



TESTIMONY OF

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BEFORE THE

SENATE COMMITTEE ON THE JUDICIARY

“PROTECTING AMERICA’S CHILDREN
FROM GUN VIOLENCE”

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Introduction

Chairman Durbin, Ranking Member Grassley, and distinguished Members of the Committee:

Thank you for the opportunity to participate in today's hearing. In addition to serving as the Chief of the Phoenix Police Department, I am also the President of the Major Cities Chiefs Association (MCCA). The MCCA is a professional organization of police executives representing the largest cities in the United States and Canada. It is an honor to appear before the Committee today on behalf of my MCCA colleagues. My testimony will provide a local law enforcement perspective on the epidemic of gun violence currently plaguing our Nation, discuss how the ongoing gun violence is affecting our youth, and propose recommendations that will help save lives.

Today's hearing will focus on one of the most significant threats facing our Nation—gun violence. Tragically, this threat has not spared America's children. Based on an analysis of CDC data, professors at the University of Michigan determined that in 2020, the most recent year for which information was available, firearm-related injuries were the leading cause of death among children and adolescents (1-19 years old). Perhaps even more troubling is that from 2019 to 2020, the relative increase in the rate of firearms-related deaths among children and adolescents was 29.5%, which is more than two times the general population's relative increase.¹ These statistics should trouble every American. The time for change is long overdue.

Rise in Gun Violence

It is abundantly clear that America is struggling with a gun violence epidemic. Today's hearing is occurring in the aftermath of multiple mass shootings that have devastated communities throughout the United States. This includes active shooter incidents in Buffalo, Laguna Woods, and Tulsa, amongst others. It also includes the mass shooting in Uvalde that claimed the lives of 19 innocent children. Our communities are hurting, and we must continue to support them, the loved ones of the victims, as well as our first responders. As disturbing as these events are, it's important to remember the threat of gun violence extends well beyond the tragedies that become national news. The grim reality is that shootings have become a daily occurrence in America's cities. In some MCCA member cities, it's common for there to be multiple instances of gun violence a day.

Gun Violence in Major Cities

Nearly every major city in the United States is grappling with a rise in violent crime. This trend is driven, in part, by an increase in gun violence, evidenced by the steady rise in both homicides and aggravated assaults over the past few years. While homicides in the first quarter of 2022 decreased slightly compared to 2021, there was an increase in aggravated assaults. Despite the decreases in the first quarter of 2022, when comparing data for the past few years, it becomes clear that America's urban centers are experiencing heightened levels of gun violence. For example, homicides in the first quarter of 2022 are up approximately 56%, and aggravated assaults increased by roughly 22% compared to the first quarter of 2019.²

¹ Jason E. Goldstick, Ph.D., Rebecca M. Cunningham, M.D., and Patrick M. Carter, M.D., "Current Causes of Death in Children and Adolescents in the United States," *The New England Journal of Medicine*, May 19, 2022.

<<https://www.nejm.org/doi/full/10.1056/NEJMc2201761>>

² "The MCCA's Violent Crime Reports can be found here: <<https://majorcitieschiefs.com/resources/>>

The nature of many shootings occurring in major cities is extremely concerning. While every violent crime involving a firearm is troubling, these are no longer isolated incidents where only a few shots are fired. Local law enforcement officers in our Nation's cities are now routinely responding to mass shootings. These situations frequently involve multiple victims and multiple shooters. During some of these incidents, violent offenders may discharge hundreds of rounds. For example, there were multiple mass shootings in MCCA member cities during the first weekend in June. In Philadelphia, a mass shooting killed three and left 11 injured. Here in Phoenix, a mass shooting at a strip mall in Phoenix killed one and injured eight.

Addressing rising gun violence will require an influx of additional resources. Due to resource constraints, the Constitutional proactive policing that helps drive down gun violence has become a luxury for many departments. It will also require close partnerships between local and federal law enforcement. MCCA members enjoy close working relationships with their federal counterparts and are already working closely with them to address the threat of gun violence.

Recommendation: Congress must fully fund critical grant programs like COPS Hiring Grants and Byrne JAG as part of the F.Y. 2023 appropriations process. Law enforcement agencies need assistance to address staffing shortages, provide victims services, further deploy investigative tools such as gunshot detection technology, and work through evidence backlogs.

