

No. 23-852

In the Supreme Court of the United States

MERRICK B. GARLAND, ATTORNEY GENERAL, ET AL.,

PETITIONERS

v.

JENNIFER VANDERSTOK, ET AL.,

RESPONDENTS

On Writ of Certiorari to the
United States Court of Appeals for the Fifth Circuit

**BRIEF FOR AMICI CURIAE 20 MAJOR CITIES,
9 COUNTIES, 6 PROSECUTORS, AND
PROSECUTORS AGAINST GUN VIOLENCE
IN SUPPORT OF PETITIONERS**

Lee S. Richards*
Arthur S. Greenspan
David B. Massey
Rachel S. Mechanic
Jacob J. Taber
Samuel E. Gelb
PERKINS COIE LLP
1155 Avenue of the Americas
New York, New York 10036
(212) 262-6900
leerichards@perkinscoie.com

*Counsel of Record

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INTEREST OF AMICI CURIAE¹

Amici curiae comprise (i) 20 major cities across the United States (the “Amici Cities”); (ii) 9 major United States counties (the “Amici Counties”); (iii) the nationwide group of prosecutors known as Prosecutors Against Gun Violence (“PAGV”); and (iv) prosecutors for 6 counties (the “Amici Prosecutors”). The Amici Cities, the Amici Counties, PAGV, and the Amici Prosecutors are herein collectively referred to as “Amici.”

The Amici Cities are Baltimore, Maryland; Boston, Massachusetts; Chicago, Illinois; Columbus, Ohio; Dayton, Ohio; Hartford, Connecticut; Los Angeles, California; Minneapolis, Minnesota; Newark, New Jersey; Oakland, California; Philadelphia, Pennsylvania; Pittsburgh, Pennsylvania; Portland, Oregon; Providence, Rhode Island; Rochester, New York; San Diego, California; San Francisco, California; San Jose, California; Seattle, Washington; and Syracuse, New York. The Amici Cities have a collective population of approximately 22 million.

The Amici Counties are Arlington County, Virginia; Boulder County, Colorado; Harris County, Texas; King County, Washington; Los Angeles County, California; San Diego County, California; San Mateo County, California; Santa Clara County, California; and Westchester County, New York. The

¹ This brief is submitted pursuant to Supreme Court Rule 37.6. Amici confirm that this brief was not authored in whole or in part by counsel for any party, and no person or entity other than amici and their counsel made a monetary contribution to the preparation or submission of this brief.

Amici Counties have a collective population of approximately 20 million.

The Amici Cities and the Amici Counties are a diverse coalition of municipalities united by a common purpose—to curb the spread of ghost guns and the resulting increase in gun violence on their streets and across the country.

PAGV is an independent, nonpartisan group that identifies and promotes prosecutorial and policy solutions for the national public health and safety crisis of gun violence. PAGV's membership comprises over 60 elected prosecutors, who serve over 65 million individuals in 30 states. Its mission includes sharing best practices for prosecuting gun offenders and defending common-sense gun safety policies. PAGV's members, and the local law enforcement officers with whom they collaborate daily, play a critical role in promoting residents' safety—the highest objective of state and local governments. As local leaders in the nationwide effort to curb gun violence and promote public safety, PAGV members witness firsthand the tragic effects of the proliferation of unregulated ghost guns.

The Amici Prosecutors are Joe D. Gonzales, the Bexar County District Attorney (Texas); Darcel D. Clark, the Bronx County District Attorney (New York); John C. Creuzot, the Dallas County Criminal District Attorney (Texas); Kim Ogg, the Harris County District Attorney (Texas); José Garza, the Travis County District Attorney (Texas); and Eli Savit, the Washtenaw County, Michigan Office of the Prosecuting Attorney. The Amici Prosecutors, who serve a collective population of nearly 12 million people, are likewise deeply concerned about the

spread of ghost guns and the resulting increase in gun violence in their counties.

