Privately Made Firearm Ordinance

San José City Council 05.10.22
Item 4.1

Presenters:

- Sarah Zárate, Director, Office of Administration, Policy, & Intergovernmental Relations
- Chief Anthony Mata, Police Department
- Lt. Steve Donohue, Police Department

Background

Series of recent proposals to reduce gun harm in San José

- Passed an ordinance on June 9, 2021 amending the municipal code to regulate the sale, lease, and transfer of firearms and firearms ammunition in San José as retail. (Ordinance No. 30617).
- Passed an ordinance February 3, 2022 requiring gun owners to obtain and maintain liability insurance and establish of an annual gun harm reduction fee (Ordinance No. 30716).
- Community Violence Prevention and Response Recommendations

Council Direction on "Ghost Guns" (June 2021/January 2022)

- *…Direct the City Attorney to craft a prohibition on the possession, assembly, and manufacturing of any untraceable gun lacking a serial number, in collaboration with partner organizations such as Brady United and Gifford Law Center, to cover gaps in California state prohibitions, most of which do not take effect until July 2022.*

Background

“Ghost Guns” = Privately Made Firearms

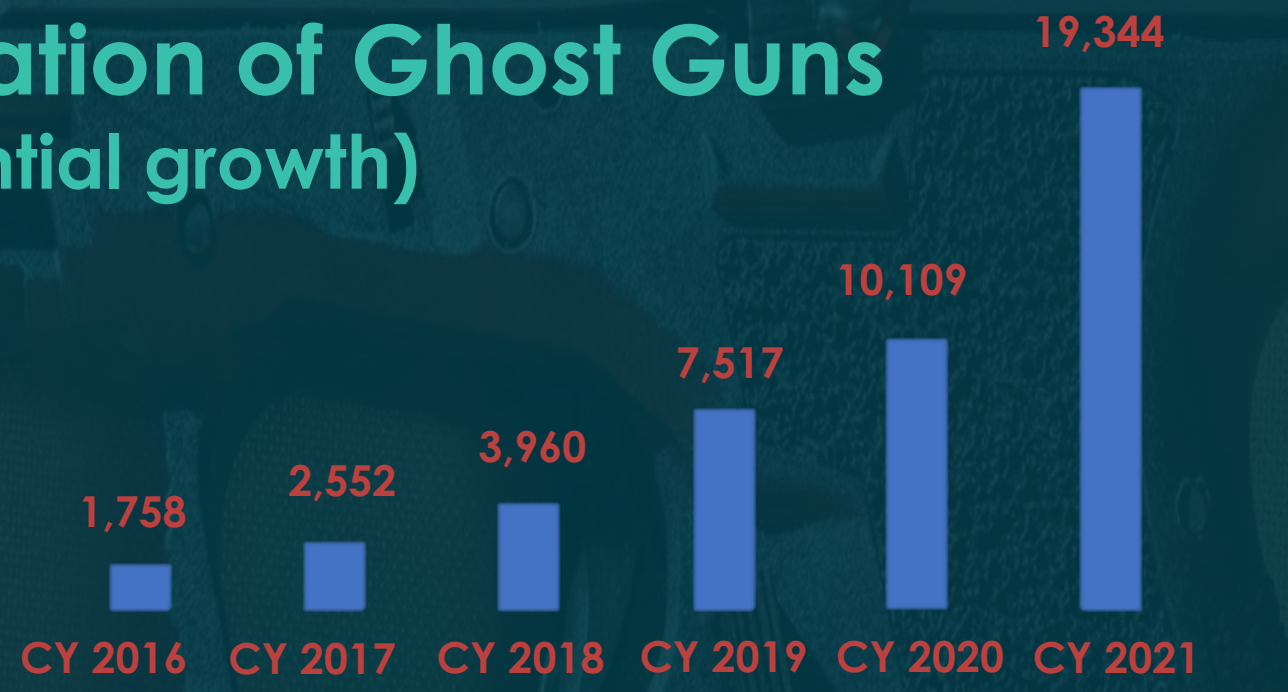
Background – *What is the Problem?*

Proliferation of unserialized Ghost Guns used in violent crimes

- ✓ No serial numbers – **difficult to trace**
- ✓ No background checks – **easily acquired by criminals**
- ✓ Easily assembled from kits or 3D printed parts