Recommendation: Congress must ensure programs that promote federal-local law enforcement collaboration to address violent crime, such as Project Safe Neighborhoods, are adequately funded and incorporate local law enforcement's perspective.

Recommendation: Many state and local law enforcement agencies currently lack a sufficient number of certified firearms examiners. These agencies often rely on the ATF to examine their crime guns, and it can sometimes take months for agencies to receive this critical investigative information. The ATF must reinvigorate regional programming to provide forensic examiners with the training they need to become certified firearms examiners.

Juvenile Gun Violence

The gun violence epidemic has impacted America's youth in multiple ways. As mentioned earlier, the number of juveniles killed and injured by gun violence has increased over the past few years. According to the Gun Violence Archive, in 2019, there were 996 juveniles (age 0-17) killed and another 2,824 injured. In 2021, these numbers increased to 1,560 deaths and 4,134 injured.³ This represents an approximately 56% increase and 46% increase, respectively. Sadly, this disturbing trend has continued in 2022. As of June 8th, 727 juveniles have lost their lives to gun violence and 1,827 have been injured.⁴ Over the last five years in Phoenix, on average, approximately 80 youths were killed or wounded by gunfire. In 2020 and 2021, the number was closer to 100, and 2022 is on track to be similar.

The juvenile-related challenges with gun violence go beyond the children who are victims. Guns have flooded our communities, and it has become far too easy for our children to get their hands

³ Gun Violence Archive, "Gun Violence Archive 2019." <<https://www.gunviolencearchive.org/past-tolls>> See also: Gun Violence Archive, "Gun Violence Archive 2021." <<https://www.gunviolencearchive.org/past-tolls>>

⁴ Gun Violence Archive, "Gun Violence Archive 2022," accessed on June 10, 2022. <<https://www.gunviolencearchive.org>>

on them. Sadly, many MCCA members have reported an increase in the number of violent crimes perpetrated by juveniles. The rise in shootings by juveniles has created a vicious cycle. Today's suspect is often tomorrow's victim and vice versa. It is extremely troubling to see these offenders demonstrate a complete disregard for the sanctity of life at such a young age.

Youth in major cities, especially in communities of color, are growing up in communities consistently impacted by gun violence. These kids are seeing their family members, neighbors, and friends lose their lives to the scourge of gun violence every day. They are also seeing their peers commit violent acts involving firearms with greater regularity. No child should be afraid of getting hit by a stray bullet while walking through their neighborhood. Nor should any child feel they need to carry a gun to protect themselves or think using it is the appropriate way to resolve a conflict. The reality is, however, that the ongoing and persistent gun violence in their communities has desensitized many of these youths.

In light of these challenges, several MCCA member cities have made significant investments in hospital-based and other intervention programs to help address the trauma inflicted when children are victims of or witnesses to violent crime. For example, the city of Philadelphia provides more than \$200,000 to support Drexel University's Healing Hurt People program.⁵ Programs like Healing Hurt People connect youth impacted by violent crime with social and health services, which can include mental health care or educational support. These programs aim to help these juveniles heal, prevent retaliation, and break the cycle of violence described above.

Recommendation: Reducing juvenile gun violence will require addressing the persistent trauma and cycles of violence described above. As local law enforcement works to address the overall increase in gun violence contributing to these challenges, other elements of government must provide our youth with opportunities and resources. Children must have access to basic human necessities and quality healthcare, including mental health, education, and employment opportunities. If state and local governments cannot provide these things independently, Congress should consider providing additional resources to assist.

Recommendation: There are far too many guns on our streets, and they are consistently ending up in the hands of juveniles. This must be addressed. Implementing common-sense reforms, like the ones included in the MCCA's Firearms Violence Policy, and safe storage requirements is an excellent place to start.⁶

MCCA Firearms Violence Policy

The MCCA has long been an advocate for sensible firearms policy. As a leader in the law enforcement profession, the MCCA membership adopted a Firearms Violence Policy in 2018. This policy includes several common-sense reforms that would help law enforcement and other stakeholders mitigate the threat gun violence poses to our communities, such as:

⁵ Jason Laughlin, "Violent crime leaves invisible injuries. Philly hospital staffers use their life stories to help heal them," *The Philadelphia Inquirer*, April 28, 2022.

