often with no or minimal

background checks, has transformed PMF manufacturing into a significant public safety threat. This shift from isolated personal manufacture to organized and systematic production of untraceable firearms directly contravenes the intent of legitimate firearm regulations designed to prevent untraceable weapons from falling into the hands of criminals.

Moreover, the scale and sophistication of modern PMF production closely resembles industrial manufacturing processes rather than individual craftsmanship. The widespread availability of detailed blueprints, specialized equipment, and online communities dedicated to ghost gun production has enabled individuals to operate as diffuse *de facto* manufacturers.

The Final Rule enhances law enforcement's ability to regulate and trace firearms, closing loopholes that previously allowed untraceable PMFs to proliferate. Several recent high-profile cases highlight the scope of potential violence that has been averted and illustrates why the ATF's reasonable updates to our nation's firearm laws via the Final Rule are essential to effectuate Congress's original intent. Significantly, as discussed below, recent investigations have revealed the magnitude of the impact of freely available unregulated weapons parts kits and partially completed lowers receivers in New York.

The ubiquity of PMFs—including ghost gun kits, 3D-printed firearms, and privately designed firearms—has opened the door for both criminal actors and other non-law-abiding citizens to take up PMF gun manufacturer where they previously would have been unable, or unwilling, to do so. Across the Office's 45 investigations, we have seen myriad motivations for the

manufacture of PMFs using the very ghost gun kits and serialized lower receivers that would be regulated by the ATF's Final Rule. PMFs are now widely being used by street criminals in homicides, robberies, and carjackings, as well as complex criminal enterprises, such as narcotics distribution, international and interstate gun trafficking, and sale to local street gangs. Troublingly, we have recovered caches of firearms from individuals as young as 13 years old, and individuals who describe themselves as "hobbyists" who amassed dozens of firearms and thousands of rounds of ammunition—resulting in their first contact with the criminal justice system.

For example, in January 2024, following a long-term investigation, the Office charged two brothers from Astoria, Queens with possessing an arsenal that included assault weapons, ghost guns, 3D-printed firearms, and eight improvised explosive devices.<sup>9</sup> The brothers were also found with anarchist propaganda and a "hit list" that named "cops, judges, politicians, celebrities," and "banker scum." Next, in April 2024, the Office charged a man from Rockaway Beach, Queens with possessing over 30 illegal firearms, nearly all of which were PMFs, along with silencers and thousands of rounds of ammunition.<sup>10</sup> These timely

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<sup>9</sup>Press Release, Queens District Attorney, *Brothers Charged After Seizure of Homemade Explosives, Ghost Guns in Their Astoria Apartment* (Jan. 29, 2024) (<https://queensda.org/brothers-charged-after-seizure-of-homemade-explosives-ghost-guns-in-their-astoria-apartment-photo/>) (last accessed June 18, 2024).

<sup>10</sup>Press Release, Queens District Attorney, *More Than 30 Firearms Recovered From Rockaway Beach Home* (April 19, 2024) (<https://queensda.org/more-than-30-firearms-recovered-from-rockaway-beach-home/>) (last accessed June 18, 2024).

interventions by the Office have undoubtedly averted significant threats to public safety. As alleged, the firearm components in these cases were a combination of 3D-printed components and those purchased from out-of-state or online firearms components dealers of “ghost gun kits” and “80% lower receivers” and shipped or trafficked into New York City.

Similarly, in April 2023, the Office brought the first prosecution in New York State of an international ghost gun trafficker, charging a Queens man and his associate in Texas with assembling PMFs and selling those unregistered and untraceable firearms in New York City and abroad in Trinidad.<sup>11</sup> This case underscores the urgent need for the ATF's Final Rule. The investigation revealed a sophisticated operation where untraceable PMFs were assembled and sold both locally and internationally. These PMFs, assembled from parts ordered online, shipped to Texas, and then reshipped from Texas to New York, bypassed traditional regulatory safeguards, making it difficult for law enforcement to trace their origins. As alleged, the mechanism through which the defendants obtained the necessary PMF components highlights the increasing accessibility and appeal of ghost guns to individuals without prior criminal records, posing a significant threat to public safety. The investigation resulted in the seizure of over 600 firearm-related items, including high-capacity magazines and a short barrel rifle conversion kit, and illustrates the scale and danger of

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<sup>11</sup>Press Release, Queens County District Attorney, *District Attorney Katz Launches State's First Prosecution Of International Ghost Gun Trafficking Operation* (April 2, 2023) (<https://queensda.org/district-attorney-katz-launches-states-first-prosecution-of-international-ghost-gun-trafficking-operation/>) (last accessed June 18, 2024).

unregulated firearm components. Thus, the ATF's Final Rule, which mandates serialization and background checks for key firearm components, is essential for closing loopholes and enabling effective regulation and prosecution of such activities, ensuring that law enforcement can better track and control the proliferation of PMFs.