The Amici submit this brief to illustrate for the Court, based on specific, real-world examples and numerical trends, the prevalence and deadly effects of ghost guns across the United States—and the unique challenges ghost guns present to prosecutors and local law enforcement agencies who are tasked with preventing and prosecuting gun crime and protecting public safety. The Amici also submit this brief to express their uniform view that the current Bureau of Alcohol, Tobacco, Firearms and Explosives (“ATF”) rule regulating ghost guns, 87 Fed. Reg. 24652 (Apr. 26, 2022) (the “Final Rule” or “Rule”), was and remains urgently needed to curb the dangerous spread of ghost guns and to protect public safety.

SUMMARY OF ARGUMENT

Amici have witnessed firsthand the damage to public health and safety wrought by the recent proliferation of so-called “ghost guns”—firearms without serial numbers that are readily assembled from gun-building kits that can be easily purchased over the Internet without a background check. The Final Rule, which has been in effect since August 24, 2022,² is a critical component of the nationwide effort to curb the dangerous spread of ghost guns.

As detailed below, in the years leading up to the implementation of the Final Rule, the ghost gun market was thriving and prosecutors and other law enforcement agencies in the Amici Cities and

² The Final Rule was partially enjoined in September 2022 and later briefly vacated in its entirety until this Court entered a stay of those lower court orders in August 2023. *See* Brief for Petitioners 13.

Counties, as well as the districts represented by the Amici Prosecutors, reported dramatic increases in the use of ghost guns in connection with criminal activity in their jurisdictions. As also detailed below, the ready acquisition of ghost guns by high-risk individuals, including convicted felons, domestic abusers, and minors, led to horrific incidents of gun crime in these locations and elsewhere—incidents that might have been prevented if ghost guns had been subject to federal regulation. Indeed, in the relatively short time that the Final Rule has been in effect, the Rule appears to have caused a measurable reduction in the use of ghost guns in the Amici’s municipalities.

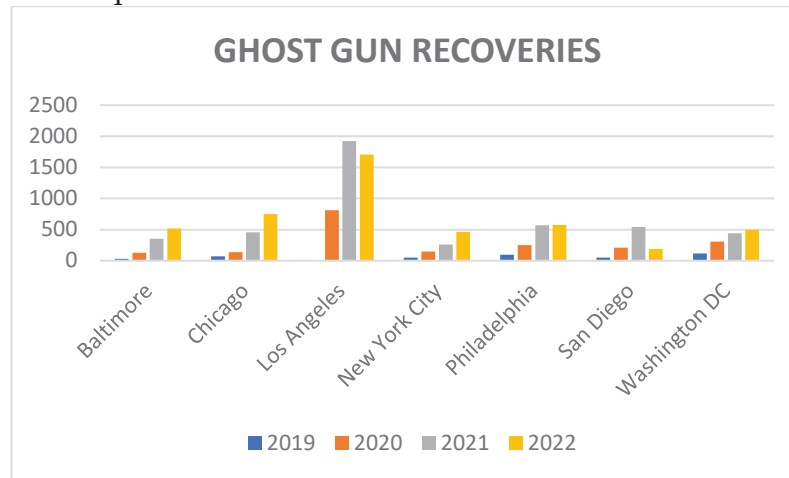
Although ghost gun recoveries have decreased in the limited time the Rule has been in effect, ghost guns have plainly not been eliminated and, as noted below, violent crimes committed with ghost guns have continued to occur. If the Rule remains in effect, Amici believe that the problem of ghost guns will be further ameliorated over time, but the continuation of offenses involving ghost guns underscores the need for long term federal regulation of this type of firearm.

In short, ghost guns pose a genuine threat to the health and safety of Americans and undermine the ability of law enforcement authorities to effectively prosecute and prevent gun violence. For these and other reasons discussed in this brief, the Amici Cities, the Amici Counties, PAGV, and the Amici Prosecutors all respectfully urge this Court to reverse the judgment of the court of appeals.