<https://www.inquirer.com/health/philadelphia-shootings-2021-trauma-hospitals-20220428.html>

⁶ Some of the specific reforms in the MCCA's Firearms Violence Policy are discussed later in this testimony. The full policy can be found here:

https://majorcitieschiefs.com/wp-content/uploads/2021/01/mcca_gun_policy_revised_2018_copy.pdf

- Adopting universal background checks for all gun sales and closing both the gun show and internet loopholes
- Strengthening NICS definitions of prohibited purchasers to cover all appropriate domestic violence cases, with strict judicial procedures for appeal and reinstatement
- Supporting “Red Flag” legislation and regulations to preclude gun purchases by mentally disturbed persons with histories of violent behavior
- Banning “bump-stock” devices that replicate fully automatic weapons fire
- Maintaining ATF regulations and restrictions regarding silencers
- Reinstating the assault weapons ban and encouraging stiffer penalties for illegal guns
- Banning high-capacity magazines (10+ rounds)
- Banning internet ammo sales and requiring in-person transactions, records of sales, and licensing of ammo vendors
- Opposing legislation that would require states to recognize any and all concealed carry permits
- Opposing legislation that further erodes ATF authority
- Preventing known terrorists from purchasing firearms and/or ammunition

The MCCA continues to urge Congress and the Administration to enact all the reforms included in the policy without delay. They will help drive down gun violence overall, which in turn, will help protect our children.

Universal Background Checks

The MCCA supports establishing a strong system for universal background checks to cover all firearms purchases. This is an essential step as it will close two of the most significant gaps in our current system—the “internet sale” and “gun show” loopholes. Dangerous criminals and other individuals who represent a threat to public safety have repeatedly exploited these loopholes. It will be challenging to truly address the gun violence threat without closing these gaps as they provide a reliable avenue for prohibited individuals to acquire firearms.

Recommendation: The *Bipartisan Background Checks Act of 2021* (H.R. 8) and the *Background Check Expansion Act* (S. 529) would require a background check for all firearms sales. The MCCA has endorsed both H.R. 8 and S. 529 and encourages Congress to come together to pass these critical pieces of legislation.

Default Proceeds

Federal law requires Federal Firearms Licensees (FFL) to perform a background check before selling a firearm. The FBI’s National Instant Criminal Background Check System (NICS) is used to perform these checks. However, several challenges with NICS must be addressed.

While most NICS checks are completed instantly (89% in 2019), there are circumstances where the background check is forwarded to the FBI for additional investigation.⁷ If the FBI cannot make a final determination regarding the individual’s eligibility to possess a firearm under the law within three business days, the FFL is permitted to move forward with the sale. When coupled with some of the other challenges facing NICS, this has created a worst-case scenario where prohibited

⁷ The most current data available is from 2019. NICS Section: 2019 Operations Report, *Federal Bureau of Investigation*. <<https://www.fbi.gov/file-repository/2019-nics-operations-report.pdf/view>>

purchasers can obtain guns. For example, in 2019, nearly 3,000 individuals who were later determined to be banned under the law from possessing a firearm received one via a default proceed.⁸

Recommendation: The Enhanced Background Checks Act of 2021 (H.R. 1446), which the MCCA supports, would expand the timeframe for completing a NICS background check from three days to a minimum of ten days and a maximum of twenty days. Gun sales have spiked over the past few years, but there has not been a corresponding increase in NICS's resources, putting additional stress on an already overburdened system.

Improving Access to Mental Health Records

Under federal law, individuals who a court determines are a danger to themselves or others or individuals who have been involuntarily hospitalized or committed to a treatment facility due to their mental illness are ineligible to possess a firearm. In many instances, however, mental health records in NICS are inadequate, inconsistent, or incomplete. This has allowed individuals experiencing severe mental health crises to obtain firearms. For example, the perpetrators of several of the mass shootings that have occurred in recent years had well-documented histories of severe mental health challenges.

Recommendation: Congress must continue to provide state and local governments with assistance to help increase the availability of all relevant records for NICS checks.

