



**BERKELEY CITY COUNCIL PUBLIC SAFETY COMMITTEE
SPECIAL MEETING**

**Monday, August 9, 2021
10:30 AM**

Committee Members:

Councilmembers Rashi Kesarwani, Susan Wengraf, and Ben Bartlett
Alternate: Councilmember Terry Taplin

**PUBLIC ADVISORY: THIS MEETING WILL BE CONDUCTED EXCLUSIVELY THROUGH
VIDEOCONFERENCE AND TELECONFERENCE**

Pursuant to Section 3 of Executive Order N-29-20, issued by Governor Newsom on March 17, 2020, this meeting of the City Council Public Safety Policy Committee will be conducted exclusively through teleconference and Zoom videoconference. Please be advised that pursuant to the Executive Order, and to ensure the health and safety of the public by limiting human contact that could spread the COVID-19 virus, there will not be a physical meeting location available.

To access the meeting remotely using the internet: Join from a PC, Mac, iPad, iPhone, or Android device: Use URL - <https://us02web.zoom.us/j/89775766534>. If you do not wish for your name to appear on the screen, then use the drop down menu and click on "rename" to rename yourself to be anonymous. To request to speak, use the "raise hand" icon on the screen.

To join by phone: Dial **1-669-900-9128** or **1-877-853-5257 (Toll Free)** and Enter Meeting ID: **897 7576 6534**. If you wish to comment during the public comment portion of the agenda, press *9 and wait to be recognized by the Chair.

Written communications submitted by mail or e-mail to the Public Safety Policy Committee by 5:00 p.m. the Friday before the Committee meeting will be distributed to the members of the Committee in advance of the meeting and retained as part of the official record.

AGENDA

Roll Call

Committee Action Items

The public may comment on each item listed on the agenda for action as the item is taken up. The Chair will determine the number of persons interested in speaking on each item. Up to ten (10) speakers may speak for two minutes. If there are more than ten persons interested in speaking, the Chair may limit the public comment for all speakers to one minute per speaker. Speakers are permitted to yield their time to one other speaker, however no one speaker shall have more than four minutes.

Following review and discussion of the items listed below, the Committee may continue an item to a future committee meeting, or refer the item to the City Council.

- 1. Ghost Gun Precursor Parts Ordinance**
From: Councilmember Taplin (Author), Councilmember Hahn (Co-Sponsor), Councilmember Bartlett (Co-Sponsor)
Referred: July 12, 2021
Due: January 28, 2022
Recommendation: Refer to the City Manager the development of an ordinance amending the Berkeley Municipal Code to prohibit any person other than a licensed manufacturer or importer from possessing, selling, offering for sale, transferring, purchasing, transporting, receiving, or manufacturing an unfinished firearm frame or receiver that has not been imprinted with a serial number, subject to certain exceptions pursuant to state law; and prohibiting any person from manufacturing or assembling a firearm that has not been imprinted with a serial number, subject to certain exceptions pursuant to state law; and return such an ordinance to the City Council.
Financial Implications: Staff time
Contact: Terry Taplin, Councilmember, District 2, (510) 981-7120

Items for Future Agendas

- **Discussion of items to be added to future agendas**

Adjournment

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*Written communications addressed to the Public Safety Committee and submitted to the City Clerk Department will be distributed to the Committee prior to the meeting.*

*This meeting will be conducted in accordance with the Brown Act, Government Code Section 54953. Members of the City Council who are not members of the standing committee may attend a standing committee meeting even if it results in a quorum being present, provided that the non-members only act as observers and do not participate in the meeting. If only one member of the Council who is not a member of the committee is present for the meeting, the member may participate in the meeting because less than a quorum of the full Council is present. Any member of the public may attend this meeting. Questions regarding this matter may be addressed to Mark Numainville, City Clerk, (510) 981-6900.*



**COMMUNICATION ACCESS INFORMATION:**

To request a disability-related accommodation(s) to participate in the meeting, including auxiliary aids or services, please contact the Disability Services specialist at (510) 981-6418 (V) or (510) 981-6347 (TDD) at least three business days before the meeting date.

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I hereby certify that the agenda for this meeting of the Standing Committee of the Berkeley City Council was posted at the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way, as well as on the City's website, on August 5, 2021.

A handwritten signature in black ink, appearing to read "Mark Numainville".

Mark Numainville, City Clerk

**Communications**

*Communications submitted to City Council Policy Committees are on file in the City Clerk Department at 2180 Milvia Street, 1st Floor, Berkeley, CA, and are available upon request by contacting the City Clerk Department at (510) 981-6908 or [policycommittee@cityofberkeley.info](mailto:policycommittee@cityofberkeley.info).*





BERKELEY CITY COUNCILMEMBER  
**TERRY TAPLÍN**  
 DISTRICT 2

CONSENT CALENDAR  
 July 27, 2021  
 Public Safety Committee

To: Honorable Mayor and Members of the City Council

From: Councilmember Taplin (Author), Councilmember Hahn (Co-Sponsor),  
 Councilmember Bartlett (Co-Sponsor)

Subject: Ghost Gun Precursor Parts Ordinance

RECOMMENDATION

Refer to the City Manager the development of an ordinance amending the Berkeley Municipal Code to prohibit any person other than a licensed manufacturer or importer from possessing, selling, offering for sale, transferring, purchasing, transporting, receiving, or manufacturing an unfinished firearm frame or receiver that has not been imprinted with a serial number, subject to certain exceptions pursuant to state law; and prohibiting any person from manufacturing or assembling a firearm that has not been imprinted with a serial number, subject to certain exceptions pursuant to state law; and return such an ordinance to the City Council.