ARGUMENT

I. Federal Regulation of Ghost Guns Is Needed to Curb the Proliferation of These Unserialized and Dangerous Firearms

The Final Rule was promulgated in response to a dramatic and alarming increase in the criminal use of unserialized ghost guns in cities across the country. Indeed, every city in the chart depicted below saw significant increases in ghost gun recoveries between 2019 and 2022, and that trend is representative of rates of ghost gun recoveries in dozens of major municipalities across the United States.



By way of example, in 2022, the New York Police Department reported an over 300% increase in ghost gun recoveries from January through April 2022, as compared to January through April 2021.³ In Philadelphia, while ghost guns represented only 2% of all firearms recovered in 2019, that number increased

³ Dan Krauth and Brett Cohen, *Ghost Guns: Eyewitness News Investigates A Growing Menace*, ABC News, Apr. 28, 2022, <https://abc7ny.com/ghost-guns-nypd-atf-street-crime/11798077/>.

by 311% in 2022, in which year the Philadelphia Police Department seized more than 575 ghost guns.⁴ And in Baltimore, during the period June 2021 through the end of 2023, ghost guns were the most commonly recovered type of firearm, outpacing all other firearms.⁵

Many other major cities and counties have also seen a dramatic increase in recoveries since 2019. For example:

- Law enforcement in Newark saw a 414% increase in ghost gun seizures from 2020 to 2021.⁶
- Law enforcement in Hartford seized 29 ghost guns in 2021, an increase of 314% from 2020.

⁴ Rep. Joanna E. McClinton, *Ghost Guns: Fueling Real Horror in PA Communities Ghost Guns Are Untraceable, Do-It-Yourself Kits*, Pennsylvania House of Representatives, Democratic Caucus, Mar. 4, 2024, <https://www.pahouse.com/McClinton/InTheNews/NewsRelease/?id=133088>.

⁵ Lee O. Sanderlin, *Legal fight over Ghost Guns, Baltimore's Most Common Firearm, Heads to Supreme Court*, Apr. 22, 2024, https://www.thebaltimorebanner.com/community/criminal-justice/supreme-court-ghost-gun-baltimore-srjw2wymr5ehddlqdstkpy6nfy/?schk=no&rchk=yes&utm_source=the+baltimore+banner&utm_campaign=1842a821fc-nl_alrt_20240422_1200&utm_medium=email&utm_term=0_-1842a821fc-%5blist_email_id%5d&mc_cid=1842a821fc&mc_eid=8b0c81cdf5.

⁶ Mayor Ras Baraka's and Public Safety Director O'Hara's Joint Statement on President Biden's Strategy to Reduce Gun Crime, Feb. 4, 2022, <https://www.newarknj.gov/news/mayor-ras-barakas-and-public-safety-director-oharas-joint-statement-on-president-bidens-strategy-to-reduce-gun-crime>.

In 2022, that number again increased, this time to 58 ghost gun seizures.⁷

- The Seattle Police Department seized 83 ghost guns between May 2019 and May 2022. From 2020 to 2022, ghost gun recoveries as a percentage of all firearm recoveries have more than tripled.⁸ King County, Washington reported at least 120 ghost gun recoveries in 2022 alone.⁹
- In 2019, only 6.7% of guns recovered by local law enforcement in Oakland, California were classified as ghost guns. In 2020, that number jumped to 16.5%. And as of March 2021, ghost guns accounted for 21.7% of all confiscated firearms.¹⁰
- Law enforcement in Columbus seized 14 ghost guns in 2021. That number more than doubled to 31 in 2022, and increased again in 2023 to 43 seizures.¹¹

⁷ 2021 & 2022 data on file with the Hartford Police Department (current as of May 13, 2024).

⁸ See Decl. of A. Diaz, Interim Chief of Police for the Seattle Police Department, filed in *Division 80, LLC v. Garland*, 3:22-CV-00148 (S.D. Tex. 2022) ECF No. 57-3 at 2; see also *Vanderstok v. Garland*, 4:22-CV-000691 (N.D. Tex. 2022) ECF No. 61 at 40-41.