Background – *What is the Problem?*

Proliferation of Ghost Guns
(exponential growth)



Total Suspected PMFs by Calendar Year (CY)

Data from Department of Justice
Justice.gov

Federal Regulatory Activity

Justice Department modernized definition of a firearm April 11, 2022

- Clarifies that frames, receivers, and parts kits must be marked with serial numbers and are subject to same regulations as traditional firearms when manufacturing and transferring firearms
- Requires background checks before selling kits containing parts necessary to make a gun
- Requires federally licensed firearm dealers and gunsmiths to add serial numbers to 3D printed or other unserialized firearms in their inventory

Rule is effective August 24, 2022

State Regulatory Activity

State of California requires a person:

- manufacturing or assembling a firearm to first apply for a unique serial number or other identifying mark
- who owns a firearm that does not have a serial number to apply for a unique serial number or other identifying mark

State of California prohibits:

- sale or transfer of ownership of an unserialized firearm
- helping a person who is prohibited from possessing a firearm manufacture or assemble a firearm

State Regulatory Activity

Effective July 1, 2022

State of California will prohibit:

- Someone who is prohibited from owning or possessing a firearm from possessing firearm precursor parts
- Firearm precursor parts from being sold in California except by (or through) a licensed firearm precursor part vendor
- Firearm precursor parts from being sold to any person under the age of 21, or to any person the vendor should reasonably know is prohibited.
- The sale of more than one firearm precursor part per month (i.e., via Private Party Transfer), unless the seller has a firearm precursor part vendor license

The California Department of Justice will also conduct eligibility checks on potential purchasers or transferees.

Local Regulatory Activity

Several large California jurisdictions have further banned the possession, sale, and transfer of un-licensed and un-serialized firearms

San Diego County supervisors formally bans 'Ghost Guns'

CALIFORNIA

L.A. City Council votes to ban 'ghost guns'

BAY AREA

San Francisco supervisors vote to ban untraceable 'ghost guns'

Megan Cassidy

Sep. 7, 2021 | Updated: Sep. 7, 2021 9:10 p.m.

California scrambles to ban 'ghost guns' as untraceable weapons' popularity soars

Concern grows as guns appear in homicides, school shootings and domestic terror incidents