In summary, the current practices of PMF and ghost gun manufacturing bear little resemblance to the historical tradition of personal firearm manufacture in the United States. Instead, they represent a deliberate and dangerous attempt to bypass regulatory safeguards, facilitating the proliferation of untraceable and potentially deadly firearms. This conduct necessitates robust regulatory responses, such as the ATF Final Rule, to effectively address the evolving landscape of firearm production and protect public safety.

## II. ATF'S FINAL RULE IS ESSENTIAL TO PREVENT THE TYPE OF HARM THAT THE GCA SOUGHT TO ADDRESS.

As countless recent QDA investigations have shown, ghost guns and similar items that the ATF now seeks to regulate present a serious danger to public safety, precisely the type of danger that Congress sought to address through the serialization and background checks that it enacted in 1968.

In March 2022, the Office conducted the largest seizure of illegal PMF kits in New York State to date. This case involved a large-scale operation involving the transport of firearm components from Maryland to Queens County.<sup>12</sup> The investigation, ultimately

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<sup>12</sup> Press Release, Queens County District Attorney, *Maryland Resident Charged With 336 Counts Of Criminal Possession Of A*

resulting in a guilty plea, revealed that the defendant sold approximately 51 weapons kits to an undercover investigator working for QDA. Pursuant to the execution of a search warrant on the defendant's vehicle, QDA seized an additional 21 weapons parts kits and various other unserialized AR-15 components including lower receivers. The investigation revealed that the defendant had been purchasing firearm kits and components out-of-state and then transporting them into New York State—exploiting loopholes in existing gun control measures, demonstrating how easily accessible ghost gun components are fueling a burgeoning underground market.

Further, in November 2023, the Office uncovered millions of dollars' worth of heroin, fentanyl, and cocaine—packaged for both wholesale and street level distribution—along with a stockpile of firearms, including five unserialized PMFs in an abandoned home in Bellerose, Queens, being occupied by unlawful tenants.<sup>13</sup> The discovery of millions of dollars' worth of narcotics alongside a substantial cache of PMFs, PMF kits, high-capacity magazines, tools used to manufacture PMFs, illustrates how ghost guns can be possessed, utilized, and manufactured in conjunction with other illegal activity. Due to their unregulated and

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*Weapon And Other Crimes In Largest Bust Of "Ghost Gun" Kits In New York State* (March 10, 2022) (<https://queensda.org/maryland-resident-charged-with-336-counts-of-criminal-possession-of-a-weapon-and-other-crimes-in-largest-bust-of-ghost-gun-kits-in-new-york-state/>) (last accessed June 18, 2024).

<sup>13</sup> Press Release, Queens County District Attorney, *Millions In Drugs And Guns Seized From Abandoned Home* (Nov. 1, 2023) (<https://queensda.org/millions-in-drugs-and-guns-seized-from-abandoned-home/>) (last accessed June 18, 2024).

untraceable nature, PMFs provide criminals with a means to arm themselves without detection, thereby facilitating and protecting their illicit activities.

Other investigations have resulted in the recovery of PMFs, their components, and tools used to manufacture them. In June 2023, an investigation led to the discovery of 20 PMFs, 31 large-capacity magazines, parts to assemble five assault rifles, four complete polymer-based lower receivers, approximately 670 rounds of various caliber ammunition, and equipment for manufacturing PMFs.<sup>14</sup> In May 2023, an investigation resulted in the seizure of three PMF pistols, along with several commercially manufactured firearms, high capacity magazines, ammunition, a 3D printer and filament, and tools used to assemble PMFs.<sup>15</sup> And in February 2024, an investigation uncovered a father and son who had been collaborating to obtain firearm components and manufacture them into operable firearms.<sup>16</sup> Specifically, the investigation revealed that the two possessed five operable PMFs,

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<sup>14</sup> Press Release, Queens County District Attorney, *Queens Man Sentenced To Prison For Possessing Arsenal Of Illegal Ghost Guns* (June 23, 2023) (<https://queensda.org/queens-man-sentenced-to-prison-for-possessing-arsenal-of-illegal-ghost-guns/>) (last accessed June 18, 2024).