⁹ Data on file with the King County Prosecuting Attorney's Office (current as of June 13, 2024).

¹⁰ *Oakland City Councilmembers Propose Ban on Ghost Guns*, CBS Bay Area, Jan. 11, 2022, <https://www.cbsnews.com/sanfrancisco/news/oakland-city-councilmembers-propose-ban-on-ghost-guns/>.

¹¹ Aaron Burd and Anna Hoffman, 'Astronomical' Numbers Of Illegal Gun Part Found In Columbus In 2023, Police Say, NBC Columbus, Jan. 11, 2024, <https://www.nbc4i.com/news/local-news/columbus/astronomical-numbers-of-illegal-gun-part->

- In the County of Santa Clara, ghost gun recoveries have increased from 45 in 2018 to 323 in 2022.¹²
- In Rochester, ghost gun recoveries have dramatically increased from 9 in 2019 to 57 in 2022 and to 86 in 2023.¹³
- In Dallas, ghost gun recoveries have increased every year from 2017 to 2023, with 61 ghost guns retrieved in 2023.¹⁴

Early signs indicate, however, that the Final Rule is having its intended effect: it is beginning to curb the prevalence of ghost guns in several of the Amici Cities and Counties, and in other locations around the country. Since the Rule went into effect in 2022, ghost gun recoveries have decreased in several major cities. For example:

- Ghost gun recoveries in New York decreased in 2023 for the first time in four years, declining from 436 in 2022 to 359 in 2023.¹⁵

found-in-columbus-in-2023-police-say/#:~:text=Ghost%20gun%20seizures%20also%20saw,built%20without%20a%20background%20check.

¹² Data on file with the San José Police Department and County of Santa Clara Crime Lab (current as of June 15, 2024).

¹³ Data on file with the Rochester Police Department (current as of May 14, 2024).

¹⁴ Data on file with the Dallas District Attorney's Office (current as of May 15, 2024).

¹⁵ Data on file with the New York Police Department (current as of June 13, 2024).

- In Baltimore, ghost gun recoveries decreased in 2023 for the first time since 2019, dropping from 519 in 2022 to 385 in 2023.¹⁶
- Ghost gun recoveries declined in Boston for the first time in four years, from 104 in 2022 to 86 in 2023.¹⁷
- In Los Angeles, ghost gun recoveries in 2023, while still the largest in the country, decreased 28% from the prior year.¹⁸
- In Newark, 39 ghost guns were recovered in 2023, compared to 64 in 2022.¹⁹
- Police recovered 37 ghost guns in 2023 in Hartford, compared to 58 in 2022.²⁰

¹⁶ Priya Krishnakumar, *High Number of Firearm Recoveries Underscores America's Worsening Gun Violence Epidemic*, CNN, Jan. 30, 2022, <https://www.cnn.com/2022/01/30/us/firearm-recoveries-gun-violence/index.html#:~:text=CNN%20requested%20data%20on%20gun,in%20at%20least%20a%20decade;Data%20on%20file%20with%20the%20Baltimore%20Police%20Department> (current as of Apr. 22, 2024).

¹⁷ Boston Police Department, *2023 Boston Firearm Trafficking Report* (Feb. 9, 2024), <https://boston-pd-crime-hub-boston.hub.arcgis.com/apps/167f9bc56f5342408c0e3b52c52b4b9e/explore>.

¹⁸ Everytown for Gun Safety, *Ghost Gun Recoveries and Shootings*, July 31, 2023, <https://everytownresearch.org/report/ghost-guns-recoveries-and-shootings/>.

¹⁹ Data on file with the Newark Department of Public Safety (current as of May 22, 2024).

²⁰ Decl. of C. Mastroianni, Intelligence Division Sergeant for the Hartford Police Department, filed in *Division 80, LLC v. Garland*, 3:22-CV-00148 (S.D. Tex. 2022), ECF No. 58-2 at 2; *see also Vanderstok v. Garland*, 4:22-CV-000691 (N.D. Tex. 2022), ECF No. 61 at 37-38; Data on file with the Hartford Police Department (current as of May 13, 2024).

