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Testimony of Tanya Schardt, Legal Counsel and Director, State and Federal Policy  
Support for SB 310  
Before the Virginia House of Delegates Public Safety Sub-Committee #1  
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Chairman Freitas and Other Distinguished Members of the Virginia House of Delegates Public Safety Sub-Committee #1,

Founded in 1974, Brady works across Congress, courts, and communities, uniting gun owners and non-gun owners alike, to take action, not sides, and end America’s gun violence epidemic. Our organization today carries the name of Jim Brady, who was shot and severely injured in the assassination attempt on President Ronald Reagan. Jim and his wife, Sarah, led the fight to pass federal legislation requiring background checks for gun sales. Brady continues to uphold Jim and Sarah’s legacy by uniting Americans from coast to coast, red and blue, young and old, liberal and conservative, to combat the epidemic of gun violence.

Thank you for allowing us to submit testimony before this committee. **SB 310 provides a strong defense to the proliferation and dangerous impact of unregulated and untraceable guns aka “ghost guns” throughout the state of Virginia.**

### **What are Ghost Guns?**

“Ghost Guns” are un-serialized and untraceable firearms that can be built by anyone using “unfinished” frames or receivers. These pieces of a firearm contain essential operating parts of the firing mechanism and are the only part of a gun regulated under federal and Virginia law. However, when a frame or receiver is “unfinished” by a small fraction, it is unregulated — a consequence of ATF not interpreting unfinished components as firearms.<sup>1</sup>

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<sup>1</sup> “Are ‘80%’ or ‘Unfinished’ Receivers Illegal?” *ATF*, U.S. Department of Justice, Bureau of Alcohol, Tobacco, Firearms & Explosives, 29 May 2020, <https://www.atf.gov/firearms/qa/are-unfinished-receivers-illegal>

These receivers, sometimes called “80 percent receivers,” are often sold by online dealers as a part of a kit that includes all of the necessary component parts to turn the unfinished receiver into a fully functioning firearm.<sup>2</sup> These parts and kits are designed and marketed to circumvent federal regulations like Brady background checks because they can be purchased by anyone, even individuals who are unable to pass a background check and thus prohibited from purchasing a fully assembled gun. This includes domestic abusers, gun traffickers, persons subject to an extreme risk order, and even children and teenagers who can’t purchase a gun by virtue of their age.

The process of converting parts into a ghost gun, whether it be a semi-automatic handgun or an AR-15 style assault rifle, involves just a few steps and can be completed in as little as 15 minutes without the consumer possessing any specialized skill or abilities. Once assembled, ghost guns are just as deadly and dangerous as traditional firearms and anyone can buy these kits without any background check or any other requirements mandated under federal or Virginia state law. Each of these parts and processes have all been specifically designed to fall outside of federal, state, and local gun regulations and undermine many existing gun safety laws. These weapons are, by design, perfect crime guns.<sup>3</sup>

### **Ghost Guns Undermine Existing Gun Safety Laws and Are Designed for Crime**

The fact that these kits and parts can be purchased online with no background check, without undergoing any human interaction (like with a federally licensed firearm dealer) also makes them attractive and accessible to individuals who fear they may not be able to pass muster at a responsible licensed dealer. Ghost gun sellers and manufacturers know all of this and intentionally target prohibited purchasers and other potentially dangerous parties by purposefully emphasizing the untraceable nature of ghost guns - namely, the absence of a serial number and the fact that their products can be purchased without a background check or interaction with a gun dealer as major selling points.

Additionally, these weapons undermine and interfere with criminal investigations. Ghost gun dealers and manufacturers purposefully choose not to stamp serial numbers on these parts or other parts included in their firearms assembly kits. Thus, they are essentially invisible to law enforcement. This means that the Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF) cannot trace ghost guns from the manufacturer/importer to the retail purchaser, making it harder to identify the chain of possession and eventual end user of a gun recovered from a crime scene.