'Ghost guns' at the San Francisco police department. Photograph: Haven Daley/AP

BAY AREA // EAST BAY

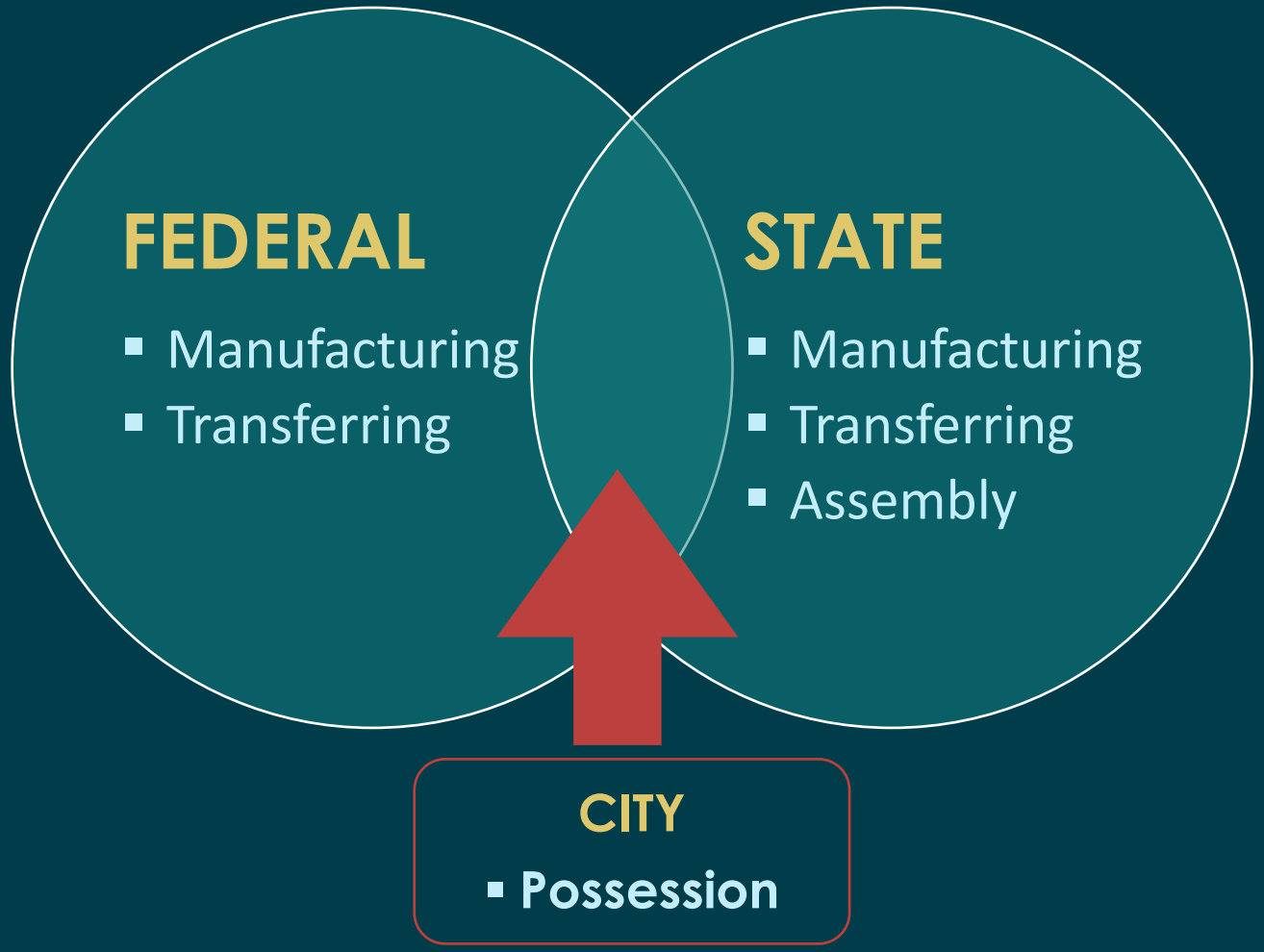
Oakland bans the sale and possession of ghost guns, hoping it will cut violence

Sarah Ravani

Jan. 19, 2022 | Updated: Jan. 19, 2022 5:23 p.m.