- In San Francisco, law enforcement recovered 195 ghost guns in 2023, compared to 224 in 2022.²¹
- In Philadelphia, police recovered 526 ghost guns in 2023, compared to 575 in 2022.²²
- In Pittsburgh, police recovered 21 ghost guns in 2023, compared to 54 in 2022, and 50 in 2021.²³
- Police recovered 407 ghost guns in 2023 in Washington, D.C., compared to 500 in 2022.²⁴
- In Oakland, law enforcement recovered 305 ghost guns in 2023, compared to 354 in 2022.²⁵

Though this early data is promising, these figures likely understate the true prevalence of ghost guns in the Amici municipalities, and across the country. Ghost guns are nearly impossible to trace, and law enforcement in many cities have only recently begun to classify ghost guns separately from other recovered

²¹ Data on file with the San Francisco City Attorney's Office (current as of June 10, 2024).

²² Data on file with the Pennsylvania Office of Attorney General (current as of Feb. 28, 2024).

²³ Data on file with the Pittsburgh City Bureau of Police (current as of June 18, 2024).

²⁴ Data on file with the Metropolitan Police Department (current as of Feb. 22, 2024).

²⁵ Data on file with the Oakland Police Department (current as of June 12, 2024).

guns.²⁶ Accordingly, the figures reported above²⁷ represent only those firearms actually seized by police and classified as ghost guns, and therefore likely

²⁶ See T. Taniguchi, K. Hoogesteyn, K. Renouard, and D. Esserman, *The Proliferation of Ghost Guns: Regulation Gaps and Challenges for Law Enforcement*, National Police Foundation, 2021, https://www.policinginstitute.org/wp-content/uploads/2021/08/NPF_The-Proliferation-of-Ghost-Guns_Final_2021.pdf.

²⁷ Data for the chart on page 5 is sourced from the National Police Foundation report, *supra* n. 26, and Everytown for Gun Safety, *Ghost Gun Recoveries and Shootings*, July 31, 2023, <https://everytownresearch.org/report/ghost-guns-recoveries-and-shootings/>, unless otherwise indicated. The remaining data was sourced as follows: **Baltimore**, Priya Krishnakumar, *High Number of Firearm Recoveries Underscores America’s Worsening Gun Violence Epidemic*, CNN, Jan. 30, 2022, <https://www.cnn.com/2022/01/30/us/firearm-recoveries-gun-violence/index.html#:~:text=CNN%20requested%20data%20on%20gun,in%20at%20least%20a%20decade>; Data on file with the Baltimore Police Department (current as of May 14, 2024); **Chicago**, Jeff Pegues, *Rise in Crime Fueled in Part by “Ghost” Guns, ATF Says*, CBS News, Feb. 2, 2022, <https://www.cbsnews.com/news/ghost-guns-crime-increase-atf/>; **Los Angeles**, Los Angeles Police Department, 2021 Crime & Initiatives, https://lapdonlinestrgeacc.blob.core.usgovcloudapi.net/lapdonlinemedia/2022/01/2021_crime_initiatives.pdf (Los Angeles did not track ghost gun recoveries until 2020); **New York**, Amended Complaint, *City of New York v. Arm or Ally LLC*, 22-CV-05525 (S.D.N.Y. July 27, 2022), ECF No. 30 at 2 (2019-21 data); ; **San Diego**, *Biden’s Ghost Gun rule could bolster San Diego’s ban*, ABC News 10 San Diego, Apr. 11, 2022, <https://www.10news.com/news/local-news/bidens-ghost-gun-rule-could-bolster-san-diegos-ban> (2021 & 2022 data); **Washington, D.C.**, Executive Office of the Mayor, *Mayor Bowser Announces New Intelligence-Led Policing Unit Focusing on Violent Crime*, Apr. 25, 2022, <https://mayor.dc.gov/release/mayor-bowser-announces-new-intelligence-led-policing-unit-focusing-violent-crime> (2021 data).

understate the true prevalence of the use of ghost guns in each of the listed cities over the past several years.

