



TESTIMONY OF

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Appearing on Behalf of the
MAJOR CITIES CHIEFS ASSOCIATION

BEFORE THE

COMMITTEE ON OVERSIGHT AND REFORM

**“THE URGENT NEED TO ADDRESS THE
GUN VIOLENCE EPIDEMIC”**

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Introduction

Chairwoman Maloney, Ranking Member Comer, and distinguished Members of the Committee:

Thank you for the opportunity to participate in today's hearing. I currently serve as the Police Commissioner in Buffalo, New York. It is also my privilege to testify on behalf 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. My testimony will provide a local law enforcement perspective on the epidemic of gun violence currently plaguing our Nation and propose solutions that will help save lives.

Today's hearing will focus on one of the most significant threats facing our Nation—gun violence. We are gathered here in the aftermath of multiple mass shootings that have devastated communities throughout the United States. In my home city of Buffalo, ten innocent people lost their lives when a racist gunman opened fire in a supermarket. One day later, another gunman in Laguna Woods, California, killed one and wounded five at a church. Two weeks ago, a mass shooting at an elementary school in Uvalde, Texas, claimed 21 innocent lives, including 19 children. Last week, a gunman in Tulsa, Oklahoma, killed four people in a mass shooting at a medical office building. Our communities are hurting, and we must continue to support them, the loved ones of the victims, as well as our first responders.

Tops Supermarket Shooting

On May 14th, 2022, an 18-year-old white supremacist invaded Buffalo and inflicted terror on the Black community in a way never seen in the city's history. He legally purchased multiple weapons, including military-grade armor, then spent months practicing his shooting and amending his strategies. On May 14th, he opened fire on civilians, striking 13 and killing 10. He streamed it live with a GoPro he had affixed to his helmet. This radicalized 18-year-old adult should have never been able to have access to the weapons he used to perpetrate this attack, and laws need to be enacted to ensure it never happens again.

His planned assault included shooting the armed security officer as soon as possible so he could maximize his devastation, but what he didn't count on was the valiant fight that security officer put up. Retired Buffalo Police Officer Aaron Salter, Jr., who I posthumously promoted to Lieutenant and issued the Department's highest honor, the Medal of Honor, was working as Tops security that day. As was often the case, Aaron was helping an elderly shopper leave with her groceries when the shooting began. He was equipped with nearly thirty years of policing experience. Aaron did his best to warn customers while in a completely defensive position. He engaged the shooter as he entered, hitting him with at least one shot. His service weapon was no match for the military-style weapons and armor the perpetrator was equipped with.

Buffalo Police Officers responded to Tops a minute after receiving the 911 call and were able to take the shooter into custody within a minute of arriving at the scene. I have no doubt in my mind that their swift response time and handling of the situation saved lives. I would like to publicly thank them and the rest of the Buffalo Police Department for the heroism they showed that day.

Buffalo is the City of Good Neighbors. We are a very culturally diverse community that is resilient. We came together after this horrific tragedy, and we will continue to heal together. However, no city should have to go through this, and the time for change is long overdue.

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:

- 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

While my testimony will only touch on a few proposals in our Firearms Violence Policy, the MCCA continues to urge Congress and the Administration to enact all the reforms included in the policy without delay.¹

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.

¹ The MCCA’s Firearms Violence Policy can be found here: https://majorcitieschiefs.com/wp-content/uploads/2021/01/mcca_gun_policy_revised_2018_copy.pdf

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.² 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 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.³

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.⁴ 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*

² 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>>

³ *Ibid.*

⁴ "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/>>

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.⁵

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 far too often involve minors. The lack of safe storage is also contributing to increased gun violence. MCCA members have reported a sharp increase in firearms thefts, especially unsecured firearms 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.

Rise in Gun Violence

It is abundantly clear that America is struggling with a gun violence epidemic. According to a recent FBI report, there were 61 active shooter incidents in 2021. This represents a roughly 53% increase in active shooter incidents from 2020 and a nearly 97% increase from 2017. Twelve active

⁵ “Large Capacity Magazines,” *Giffords Law Center to Prevent Gun Violence*. <<https://giffords.org/lawcenter/gun-laws/policy-areas/hardware-ammunition/large-capacity-magazines/>>

shooter incidents in 2021 met the federal definition of a mass killing.⁶ While these statistics are incredibly concerning, it's important to remember the threat of gun violence extends well beyond the events that become front-page 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. Buffalo is fortunate that our homicides and aggravated assaults both decreased during this time. 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 2019.⁷

The nature of many of the 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 are now routinely responding to situations with multiple victims and multiple shooters. During some of these incidents, violent offenders may discharge hundreds of rounds. Sadly, many jurisdictions are also seeing an increase in gun violence perpetrated by juveniles.