Extreme Risk Protection Orders

Extreme Risk Protection Orders (ERPOs) allow law enforcement agencies, under a court order, to temporarily confiscate guns from individuals determined to be a threat to themselves or others. While there are no federal ERPO laws, nineteen states and Washington D.C. have instituted their own regulations.⁹ MCCA members in these jurisdictions have well-established programs to get guns out of volatile and dangerous settings. The MCCA supports ERPOs and believes using them to temporarily restrict an individual's access to firearms, with strong due process protections and a straightforward process to reinstate, should be part of our national policy.

Recommendation: Congress should introduce and advance legislation focused on ERPOs. It must also continue to provide resources to assist states with developing and implementing ERPO laws.

Banning Assault Weapons and High-Capacity Magazines

The MCCA supports banning assault weapons and high-capacity magazines. These weapons and magazines were banned in the United States as part of the *Violent Crime and Law Enforcement Act of 1994*, but the ban had a ten-year sunset provision, and Congress has not acted to renew it. This is yet another issue where state and local jurisdictions have been leaders. Seven states and Washington D.C. have enacted laws banning assault weapons, and nine states and Washington D.C. prohibit high-capacity magazines.¹⁰

⁸ *Ibid.*

⁹ "Extreme Risk Protection Orders," *Giffords Law Center to Prevent Gun Violence*.

<<https://giffords.org/lawcenter/gun-laws/policy-areas/who-can-have-a-gun/extreme-risk-protection-orders/>>

¹⁰ "Large Capacity Magazines," *Giffords Law Center to Prevent Gun Violence*. <<https://giffords.org/lawcenter/gun-laws/policy-areas/hardware-ammunition/large-capacity-magazines/>>

Many MCCA members and other law enforcement officials have closely studied assault weapons and firearms with high-capacity magazines and have determined they have no reasonable sporting or hunting purpose. The number of bullets used in recent shootings continues to rise. For example, one MCCA member recovered 70 shell casings while investigating one incident earlier this year. Assault weapons and high-capacity magazines are also a significant threat to law enforcement officers responding to violent crimes. The suspect who killed NYPD Officers Jason Rivera and Wilbert Mora in January 2022 used a firearm with a high-capacity “drum” magazine that allowed his gun to hold an additional 40 rounds.

Recommendation: Congress should pass legislation to reinstitute the ban on assault weapons and high-capacity magazines.

Straw Purchasers

The ability of prohibited purchasers to utilize straw purchases to obtain firearms illegally is another loophole in the system that must be closed. Straw purchasers are responsible for putting many guns into prohibited purchasers’ hands. Convicted felons and other dangerous individuals should not be able to easily acquire a firearm by simply paying an intermediary. The straw purchasing of firearms is currently not an explicit federal crime, making it challenging to hold straw purchasers accountable. Furthermore, only a small number of these individuals are prosecuted, which does little to disincentivize this behavior.

Recommendation: Congress must update the law to ensure U.S. Attorneys can aggressively prosecute straw purchasers when appropriate to help address this challenge.

Safe Storage

Gun safety is an equally important, albeit often overlooked, component of the ongoing gun policy debate. Local law enforcement has seen firsthand the dangers that can arise when gun safety is not taken seriously. The failure to safely store a firearm can lead to accidents and unintentional shootings, which often involve minors. It can also help prevent incidents of youth suicide involving a firearm. Finally, the lack of safe storage is contributing to increased gun violence. MCCA members have reported a sharp increase in firearms thefts, especially unsecured guns stolen from vehicles. It is not uncommon for these stolen firearms to later be used in violent crimes.

Recommendation: Congress should establish safe storage requirements for firearms like those included in S. 190, *Ethan’s Law*. The MCCA has endorsed this legislation.

Firearm Trends

As local law enforcement continues to work tirelessly to address gun violence, officers are recovering an unprecedented number of firearms. A good portion of crime guns can be traced to a few unique sources, one of which is ghost guns. According to MCCA data, from 2019 through May 2021, MCCA members saw a 408% increase in criminal incidents involving a ghost gun. MCCA members have also seen a dramatic rise in young people with ghost guns. During this same time period, there was a 285% increase in ghost gun incidents involving people under 21.