If the Final Rule is vacated, the use of ghost guns, including in connection with criminal activity, will likely follow its pre-2023 trend and surge throughout the United States. This is particularly true in large cities, where the rise in ghost guns has only exacerbated the already massive problem of gun violence. More than two-thirds of the country's most populous cities experienced more homicides in 2021 than in the year prior, and experts have reported that homicides are increasingly committed through the use of guns.²⁸ Indeed, 77% of reported murders in 2020 were the result of gun violence—up from 74% in 2019.²⁹ The Final Rule is therefore critical to municipalities' efforts to stem the already rising threat of gun violence in cities across the country.

II. Ghost Guns Have Been Increasingly Used in Connection with Criminal Activity by High-Risk Individuals

As the availability and accessibility of ghost guns increases, so too does their usage in connection with criminal activity. This is particularly true given the attractiveness of ghost guns to high-risk individuals, including those convicted of violent crimes, many of whom are prohibited from legally obtaining and possessing weapons and may be prone to violence.

²⁸ Priya Krishnakumar, Emma Tucker, Ryan Young, and Pamela Kirkland, *Fueled by Gun Violence, Cities Across the US are Breaking All-Time Homicide Records This Year*, CNN, Dec. 12, 2021, <https://www.cnn.com/2021/12/12/us/homicides-major-cities-increase-end-of-year-2021/index.html>.

²⁹ *Id.*

Indeed, as the prevalence of ghost guns has risen over the past several years, prosecutors and law enforcement officers have seen an uptick in the use of these firearms by persons previously convicted of a violent felony, individuals who have committed domestic violence offenses, violent extremists, organized crime syndicates, and minors. The Final Rule is thus necessary to lessen the increasing and grave threat to public safety posed by the unfettered access to untraceable firearms by people who have committed violent crimes and other high-risk individuals.

A. Persons Previously Convicted of a Violent Crime

Federal law and the laws of nearly every state prohibit individuals who have been convicted of, or who are under indictment for, a felony from acquiring or possessing firearms.³⁰ Many states further restrict access to firearms by people convicted of specified misdemeanors, typically those misdemeanors that involve the use of violence or the misuse of firearms.³¹

The market for Internet mail-order ghost gun kits offers individuals who are not legally able to purchase guns from licensed dealers the ability to easily and anonymously purchase kits online, without undergoing a background check, and thereby obtain an unserialized firearm. Although a black market for untraceable firearms has long existed, acquiring guns on the black market is typically a difficult, costly, and dangerous proposition. In contrast, individuals

³⁰ Giffords Law Center, *Firearms Prohibitions*, <https://giffords.org/lawcenter/gun-laws/policy-areas/who-can-have-a-gun/firearm-prohibitions/>.

³¹ *Id.*

previously convicted of a felony and others who cannot pass a background check can instead buy gun-building kits online, thereby bypassing the risks associated with participation in the black market. A recent study that looked at 114 federal prosecutions involving the use of a ghost gun found that nearly 40% of those cases involved defendants who were legally prohibited from purchasing or possessing a firearm.³² And the ATF has documented the fact that ghost gun distributors regularly sell these gun-building kits directly to individuals legally prohibited from possessing firearms.³³

Amici, as well as municipalities and law enforcement across the country, have seen countless examples of violent criminal activity conducted with the use of a ghost gun by individuals otherwise unable to legally possess a firearm. For instance:

- On December 17, 2023, a Baltimore man was charged with the accidental shooting death of his 2-year-old daughter. The Defendant, who shot his daughter with a ghost gun, had previously been found guilty of a violent crime and was legally prohibited from owning a firearm.³⁴

³² *Untraceable: The Rising Specter of Ghost Guns*, Everytown For Gun Safety, May 14, 2020, <https://everytownresearch.org/report/the-rising-specter-of-ghost-guns/>.