FINANCIAL IMPLICATIONS

Staff time.

CURRENT SITUATION AND ITS EFFECTS

Prohibiting the sale, distribution, and possession of precursor parts for Privately Manufactured Firearms (PMFs), commonly known as “ghost guns,” is a Strategic Plan Priority Project, advancing our goal to create a resilient, safe, connected, and prepared city.

“Ghost guns” are untraceable and unregulated firearms that are often assembled by unlicensed individuals using build-it-yourself kits. The main precursor part of an assembled firearm is an unfinished “frame” or “receiver,” which contains the firing mechanism, to which other parts are attached. Federal law regulates firearm frames and receivers, but not *unfinished* (or sometimes referred to as “80 percent”) receivers and frames. These unfinished parts, commonly known as “precursor parts,” are not considered “firearms” under the Gun Control Act, so manufacturers and importers are not required to engrave them with serial numbers, record the identities of their purchasers, or run background checks on customers. (18 U.S.C 921, 27 CFR 478.92.) Privately Manufactured Firearms (PMFs) are known as “ghost guns” because they are assembled using an unfinished frame or receiver that does not have a unique serial number allowing it to be traced to the manufacturer, dealer, and purchaser.

When an end user assembles the gun, California law mandates that they first apply for a serial number from the California Department of Justice, engrave the number on the gun within 10 days of assembly, and then provide information about the gun and the identity of its owner to the DOJ. (Penal Code 29180.) However, this requirement is trivially easy to evade. The lack of background checks makes it possible for persons whom the law recognizes as too dangerous to be permitted to purchase a firearm to still acquire them at a lower cost. The absence of a serial number on ghost guns hinders criminal investigations, endangering public safety.

City law does not regulate the possession, sale, transfer, or manufacture of unfinished firearm parts including frames and receivers. Pursuant to AB-857 (2016), state law as of July 1, 2022 will require that the sale or transfer of precursor parts to be processed by a licensed vendor in a face to face transaction with a background check. City law also does not regulate the manufacture or assembly of firearms that lack serial numbers. State law requires a person who wishes to self-manufacture or assemble a firearm to obtain a serial number from the California Department of Justice pursuant to Penal Code Section 30400 and affix it to the firearm within 10 days of manufacturing or assembling the firearm, and submit to a background check pursuant to Penal Code Section 30400. Possession of an un-serialized PMF is a misdemeanor violation of California Penal Code Section 29180, but even under the new California law, the onus to provide a serial number is on the assembler of the parts rather than the vendor, making the law much easier to evade.

### BACKGROUND

Currently, anyone in California with cash on hand can purchase the parts to make a PMF from the Internet. For example, the Polymer80 website<sup>1</sup> has “80%” kits that are completely legal for California residents to purchase online and ship to their house. As of July 2021, no background checks, waiting periods, sale records, age restrictions, or limits on numbers of purchases apply to purchases of precursor parts or kits.

The California Bureau of Firearms seized 512% more ghost guns from persons identified through the Armed Prohibited Persons System database in 2019 than in 2018. The federal Bureau of Alcohol, Tobacco, and Firearms (ATF) reported in 2019 that 30% of crime guns it recovered in California were ghost guns. In 2020, California far outpaced any other state in PMF seizures at 4,642. Overall, California accounted for 65% of all PMF seizures in the country. In January 2020, the ATF’s Los Angeles Field Division reported that over 40% of its cases involved these weapons. In February 2021, the Los Angeles City Attorney announced that law enforcement had recovered over 700 Polymer80 ghost guns, one brand of ghost gun parts/kits, in Los Angeles in 2020.

Ghost guns have been used in a wide variety of crimes in California, including homicides, robberies, school shootings, mass shootings, killings of law enforcement officers, and domestic violence. According to Berkeley’s Interim Police Chief Jennifer Louis, 11 of the 49 guns recovered by the Berkeley Police Department<sup>2</sup> were “ghost

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<sup>1</sup> <https://www.polymer80.com/>

<sup>2</sup> Community Safety Town Hall. (2021, June 24). Vice Mayor Droste et al.

guns,” including a fully automatic firearm used at an April 22 shooting<sup>3</sup> at Fairview and Harper streets.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

None.

CONTACT PERSON

Councilmember Terry Taplin      Council District 2      510-981-7120

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<sup>3</sup> Raguso, E. (2021, May 17). Felon charged with stalking, gunfire in Berkeley. *Berkeleyside*. Retrieved from <https://www.berkeleyside.org/2021/05/17/alvin-monroe-shooting-stalking-investigation-berkeley>