

Brady
840 First St. NE Ste. 400
Washington, DC 20002



Testimony of Kelsey Rogers, Senior Manager, State Policy at Brady

Support for Universal Background Checks, Extreme Risk Laws, One-Handgun-a-Month Law and Repeal
of State Preemption Law
Before the Virginia Senate Judiciary Committee
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Chairman Edwards and Other Distinguished Members of the Virginia Senate Judiciary Committee,

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.

There are evidence-based policy solutions that we know will help address the gun violence epidemic in the Commonwealth of Virginia. Make no mistake, gun violence is an epidemic. Since the tragic shooting at Virginia Tech in 2007, more than 11,000 Virginians have died from gun violence.¹ And cities like Richmond experience a disproportionate percentage of this violence, much of which is localized in communities of color. From 2013-2016, Richmond's annual firearm homicide rate was over four times higher than the rest of the rest of the Commonwealth,² and black residents of Richmond are twice as likely to die from gun violence in comparison to the American average.³ Additionally, according to the Educational Fund to Stop Gun Violence, rates of firearm suicide have risen over 15% in the last decade.⁴

Universal Background Checks

¹ The Educational Fund to Stop Gun Violence, <https://twitter.com/EFSGV/status/1143930059759267843>.

² Virginia Office of the Chief Medical Examiner.

³ Gun Violence in Richmond City, Richmond: <https://www.livestories.com/statistics/virginia/richmond-city-gun-firearm-violence-deaths-mortality>.

⁴ The Educational Fund to Stop Gun Violence, "Firearm Homicide and Suicide in Virginia," <http://efsgv.org/wp-content/uploads/2017/12/Rise-in-Firearm-Suicide-and-Homicide-in-Virginia-June-2019-1.pdf>.

One of the pillars of Brady's legacy is the critically important role that Jim and Sarah had in creating the federal background check system which, to date, has stopped more than 3 million prohibited purchases.⁵ But we also know that the system has loopholes which enable about every 1 in 5 guns to be sold today without any background check through private transactions, gun shows, and websites that facilitate gun sales online.⁶ These loopholes allow convicted felons, domestic abusers, and others who wish to do harm to obtain guns without any oversight. It is past time to expand lifesaving Brady background checks to every gun sale, and the public agrees: 97% of Americans, including over 90% of gun owners, support expanding Brady background checks.⁷ This is mirrored here in the Commonwealth: a 2017 poll found that 91% of Virginians supported a background check for every gun sale.⁸

Brady supports the effort of the Virginia Senate Judiciary Committee to pass a strong and comprehensive universal background check bill to ensure that firearms don't fall into the hands of individuals who are currently prohibited from purchasing and possessing firearms under state and/or federal law. Surely we cannot expect to keep guns out of the hands of individuals that are not legally allowed to possess a firearm without ensuring a background check is required universally for gun sales throughout the Commonwealth.

One-Handgun-A-Month Law

Limiting individual Virginians to purchasing one handgun per month will help ameliorate much of the gun trafficking problem that Virginia faces today. The federal Bureau of Alcohol, Tobacco, Firearms & Explosives (ATF) has identified bulk purchases of handguns as a possible indicator of firearms trafficking.⁹ Despite this, in 2012, Virginia repealed a one handgun a month law that had been on the books since 1993. Virginia is what's known as a "net exporter" of crime guns, substantially contributing to gun crime in at least 8 other states across the nation.¹⁰ In 2016 alone, more than 9,000 guns purchased in Virginia were later recovered in crime scenes in another state.¹¹ Guns frequently travel from Virginia up and down the I-95 corridor in what's known as the "iron pipeline." States like Virginia, the Carolinas,

⁵ This estimate was derived from data in the following reports: Office of Justice Programs, Bureau of Justice Statistics, "Background Checks for Firearms Transfers, 2013-14 - Statistical Tables" (2016), available at <https://www.bjs.gov/content/pub/pdf/bcft1314st.pdf> and Federal Bureau of Intelligence, "Federal Denials," https://www.fbi.gov/file-repository/federal_denials.pdf/view (last accessed August 2019). Approximately 312,000 sales were blocked during the interim period from 1994-1999, 1,338,294 sales were denied via state and local agencies from 1999-2014, and FBI data shows that 1,653,771 sales were denied by the federal system from Nov. 1998 through July 31, 2019. This is a total of 3,304,065 sales that have been denied since 1994.