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<sup>2</sup> Van Brocklin, Elizabeth. “‘Ghost Gun’ Murders and Trafficking Cases Are a Law Enforcement Nightmare Come True.” *The Trace*, The Trace, 16 Oct. 2015, <https://www.thetrace.org/2015/10/ghost-gun-lower-receiver-california/>

<sup>3</sup> “Giffords Law Center Asks Internet Service Providers to Immediately Shut Down Websites for Businesses that Allow Dangerous Individuals to Make Untraceable Assault Weapons with No Background Checks.” *Giffords Law Center to Prevent Gun Violence*, Giffords, 28 Nov. 2017, <https://giffords.org/press-release/2017/11/giffords-law-center-asks-internet-service-providers-immediately-shut-websites-businesses-allow-dangerous-individuals-make-untraceable-assault-weapons-no-background-checks/>. Press Release.

In fact, if found at a crime scene, law enforcement has little means by which to trace the weapons' origin or ownership. This untraceable quality also interferes with law enforcement's ability to identify potential traffickers and to detect in-state and interstate patterns in the sources of crime guns. This makes the parts and kits used to assemble these weapons highly attractive to illegal gun traffickers and those who might purchase from them.

Virginia took sweeping steps during the 2020 and 2021 legislative sessions to protect its residents from the scourge of gun violence, but ghost guns threaten all of this hard won progress by undermining the laws currently on the books. This legislation is absolutely necessary to protect Virginians to ensure that ghost guns do not become an increased source of crime guns in the state, and to guarantee that federal and Virginia laws are not circumvented.

### **The Rapid Proliferation of Ghost Guns in the United States and in Virginia**

Sales of the kits and parts to make ghost guns have increased significantly in recent years and alongside it, the use of ghost guns in crime. According to the ATF, from 2016 through 2020, law enforcement officers recovered more than 23,906 ghost guns from potential crime scenes. The ATF was only able to trace less than 1% (.006)<sup>4</sup> of these firearms back to an individual purchaser. These weapons have been linked nationwide to homicides,<sup>5</sup> suicides,<sup>6</sup> mass shootings,<sup>7</sup> school shootings,<sup>8</sup> robberies,<sup>9</sup> the shooting deaths of law enforcement officers,<sup>10</sup> and acts of domestic violence.<sup>11</sup>

In Virginia, ghost guns are making a marked and dramatic appearance: almost exactly two years ago, a white supremacist cell was arrested by the FBI for planning to incite racial violence using

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<sup>4</sup> "Definition of 'Frame or Receiver' and Identification of Firearms," Vol. 86 No. 97, United States Department of Justice, 27,720-27,753, 21 May 2021, <https://www.govinfo.gov/content/pkg/FR-2021-05-21/pdf/2021-10058.pdf>

<sup>5</sup> Fenton, Justin. "Baltimore police report a 40% increase in untraceable 'ghost guns' as legislators consider action." *The Baltimore Sun*, Tribune Publishing, 18 Feb. 2021,

<https://www.baltimoresun.com/news/crime/bs-pr-md-ci-cr-ghost-gun-ban-20210218-ae2dortu6ngn5llmfmq6yxtx6m-story.html>

<sup>6</sup> Hurd, Rick. "Homemade guns in Stanford student's murder-suicide spurs questions on 'ghost guns'." *The Mercury News*, Bay Area News Group, 12 Aug. 2016,

<https://www.mercurynews.com/2015/08/06/homemade-gun-in-stanford-students-murder-suicide-spurs-question-on-ghost-guns/>

<sup>7</sup> Clayton, Aben . "Ordered online, assembled at home: the deadly toll of California's 'ghost guns'." *The Guardian*, The Guardian News and Media Limited, 18 May 2021,

<https://www.theguardian.com/us-news/2021/may/18/california-ghost-guns-deadly-toll>

<sup>8</sup> Morse, Dan. "Magruder High School Student Charged As Adult With Attempted Second-Degree Murder," *Washington Post*, 22 Jan. 2022, <https://www.washingtonpost.com/dc-md-va/2022/01/22/magruder-high-shooting-ghost-gun-student-charged/> &

