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February 4, 2022

Via CM/ECF

The Honorable Maryellen Noreika
United States District Court, District of Delaware
J. Caleb Boggs Federal Building
844 N. King Street
Unit 19
Room 4324
Wilmington, DE 19801

RE: Rigby, et al., v. Jennings
C.A. No. 1:21-cv-1523-MN

Dear Judge Noreika:

Please allow this letter to serve as Defendant's response to the Court's January 27, 2022 Order that if Defendant intends to introduce evidence regarding whether the challenged provisions at issue pass constitutional muster, that Defendant submit the evidence or offer a proffer of evidence that may be adduced at a hearing. D.I. 26. Initially, undersigned counsel submits the attached data (Exhibit A) collected by the Delaware State Police demonstrating the rise in "ghost gun" cases over the last few years. Undersigned counsel also proffers that, at a hearing, it is anticipated that research, reports, and/or statistics relied upon by the Delaware Legislature in developing House Bill 125 would be submitted as evidence. Further, testimony may be introduced to interpret the aforementioned data.

I am available at the Court's convenience to address any questions or concerns this letter may raise.

Respectfully submitted,

/s/ Kenneth L. Wan

Kenneth L. Wan

cc: Counsel for all parties (Via CM/ECF)

Exhibit A

Examples of Polymer 80 "Ghost Gun", "Privately made firearms"

August, 2018

- 19 year old male aware of law preventing him from purchasing a handgun. Subject goes on www.ghostguns.com and orders upper and non-serialized (80%) lower for Glock 19 9mm. Subject receives parts including drill bit to make firearm functional. Subject stated completed firearm in "approximately an hour". Subject would later shoot himself in the hand which led to recovery of firearm.

March, 2019

- Law enforcement officers recover an assembled handgun made from a partial receiver "Polymer80". The firearm recovered was a Glock style handgun that was made from a kit. After identifying purchaser, law enforcement responded to residence of purchaser. Purchaser was wife of convicted felon. Female advises she purchased the partial receiver from www.polymer80.com and additional purchases had been made. Search of bedroom reveals another polymer 80, located in the dresser belonging to the convicted felon. During interview purchaser states husband does utilize the firearm.

December, 2019

- Law Enforcement officers conduct an undercover purchase of drugs from a convicted felon. During the search of the residence officers locate a polymer 80, "Ghost Gun", AR style rifle. During interview subject identifies subject who sold him the "Ghost Gun" firearm. Seller also identified as a convicted felon. Seller contacted during traffic stop. Loaded .40 caliber handgun recovered in subject's waistband. Search of subject's residence revealed another 4 firearms. One of the firearms was a completed polymer 80 handgun no serial number and an AR style lower receiver (uncompleted). Numerous amounts of firearm magazines and hundreds of rounds of ammunition. Black duffle bags containing: gloves, mask, knife, first aid kits, holsters, fire starter, body armor carrier, Several different illegal narcotics, documents pertaining to the manufacturing of firearms and incendiary devices (bombs), during interview subject states he has considered killing people and police.

January, 2020

- During the execution of a probation check, officers observe a loaded Polymer80 "Ghost Gun" AR-15 rifle style weapon in plain view in the residence of a convicted felon. The

firearm is determined to be the property of the owner of the residence who is a prohibited person due to a previous involuntary mental health committal. A search of the subject's residence revealed an additional AR-15 style .308 rifle with scope and tripod, no serial number. A bolt action shotgun that is magazine fed, no serial number. A 50 caliber black powder "Knight", black powder firearm. A silver Derringer .22 caliber pistol. A brown bolt action rifle, no serial number. An AR-15 style rifle with a short scope .22 caliber with no serial number. A clear plastic bag containing suspected crystal methamphetamine. During interview subject stated he would purchase the firearm parts online and build the firearms himself.

- During a traffic stop officers located a privately made firearm in the center console of a vehicle. No crime associated.

February, 2020

- During the course of a drug investigation, officers recovered a privately made firearm.
- During a traffic stop, officers located marijuana and a 9mm privately made firearm on a person prohibited.
- During a call for assistance, officers located a Polymer 80/.22LR. The possessor was not a person prohibited and no crime occurred.

April, 2020

- During an emergency call for recovered firearm, officers would later execute a search and recover polymer parts on a person prohibited. The recovered serialized firearm was traced back to the person prohibited.
- Investigation into shooting led to the recovery of a Polymer 80 handgun.

May, 2020

- Drug investigation led to the execution of a residential search warrant. During the execution of the search warrant a Polymer 80/9mm privately made handgun, marijuana, heroin and a serialized shotgun were recovered.
- During a pedestrian stop, officers located a Polymer 80, .40 caliber privately made handgun. Possessor was a person prohibited.

July, 2020

- Search warrant executed regarding illegal narcotics investigation. Defendant(s) admitted to the manufacturing of crack-cocaine. Several firearms recovered during the execution of the search warrant including a privately made firearm (5.56) belonging to one of the residents.
- Subject interviewed after being arrested in possession of two firearms as a prohibited person for domestic assault conviction. One of the firearms recovered was a Polymer 80 handgun.
- During the course of a directed traffic stop as part of a drug investigation, officers recovered (2) serialized 9mm handguns, a Polymer 80/9mm pistol, crack-cocaine, fentanyl and marijuana.
- During a traffic stop for suspected drug activity, officers located a Polymer 80, 9mm handgun, Oxycodone, Suboxone, marijuana and marijuana.
- During the course of a theft investigation, officers recovered a Polymer 80 handgun and a serialized 9mm handgun.
- Execution of a search warrant resulted in recovery of a serialized handgun and parts of an unserialized rifle in the possession of a person prohibited.