⁶ Matthew Miller, Lisa Hepburn & Deborah Azrael, "Firearm Acquisition Without Background Checks," *Annals of Internal Medicine* 166, no. 4 (2017): 233-239.

⁷ Quinnipiac University, "U.S. Support for Gun Control Tops 2-1, Highest Ever, Quinnipiac University National Poll Finds; Let Dreamers Stay, 80 Percent of Voters Say," February 20, 2018, <https://poll.qu.edu/national/release-detail?ReleaseID=2521>.

⁸ Quinnipiac University, "Virginia Voters Back Universal Background Checks 91-8, Quinnipiac University Poll Finds; 2-1 Opposition To Republican Health Care Plan," June 22, 2017, <https://poll.qu.edu/virginia/release-detail?ReleaseID=2468>.

⁹ The Federal Bureau of Alcohol, Tobacco, Firearms & Explosives, "Fact Sheet - Multiple Firearms Sales," <https://www.atf.gov/resource-center/fact-sheet/fact-sheet-multiple-firearms-sales>.

¹⁰ Educational Fund to Stop Gun Violence, "Virginia is a Top Exporter of Crime Guns," <http://efsgv.org/wp-content/uploads/2017/12/Virginia-is-a-Top-Exporter-of-Crime-Guns-2.pdf>

¹¹ Center for American Progress analysis of Bureau of Alcohol, Tobacco, Firearms and Explosives, "Firearms Trace Data" (2010-2017), <http://www.atf.gov/resource-center/data-statistics>.

Georgia, and Florida are frequently the source of many of the guns recovered at crime scenes in Maryland, Delaware, New York, New Jersey, Massachusetts, Connecticut, and the District of Columbia. Importantly, states cannot effectively protect themselves from the flow of out of state guns. For example, while the Washington, D.C. has stringent firearms laws, nearby Virginia allows residents to purchase as many firearms as they want within a short period of time, without any limitation, who then bring those firearms outside of the state.

While the stories are ubiquitous, a recent case provides a textbook example of the state's problem. A Virginia woman straw purchased thirty-one firearms on her boyfriend's behalf over the course of three months.¹² These firearms eventually were sold in the District and Maryland, where some have already been traced back to crimes in the region. Virginia's proximity to many major metropolitan cities in other states – like Washington D.C. and Baltimore – only exacerbate the issue. Just last week, D.C. Mayor Muriel Bowser identified Virginia as the number one source of crime guns brought into the District, calling on legislators in Virginia to pass common-sense gun violence prevention policies to help the dramatic uptick in violent crime happening in the District.¹³ In 2018 alone, about 600 of the total 2,095 guns recovered in Washington, D.C. could be traced back to a sale in Virginia. Each and every one of these firearms that finds their way “across the river” into D.C. has a real human impact that all too frequently ends in injury or death.

The One handgun per month law, when in effect in the Commonwealth, was associated with a dramatic reduction in firearms from Virginia being recovered at crime scenes in other states, according to one study.¹⁴ The Virginia State Crime Commission performed their own analysis which similarly showed that the law had proven effective when considering how many Virginia firearms are traced to crime in other East Coast states. They pointed out that ATF data showed that Virginia dropped from first to eighth, on its list of source states for guns involved in criminal activity on the East Coast.¹⁵ These indicators suggest that reinstating Virginia's one handgun a month law could have a positive impact on the number of firearms that are being brought by trafficker across state lines, flooding communities in other states. The cost too frequently ends up being human life. **Brady strongly encourages the Senate Judiciary Committee to protect human lives in Virginia and surrounding states by implementing a one handgun a month law which will make it markedly more difficult for traffickers to obtain and sell firearms.**

¹² Rachel Weiner, “‘We got all the guns.’ A woman bought them in Va.; her boyfriend sold them in Md. And the District,” *The Washington Post*, January 10, 2020, https://www.washingtonpost.com/local/public-safety/we-got-all-the-guns-a-woman-bought-them-in-va-her-boyfriend-sold-them-in-md-and-the-district/2020/01/10/01dce55a-33b8-11ea-91fd-82d4e04a3fac_story.html.

¹³ Clarence Williams, “D.C. mayor urges Va. Lawmakers to pass gun measures to help curb city violence,” *The Washington Post*, January 9, 2020, https://www.washingtonpost.com/local/public-safety/dc-mayor-urges-virginia-politicians-to-pass-gun-reform-to-help-curb-city-violence/2020/01/09/a95416ce-3268-11ea-a053-dc6d944ba776_story.html.