Andone, Dakin. "The gunman in the Saugus High School shooting used a 'ghost gun,' sheriff says." *CNN*, Cable News Network, 21 Nov. 2019, <https://www.cnn.com/2019/11/21/us/saugus-shooting-ghost-gun/index.html>

<sup>9</sup> Sprouse, Ryan. "Seven teens in DC arrested for armed robbery and 'ghost guns'." *WUSA9*, TENGA, 25 Dec. 2021, <https://www.wusa9.com/article/news/crime/seven-teens-in-dc-arrested-for-armed-robbery-and-ghost-guns-new-york-avenue-ivy-city-motel/65-e571eaaf-bfef-408d-a439-699021dba5c0>

<sup>10</sup> Blankstein, Andrew, and Leonard, Eric. "Ex-con who killed California cop used homemade 'ghost gun'." *NBC*, NBC News, 15 Aug. 2019,

<https://www.nbcnews.com/news/crime-courts/ex-con-who-killed-california-cop-used-homemade-ghost-gun-n1042811>

<sup>11</sup> "Domestic Violence Incident leads to Recovery of Various Ghost Guns NR21291jc." *LAPD Newsroom*, Los Angeles Police Department, 20 Oct. 2021,

<https://www.lapdonline.org/newsroom/domestic-violence-incident-leads-to-recovery-of-various-ghost-guns-nr21291jc/>

homemade guns.<sup>12</sup> The men had armed themselves with self-constructed assault rifles and specifically discussed using the guns to kill police officers and encourage a “race war” at a gun rights rally in Richmond.<sup>13</sup> According to Fairfax County Assistant Commonwealth’s Attorney Amelia Nemitz, ghost guns have been used in an increasing number of crimes in recent years.<sup>14</sup> Last April, two students from South County High School in Springfield, Virginia were shot and killed by a classmate at one of the student’s homes using a ghost gun.<sup>15</sup> Fairfax County police recovered a second ghost gun and a shotgun in searches of the scene and the shooter’s home.<sup>16</sup>

In 2020 alone, at least two ghost gun trafficking operations were shut down by the ATF: one North Carolina man was charged for trafficking at least 5 ghost guns to Virginia<sup>17</sup> to sell, and another investigation charged a Fairfax man for dealing in firearms without a license.<sup>18</sup> In this latter case, the seller had constructed and sold multiple ghost guns and 3-D printed guns, explaining to his customers that they were more expensive specifically because they lacked serial numbers, and because they were not linked to any prior crimes.<sup>19</sup> The U.S. Attorney for the Eastern District of Virginia stated at the time that “ghost guns appeal to criminals because they are untraceable.”<sup>20</sup>

Not far from Virginia, a steady supply of ghost guns are already plaguing communities - and their devastating impact is increasing exponentially with each year. Across the river in Washington, D.C., the problem seemed to start small - and then it exploded. In 2017, law enforcement in the District recovered three ghost guns and by 2019, ghost gun proliferation jumped to 116, at least three of which were subsequently connected to homicides.<sup>21</sup> By the end of 2020, police had recovered approximately 300 ghost guns in the city,<sup>22</sup> and by November 2021,

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<sup>12</sup> Stephens, Alain. “They Planned to Start a Race War. DIY Gun Kits Allowed Them to Build an Arsenal.” *The Trace*, The Trace, 23 Jan. 2020, <https://www.thetrace.org/2020/01/white-supremacists-the-base-fbi-virginia-diy-ghost-gun/>

<sup>13</sup> Id.