Recommendation: Congress must fully fund critical grant programs like COPS Hiring Grants and Byrne JAG as part of the F.Y. 2023 appropriations process. Due to resource constraints, proactive policing that helps drive down gun violence has become a luxury for many departments. More specifically, 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.

⁶ "Active Shooter Incidents in the United States in 2021," *Federal Bureau of Investigation*, May 2022. <<https://www.fbi.gov/file-repository/active-shooter-incidents-in-the-us-2021-052422.pdf/view>>

⁷ "The MCCA's Violent Crime Reports can be found here: <<https://majorcitieschiefs.com/resources/>>

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. The proliferation of ghost guns is a severe issue in Buffalo. Last year, there was a 1300% increase compared to 2020 in the number of ghost guns recovered by Buffalo Police. This trend has continued in 2022. Ghost gun recoveries in Buffalo were up 238% in the first quarter. 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.

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.

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 firearm 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.⁸ So far this year, MCCA member agencies have lost five officers in the line of duty, and

⁸ "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>

many others have been injured. Many of the attacks on these brave officers are brazen. They represent 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.

Criminal Justice System Accountability

Shortcomings in other parts of the criminal justice system are contributing to the rise in gun violence throughout America. In many jurisdictions, violent and chronic offenders cycle through the criminal justice system, facing no consequences for their actions. Our criminal justice system needs transparency, criminals need deterrents and accountability, and victims deserve justice.

Many MCCA members have experienced challenges getting their local district attorneys to prosecute serial firearms offenders. While the district attorney in Buffalo has continued to do his part to hold violent offenders accountable, other local district attorneys have shown a hesitancy to prosecute convicted felons for being a prohibited person in possession of a firearm after law enforcement arrests them for a non-firearms-related offense. For example, despite New York having some of the most stringent gun laws in the country, over the past few years, there has been an overall lack of accountability statewide for trigger pullers and other criminals that use firearms to prey on the public. We don't need new laws to address this shortcoming; we just need to ensure we're enforcing the laws already on the books.

Even in circumstances where charges are brought forth against gun violence perpetrators, these dangerous individuals are often not held pre-trial in many jurisdictions. The MCCA strongly believes common-sense reform is needed to provide relief to non-violent offenders who pose a minimal risk to public safety. These individuals should not be held pre-trial simply because of their socio-economic status. However, some recent reform efforts have gone too far. As a result, violent offenders are frequently released on either personal recognizance or very low bonds in many major cities, including Buffalo. The failure to remand these individuals allows them to continue to prey on our communities and contributes to cycles of retaliatory violence.

Recommendation: Congress must support efforts to build the capacity of U.S. Attorney's Offices, which will help increase federal prosecutions of violent offenders, where appropriate. MCCA members have found pursuing federal charges to be a successful strategy, especially considering the challenges described above with local district attorneys and judges.

Recommendation: More must also be done to hold prohibited persons who attempt to or successfully acquire a firearm accountable. The bipartisan *NICS Denial Notification Act*, which the MCCA endorsed, requires the FBI to notify state and local law enforcement authorities when a prohibited purchaser "lies and tries" to obtain a firearm. If state and local authorities are aware of the denial, they can take appropriate action, which may include charging the prohibited person under the appropriate state laws. This bill was recently enacted as part of the *Violence Against Women Act* reauthorization, and Congress must ensure NICS has the resources it needs to implement this legislation quickly.

Conclusion

The MCCA has repeatedly called on our elected representatives to eschew politics and take the necessary steps to address 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. Gaps and loopholes in the existing system have made it far too easy for criminals and other individuals who are threats to public safety to obtain firearms. 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.

Police chiefs see the horror of gun violence every day, and we suffer with the victims of these heinous crimes. Like those of us who wear a badge, Members of Congress share our solemn duty to protect the public. Your leadership is needed now more than ever before any more lives are needlessly lost to the scourge of gun violence. The MCCA stands ready to work with you to accomplish our shared goal of protecting our communities from all threats, including gun violence.

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