¹⁴ Douglas S. Weil, Rebecca C. Knox, “Effects of Limiting Handgun Purchases on Interstate Transfer of Firearms,” *Journal of the American Medical Association* 275 (1996) 1759-1761, available at <https://jamanetwork.com/journals/jama/article-abstract/403492>.

¹⁵ The Virginia Center for Public Safety, “Fact Sheet on Virginia's One-Handgun-A-Month Law,” <https://www.vacps.org/images/fact-sheet-on-one-handgun-a-month-law.pdf> citing Report of the Virginia State Crime Commission, “Study of Virginia's Law on Handgun Purchase Limits,” House Document No. 28, Richmond, Virginia, 1996, p. 7.

Extreme Risk Laws

Extreme risk laws are evidence-based solutions currently enacted in 17 states¹⁶ and D.C. that give law enforcement and the courts an avenue to prevent an individual in crisis from harming themselves or others by temporarily removing guns and prohibiting the purchase of other firearms.

Extreme risk protection orders are a critical, life-saving tool that Brady has long supported and urges members of the Senate Judiciary Committee to support as well. These laws effectively target various forms of gun violence we see on a daily basis in the United States, including interpersonal violence, homicides, intimate partner violence, some unintentional shootings, and importantly suicide, the most common type of gun violence.

Over the past five years, nearly 4,800 Virginians lost their lives to guns - and over 67 percent of those deaths were suicide.¹⁷ When a firearm is involved in a suicide attempt, the result is most often fatal. Suicide attempts with a firearm result in death a staggering 85 percent of the time, compared to just three percent for other common methods, like intentional drug misuse.¹⁸ The presence of a gun turns what is frequently an impulsive act—that is usually not repeated if the person survives—into an almost always fatal act. People who choose a firearm over other methods typically do not have the opportunity or ability to summon help or reconsider.

By temporarily removing firearms or making them more difficult to access for individuals in the midst of a crisis, those with suicidal ideation are more likely to survive and get a second chance at life. That second chance is critical: *the vast majority—about 90 percent—of people who make a suicide attempt do not ultimately go on to die by suicide later in life.*¹⁹ This is why laws like extreme risk protection orders are so important.

Extreme risk laws are an important tool that can prevent tragedies because people closest to an individual in crisis are likely to see signs before the person acts. Research shows that gun violence is frequently preceded by an escalation in problematic behavior²⁰ - threats (whether physical, verbal, or online), exhibiting inappropriate behavior with firearms, misuse of controlled substances or alcohol, violating prior restraining or protective orders, and/or stalking or harassing others. In many cases, family members or law enforcement are the witnesses to the troubling escalation of behaviors that typically precedes an act

¹⁶ The states which have adopted a form of this law include: Connecticut, Indiana, California, Oregon, Florida, Vermont, Maryland, Delaware, Massachusetts, Rhode Island, Illinois, New York, New Jersey, Colorado, Nevada & Hawaii.

¹⁷ For the past 5 years which data is available (2013-2017), according to CDC's WISQARS (Web-based Injury Statistics Query and Reporting System), <https://www.cdc.gov/injury/wisqars/fatal.html>. Virginia firearms deaths from 2013-2017 totaled 4,789. 3,200 of those were firearm suicides.

¹⁸ Madeline Drexler, ed. "Guns & Suicide: The Hidden Toll," Harvard Public Health Magazine of the Harvard T.H. Chan School of Public Health, available at https://www.hsph.harvard.edu/magazine/magazine_article/guns-suicide/.

¹⁹ Harvard T.H. Chan School of Public Health, "Means Matter: Attempters' Longterm Survival," available at <https://www.hsph.harvard.edu/means-matter/means-matter/survival/>.

²⁰ Shannon Frattaroli, Emma McGinty, Amy Barnhorst & Sheldon Greenberg, "Gun Violence Restraining Orders: Alternative or Adjunct to Mental Health-Based Restrictions on Firearms?" *Behavioral Sciences & the Law* 33 (2015) Issue 2-3, available at <https://onlinelibrary.wiley.com/doi/abs/10.1002/bsl.2173>.

of gun violence - whether that violence ultimately results against one's self, or another individual. Extreme risk protection orders provide a way for the courts and law enforcement to temporarily remove guns from the situation and save lives.