<sup>14</sup> Jouvenal, Justin. “Fatal shooting of Fairfax County teens began with a challenge to fight, prosecutor says.” *The Washington Post*, The Washington Post, 28 Apr. 2021, [https://www.washingtonpost.com/local/public-safety/burkard-bond-hearing-fairfax/2021/04/28/076f0f4a-a840-11eb-8d25-7b30e74923ea\\_story.html](https://www.washingtonpost.com/local/public-safety/burkard-bond-hearing-fairfax/2021/04/28/076f0f4a-a840-11eb-8d25-7b30e74923ea_story.html)

<sup>15</sup> Jouvenal, Justin. “Fatal shooting of Fairfax County teens began with a challenge to fight, prosecutor says.” *The Washington Post*, The Washington Post, 28 Apr. 2021, [https://www.washingtonpost.com/local/public-safety/burkard-bond-hearing-fairfax/2021/04/28/076f0f4a-a840-11eb-8d25-7b30e74923ea\\_story.html](https://www.washingtonpost.com/local/public-safety/burkard-bond-hearing-fairfax/2021/04/28/076f0f4a-a840-11eb-8d25-7b30e74923ea_story.html)

<sup>16</sup> Id.

<sup>17</sup> “Man Sentenced to 15 Years for Trafficking “Ghost Guns” and Drugs.” *The United States Attorney’s Office for the Eastern District of Virginia*, United States Department of Justice, Bureau of Alcohol, Tobacco, Firearms, and Explosives, 14 Feb. 2020, <https://www.atf.gov/news/pr/man-sentenced-15-years-trafficking-ghost-guns-and-drugs>

<sup>18</sup> “Ghost Gun and Machine Gun Conversion Device Dealer Pleads Guilty.” *The United States Department of Justice*, United States Attorney’s Office, 29 Sep. 2020, <https://www.justice.gov/usao-edva/pr/ghost-gun-and-machine-gun-conversion-device-dealer-pleads-guilty>. Press Release.

<sup>19</sup> Id.

<sup>20</sup> Id.

<sup>21</sup> “Bowser Announces Emergency Ghost Gun Legislation.” *DC.gov*, Government of the District of Columbia, 28 Feb. 2020, <https://dc.gov/release/mayor-bowser-announces-emergency-ghost-gun-legislation>

<sup>22</sup> Jackman, Tom. “Attorneys General in D.C., Md. and Va. Support Lawsuit Demanding ATF Regulate ‘Ghost Guns.’” *The Washington Post*, 24 Dec. 2020, <https://www.washingtonpost.com/dc-md-va/2020/12/24/ghost-guns-litigation/>.

District Police had recovered 313 ghost guns.<sup>23</sup> Maryland has suffered a similar fate: the Baltimore Police Department recovered only nine ghost guns in 2018 -- but as of November 2021, officers recovered 294.<sup>24</sup> And just a few months ago, Montgomery County police found a loaded ghost gun during a K-9 search of a fleeing 15-year-old suspect at Northwood High School in Rockville, MD.<sup>25</sup>

The proliferation of ghost guns impacts all Virginians, including our children who are experiencing unprecedented levels of stress and anxiety from the COVID-19 pandemic and constant fear of school shootings. Legislators must act now to proactively prevent the further proliferation of ghost guns and their use in crime in the Commonwealth. For these reasons listed above, **Brady strongly encourages this sub-committee to vote in favor of SB 310 which would prevent the continued proliferation of these weapons by banning the sale of the unregulated and unserialized parts used to build them.**

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<sup>23</sup> Fleischer, Jodie, Yarborough, Rick, Piper, Jeff., and Witley, Skye. "Record Number of Ghost Guns Found in DC in 2021." *NBC*, NBC News, 19 Nov. 2021,

<https://www.nbcwashington.com/news/local/dc-gun-violence/record-number-of-ghost-guns-found-in-dc-in-2021/2888734/>

<sup>24</sup> Young, Ryan. "9 major cities set all-time homicide records." *CNN*, Cable News Network, 12 Dec. 2021,

<https://www.wfft.com/content/news/575907152.html>

<sup>25</sup> 7NewsStaff. "Police arrest 15-year-old student found with ammo at Northwood H.S., gun located nearby." *ABC7*, ABC News, 17 Nov. 2021,

<https://wjla.com/news/local/15-year-old-student-montgomery-county-police-custody-gun-ammunition-northwood-high-school-potential-threat>