<sup>15</sup> Press Release, Queens County District Attorney, *Queens Man Charged With Possessing Arsenal Of Illegal Weapons, Including Ghost Guns And Ammunition* (May 11, 2023) (<https://queensda.org/queens-man-charged-with-possessing-arsenal-of-illegal-weapons-including-ghost-guns-and-ammunition/>) (last accessed June 18, 2024).

<sup>16</sup> Press Release, Queens County District Attorney, *Father And Son Charged With Possessing Loaded Ghost Gun Assault Weapons* (Feb. 15, 2024) (<https://queensda.org/father-and-son-charged-with-possessing-loaded-ghost-gun-assault-weapons/>) (last accessed June 18, 2024).

including two assault rifles, one assault pistol, two pistols, high-capacity magazines, ballistic protection, fifteen unserialized lower receivers, firearm silencers, over 1000 rounds of ammunition, and tools used to manufacture PMFs.

The fact remains that limiting access to illegal and untraceable firearms saves lives. Any non-violent domestic dispute, argument between neighbors, or road rage incident can turn deadly in an instant when one party has access to a loaded firearm—particularly in jurisdiction as crowded and congested as New York City. The Office has recovered hundreds of illegal PMFs that were not properly secured in homes where children were present. Moreover, it strains credulity to believe that an individual never intended to use a PMF when they also possessed tens of thousands of rounds of ammunition, magazines holding more than ten (and in some cases up to 100) rounds of ammunition, body armor, laser sight targeting systems, and silencers—all of which have been recovered from our defendants in troves.

Our experience investigating and prosecuting PMF traffickers and builders has shown us that the first thing a PMF manufacturer wants to know after building a PMF is its operability—whether or not it works. This requires ammunition and a test fire, presenting greater potential for harm inflicted on others, whether intentionally or accidentally. Even if an ostensible PMF “hobbyist” built their firearms simply to display, they certainly did not need to procure vast amounts of ammunition nor modify and accessorize their PMF to further increase its lethality. Limiting access to these weapons and their components is critical to reducing the risk of deadly encounters and ensuring the safety of our communities.



The ATF Final Rule is crucial in this context as it helps prevent unserialized firearm parts from entering New York from other states, thereby mitigating the proliferation of untraceable firearms. Without the ability to regulate these types of firearm components, law enforcement faces significant challenges in tracking and preventing the flow of illegal guns.

The necessity of the ATF's Final Rule is underscored by our firsthand experience in Queens. Ghost guns are not just a theoretical threat, they are a growing danger in our community. Untraceable PMFs circumvent traditional background checks, record keeping procedures, and serialization requirements, make them particularly attractive to criminals and others prohibited from possessing firearms. The ATF Final Rule recognizing weapons parts kits and partially complete frames and receivers as firearms ensures that these components are subject to the same regulatory scrutiny as fully assembled guns, allowing for them to be readily traced and preventing their diversion to illegal markets and use in criminal activity.

### CONCLUSION

The Queens County District Attorney's Office's extensive experience investigating, interdicting, and prosecuting PMF traffickers and builders reflects our unique expertise. Untraceable PMFs, assembled from parts often procured without background checks, have undermined traditional gun control measures and posed significant challenges for law enforcement. The Office's specialized team has led New York City in PMF recoveries, with investigations resulting in numerous arrests and the seizure of hundreds of illegal ghost guns, commercially manufactured firearms, and related

components. Despite the diverse backgrounds of those involved in PMF activities, from hobbyists to traffickers, the proliferation of these weapons underscores the need for regulatory measures like the ATF final rule, which helps curb the influx of untraceable firearm parts into New York. Limiting access to these deadly weapons is critical for reducing violence and keeping our community safe.

For the foregoing reasons, the Queens County District Attorney's Office respectfully requests that the Supreme Court of the United States uphold the ATF Final Rule in its entirety.

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