These laws have proven to be effective in other states. An analysis of the first 14 years of Connecticut's extreme risk law (1999-2013) found that 99% of orders issued resulted in the removal of at least one gun. Researchers estimated that not only was at least one suicide prevented for every 10-20 orders issued, but that 44% of the orders led to the individual receiving mental and behavioral health treatment they otherwise might not have received.²¹ Furthermore, a recent study found that extreme risk laws may provide exactly the type of urgent and individualized intervention that could prevent mass shootings in the future.²² The bottom line is that the more that extreme risk laws are studied and examined, the more it becomes clear that they are highly effective and unique tools that can prevent tragedies *before* they happen.

In addition to a robust and widespread implementation plan for when these laws go into effect, this committee should work to ensure that researchers are granted access to redacted court records – consistent with state and federal privacy laws – to continue to evaluate the efficacy of these laws and further inform public policy. It is critical that unbiased assessments of extreme risk laws are taking place to improve existing laws and expand their adoption in other states.

The epidemic of gun violence, which includes the epidemic of gun suicide, requires a slate of solutions specifically tailored to address the intricacies and root causes of gun violence, for each and every community. **A strong and comprehensive extreme risk law must be part of the solution, as it will save lives in Virginia, and Brady strongly urges this Committee to consider the best practices highlighted in this testimony and vote on a comprehensive extreme risk law today.**

Repeal the Virginia Firearm Preemption Law

Gun violence is a complex and multifaceted problem that requires a response at every level of government – federal, state, and local. Currently, Virginia has a law in place that ties the hands of local governments, preventing them from taking action to reduce violence in their jurisdictions.²³

While gun violence takes place in every community in our country, the violence manifests differently in different communities. Accordingly, the most effective gun violence prevention laws may need to be implemented or enforced differently in an urban area than a rural one. It is critical that local governments have the authority to adopt gun violence prevention measures that are tailored to address the gun violence closest to home and have the ability to direct local resources to effectively implementing those solutions.

²¹ Jeffrey W. Swanson et al., Implementation and Effectiveness of Connecticut's Risk-Based Gun Removal Law: Does it Prevent Suicides?, 80 *Law and Contemporary Problems* 179-208 (2017), available at <http://scholarship.law.duke.edu/lcp/vol80/iss2/8>.

²² Garen J. Wintemute, et al., Extreme Risk Orders Intended to Prevent Mass Shootings: A Case Series, *Annals of Internal Medicine* (2019), available at <https://annals.org/aim/fullarticle/2748711/extreme-risk-protection-orders-intended-prevent-mass-shootings-case-series>.

²³ Va. Code. Ann § 15.2-915.

Under Virginia’s preemption law, local governments cannot “adopt or enforce any resolution . . . governing the purchase, possession, transfer, ownership, carrying, storage or transportation of firearms.” This sweeping provision severely limits local governments in adopting common sense laws. For example, the City of Charlottesville cannot prevent individuals from openly carrying firearms at protests law enforcement has reason to believe will turn violent.²⁴ Richmond cannot experiment with laws that would address the community’s disproportionately higher rates of gun violence if those measures are not supported at the state level.

State preemption laws hinder effective gun violence prevention measures at the local level. **Brady urges this Committee to repeal Virginia’s firearms preemption law so communities have the ability to pass and implement policies that will best serve those that live there.**

Conclusion

We at Brady applaud this Senate Judiciary Committee for seeking legislative solutions to the grave problems that exist due to the daily impact of gun violence throughout the Commonwealth. Policies to create a **comprehensive universal background check system**, implement a **one-handgun-a-month** policy to reduce straw purchasing and gun trafficking, pass an **extreme risk law** and repeal **Virginia’s firearms preemption law** will go a long way in reducing gun violence and injury throughout all of Virginia. We know that when states enact similar legislation, they have lowered their own firearm death rates and research shows that the courageous actions of this body could do the same for the Commonwealth. Brady looks forward to working with the committee and the legislature in this legislative process to combat the levels of gun violence Virginians are experiencing daily in communities of all different shapes and sizes throughout the state because. There is too much at stake to do anything else.

²⁴ Alex Yablon, “Virginia Bill Would Let Cities Ban Guns from Protests,” The Trace, Nov. 20, 2018, <https://www.thetrace.org/rounds/virginia-bill-guns-at-protests-preemption-law/>.