August, 2020

- During a traffic stop and subsequent search of vehicle, officers recovered a 9mm privately made handgun. Possessor classified as a person prohibited due to previous violent felony conviction. Subject also in possession of a stolen firearm.
- During an emergency call at a residence, officers recovered a Polymer 80 .22LR privately made firearm. No crime associated with the recovery.
- During the execution of a search warrant, officers located (7) privately made firearms, (1) serialized firearm, heroin and marijuana. During a subsequent interview, possessor (prohibited) admitted to manufacturing all of the polymer firearms.
- During a traffic stop and subsequent search of vehicle, officers recovered a Polymer 9mm privately made handgun and marijuana.

- During a pedestrian stop, officers recovered a Polymer 80, 9mm privately made handgun and heroin from a person prohibited.
- During a vehicle stop and subsequent search, officers recovered a Polymer 80, .40 caliber, privately made firearm, heroin and marijuana. The firearm was recovered on a prohibited subject.
- During a pedestrian stop, officers recovered a Polymer 80 handgun, heroin and marijuana. The firearm was recovered on a person prohibited.
- During a vehicle stop and subsequent search, officers recovered a Polymer 80, 9mm privately made handgun and marijuana. The firearm was recovered on a person prohibited. Possessor advised he purchased the firearm from an unknown male.

September, 2020

- Search warrant executed regarding illegal narcotics investigation. During the search, officers locate a significant amount of heroin along with a 9mm privately made firearm.
- Search warrant executed after a drug investigation. Suspect advised the firearm was his but didn't further state where he obtained it. Firearm obtained was a Glock 9mm style privately made handgun.
- During a verbal domestic officers located a privately made firearm. No crimes associated.
- During a response call to a public location officers contacted a subject in possession of (3) firearms. (1) of the firearms was identified as a Polymer 80, 9mm handgun.
- Search Warrant executed on a residence. Officers located a large quantity of crack-cocaine, privately made 9mm firearm in the possession of a person prohibited.
- During the execution of a residential search warrant, officers located (5) serialized firearms, (1) Polymer 80/9mm privately made firearm and marijuana.
- During a domestic related incident where a firearm was displayed, officers later recovered a Polymer 80, 9mm privately made firearm. The possessor was not charged as a prohibited person.

October, 2020

- During a drug and firearm investigation, officers recovered a stolen firearm, along with a privately made 9mm handgun.
- During an assault investigation, officers recovered a privately made firearm associated with the victim of the crime. A serialized firearm was also used in the incident.
- During an assault/drug investigation, officers recovered a serialized firearm along with a Polymer 80 type 9mm privately made firearm.
- Officers responded to the report of a suicide. Located at the residence was a Polymer 80, .22 caliber, rifle.
- Officers responded to public location due to a weapons complaints. Officers recovered a 9mm privately made firearm on a person prohibited.
- During a traffic stop, officers recovered (2) serialized 9mm handguns (1 stolen), (1) Polymer 9mm, privately made handgun, fentanyl. The firearms were recovered from prohibited possessors.
- During a traffic stop, officers recovered a Polymer 80/9mm, privately made firearm and marijuana. The firearm was recovered from a prohibited person.

November, 2020

- During a large drug investigation, officers uncovered a large amount on marijuana and 3 firearms. 2 of the firearms were semi-automatic handguns. The third was a Polymer 80, 9mm privately made firearm.
- During a traffic stop, officers located crack-cocaine, heroin, marijuana, and a Polymer 9mm privately made firearm in the possession of a person prohibited.
- During a traffic stop, officers located (1) serialized firearm, (1) Polymer 80/9mm privately made firearm and marijuana inside of a vehicle being operated by a person prohibited.
- During a traffic stop, officers located (1) Polymer, privately made firearm. The firearm was recovered in the vehicle of a person prohibited.
- During a traffic stop, officers located (1) privately made 9mm handgun and cocaine. The firearm was found in the vehicle of a person prohibited.

December, 2020

- During the execution of a search warrant, officers located a serialized revolver and a privately made firearm, 9mm handgun on a person prohibited.
- During a traffic stop, officers located a privately made .556 rifle within the vehicle. Possessor was not a prohibited person.
- A search of residence resulted in the recovery of (7) firearms. (3) of the firearms were reported stolen. (1) of the firearms was a polymer 80/9mm privately made firearm. The firearms were recovered in the residence of a prohibited person.
- During a reported assault, officers recovered a Polymer P80, 9mm, privately made firearm. No person's prohibited charges were listed.

January, 2021

- During a traffic stop, officers located (1) handgun with an obliterated serial number and also a Polymer 80, 9mm handgun in the possession of a person prohibited.
- During the execution of a search warrant based on a drug investigation, officers located methamphetamine and a privately made firearm, 9mm handgun in the suspect's residence.
- During the execution of a residential search warrant associated with an assault complaint, officers recovered a Polymer 80, 9mm handgun.
- During a reported assault, officers recovered a Polymer P80, 9mm privately made handgun.
- During the search of a residence, officers located a Polymer P80, 9mm privately made firearm, heroin and marijuana. The firearm was recovered in the residence of a person prohibited.
- During the execution of a residential search warrant after a drug investigation, officers located a privately made rifle. Possessor advised he purchased it from a subject he advised was manufacturing "ghost guns." The investigation led to additional execution of residential search warrant. Officers recovered additional rifle lower and polymer lower for handgun.

February, 2021

- During a traffic stop, officers recovered (1) Polymer 80, 9mm handgun and prescription medication.

- During the execution of a residential warrant, officers located a privately made rifle, a serialized handgun, a serialized stolen handgun, methadone, and marijuana. The firearms were recovered in a residence of a person prohibited.