City of San José's Proposed Privately Made Firearm Ordinance

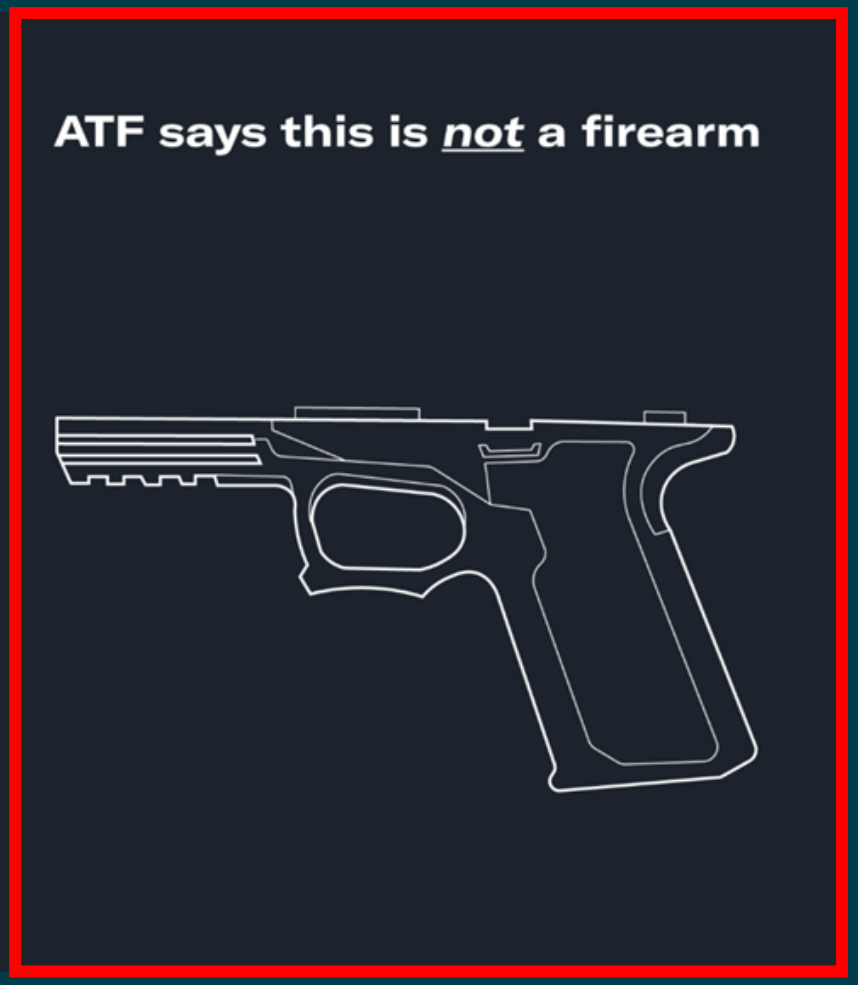
Prohibit the manufacture, assembly, **possession**, transfer, or sale of unfinished frames or receivers unless they are imprinted with a serial number issued by a Federal Firearms Importer or Manufacturer in accordance with federal law or engraved or permanently affixed with a serial number provided by the California Department of Justice



Provide 120 days from effective day to become compliant with the ordinance.

What is an unfinished frame or receiver?

What is an unfinished frame or receiver?



How do I become compliant?

Apply for a unique serial number or other mark of identification through the CA Department of Justice

- **120 days** to become compliant from the ordinance effective day
- https://oag.ca.gov/firearms/usna

State *of* California Department *of* Justice

ROB BONTA
Attorney General

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Unique Serial Number Application

Commencing January 1, 2019, a new resident to the state shall apply to the Department of Justice (Department) for a unique serial number within 60 days of arrival for any firearm the resident wishes to possess in the state that the resident previously self-manufactured or self-assembled or a firearm the resident owns, that does not have a unique serial number or other mark of identification.

Additionally, as of July 1, 2018, **prior to** manufacturing or assembling a firearm, a person shall apply to the Department for a unique serial number.

Please refer to California Penal Code sections 29180-29184 and the California Code of Regulations, title 11, division 5, chapter 41 (Regulations regarding Identifying Info and the USNA Process and Emergency Regulations regarding Firearms: Identifying Info – Existing and New California Residents) for complete instructions on the process and information regarding firearms that are eligible for a unique serial number prior to starting the application process.

Council Action

San José City Council 5.10.22

Privately Made Firearm Ordinance, Item 4.1

- ✓ Approve an ordinance amending Chapter 10.32 of Title 10 of the San José Municipal Code to add Part 7 to reduce gun harm by prohibiting the possession, manufacturing, sale, assembly, transfer, receiving, and distribution of un-serialized firearms, frames, and receivers within San José, subject to certain exceptions.

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