A criminal using a ghost gun is just as dangerous as a criminal using any other firearm. The only difference is that when law enforcement recovers a ghost gun, it can be significantly more challenging to trace the weapon and figure out who pulled the trigger. We all agree that we need to keep firearms out of the hands of dangerous individuals, but criminals are turning to ghost guns

to get around the guardrails in our current system. For example, from 2019 through May 2021, MCCA members reported a 240% increase in ghost gun incidents involving prohibited persons.

MCCA members are also seeing an increase in firearms with giggle switches installed. These after-market add-ons turn a semi-automatic firearm into a fully automatic firearm. Depending on the original weapon's capacity, a gun modified with a giggle switch can discharge up to 1,200 rounds a minute. There is no doubt that these modified weapons are one of the reasons for the uptick in the number of bullets used in recent shootings. Unfortunately, MCCA members have also reported that weapons with giggle switches were used in multiple incidents where innocent bystanders were killed or injured, including children. For example, in February of this year, a four-year-old in Memphis ended up in the hospital on a ventilator for weeks after getting hit by a stray bullet from a gun modified with a giggle switch.¹¹

3-D printing has produced another challenge. The blueprints used to make fully functioning firearms and firearm modifications are widely available on the internet, giving violent offenders a low-cost, reliable method to produce these items. As a result, there is a growing market for ghost guns that are manufactured using 3-D printed parts instead of being assembled from a kit. MCCA members are also increasingly seeing firearms modified with 3-D printed parts, including giggle switches.

Recommendation: Congress must pass a bill that updates the law to ensure law enforcement has the tools and authorities it needs to mitigate the threat posed by ghost guns. Privately manufactured firearms, like ghost guns, must have serial numbers so law enforcement can trace the gun if it is used to commit a crime. Congress must also establish a penalty for possessing a firearm that does not include the proper serial numbers. While the Administration's recent ghost gun rule is a good first step, executive action is not a replacement for legislation.

Recommendation: Congress should ban the manufacturing of mechanisms to convert semi-automatic firearms into fully automatic firearms. It should also enhance the penalties for those who are found to be in possession of the part itself or a gun that is modified using the part.

Violence Against Law Enforcement Officers

MCCA members and other local law enforcement agencies continue to do everything in their power to protect their communities from the scourge of gun violence. Sadly, the brave officers on the front lines of this fight have not been spared from the carnage. Rising gun violence has resulted in increased attacks on law enforcement officers. According to FBI data, 73 police officers were feloniously killed in 2021, a nearly 60% increase from 2020 and the highest total recorded in a decade.¹²

In the last six months, 8 Phoenix PD officers have been shot and 15 officers were injured. In another MCCA member city, 37 shots have been fired at officers throughout 2022. Luckily, only one officer has been injured. Many of the attacks on these brave officers are brazen. They represent

¹¹ Dakarai Turner, "You're spraying bullets everywhere': Glock switches on the rise, law enforcement says," *Fox 13 Memphis*, May 23, 2022, <<https://www.fox13memphis.com/news/fox13-investigates/youre-spraying-bullets-everywhere-glock-switches-rise-law-enforcement-says/JG5ZR7N6YFDZBLAPKQZ23MQVPO/>>

¹² "Law Enforcement Officer Deaths: 01/01/2021—12/31/2021" Federal Bureau of Investigation, January 1, 2022. <<https://crime-data-explorer.fr.cloud.gov/pages/le/leoka>>

a complete disregard for the job officers do, the critical role they play in our communities, and the sanctity of life. Far too often, the perpetrators are violent offenders with lengthy criminal histories and previous felony convictions. In some incidents, the suspects were out on bond. The violence being directed toward police officers must stop immediately.

Conclusion

The current gun violence epidemic has been particularly devastating for America's youth. Far too many children have needlessly lost their lives, and countless others have been traumatized. These children are our future, and we must do everything in our power to protect them from the threat of gun violence. Polling shows the majority of Americans support common-sense reforms like those included in the MCCA's Firearms Violence Policy. It is possible to institute the reforms that are needed to provide for a more secure America without infringing on Constitutional rights or weakening due process. The MCCA will continue to call on our elected representatives to eschew politics and take the necessary steps to address the threat of gun violence. Your leadership is needed now more than ever before any more lives are needlessly lost.

Thank you, and I look forward to any questions the Committee may have.