³³ ATF Search Warrant Affidavit for Polymer80, at ¶ 87, <https://s.wsj.net/public/resources/documents/ghostraid-121420-warrant.pdf>.

³⁴ Rohan Mattu and Christian Olaniran, *Baltimore Father Charged In Shooting Death of 2-Year-Old Daughter*, CBS Baltimore, Dec. 21, 2023, <https://www.cbsnews.com/baltimore/news/father-charged-with-shooting-killing-2-year-old-girl-in-baltimore/>.

- In April 2023, a Staten Island man with “multiple violent felonies” that prohibited him from owning a firearm shot his neighbor with a ghost gun.³⁵
- In January 2023, a Philadelphia man with multiple prior felonies was charged with trafficking ghost guns.³⁶
- In December 2022, Baltimore police seized 20 Polymer80 guns and other ghost guns from the home of a man with an extensive criminal background that included first- and second-degree assault, burglary, malicious destruction of property, and other convictions.³⁷
- In December 2021, law enforcement officers recovered an AR-15 ghost gun and an unknown caliber ghost gun from the home of a Pennsylvania man who had prior felony convictions for burglary and theft.³⁸

³⁵ Maura Grunlund, *NYPD Posts Photo Of ‘Ghost Gun’ Allegedly Used In Shooting Of Neighbor On Staten Island*, SILive.com, Oct. 4, 2023, <https://www.silive.com/crime-safety/2023/10/nypd-posts-photo-on-social-media-of-ghost-gun-allegedly-used-in-shooting-on-south-shore-of-staten-island.html>.

³⁶ *DA Krasner Announces Charges In Gun Trafficking Operation*, CBS Philadelphia, Jan. 17, 2023, <https://www.cbsnews.com/philadelphia/news/da-krasner-announce-charges-in-gun-trafficking-operation/>.

³⁷ *Baltimore Man Accused Of 3D Printing Multiple Ghost Guns*, CBS Baltimore, Dec. 30, 2022, <https://www.cbsnews.com/baltimore/news/baltimore-man-accused-of-3d-printing-multiple-ghost-guns/>.

³⁸ Tony Rhodin, *Man had 2 ghost guns, 3 shotguns near Nazareth area pot grow operation, authorities say*, LehighValleyLive, Dec. 7, 2021, <https://www.lehighvalleylive.com/news/2021/12/man->

- In April 2021, a man with a criminal record for unlawfully carrying a concealed weapon used a ghost gun to shoot five people, killing one, in San Diego.³⁹
- In November 2020, a Baltimore man with a prior felony conviction was sentenced to 21 years in federal prison for a string of armed robberies committed using a ghost gun that had been assembled from a gun-building kit.⁴⁰
- In October 2020, a Washington man who had been convicted of multiple felonies, including a prior conviction for unlawful possession of a firearm, was sentenced to 70 months in prison after agents seized a weapons cache of 17 pistols and 24 rifles from his home, nearly all of which were ghost guns that the defendant had manufactured using parts purchased online.⁴¹

had-2-ghost-guns-3-shotguns-near-nazareth-area-pot-grow-operation-authorities-say.html.

³⁹ Richard Allyn, *Untraceable “ghost gun” allegedly used in fatal Gaslamp shooting spree*, CBS8, Apr. 23, 2021, <https://www.cbs8.com/article/news/local/untraceable-ghost-gun-allegedly-used-in-fatalgaslamp-shooting-spre/509-cc352272-85d9-4e4b-bc1b-7446dcb96660>.

⁴⁰ U.S. Attorney’s Office, District of Maryland, *Baltimore Man Sentenced to 21 Years in Federal Prison for Five Bank Robberies, Five Armed Robberies of Liquor Stores, and Related Firearms Charges*, Nov. 12, 2020, <https://www.justice.gov/usao-md/pr/baltimore-man-sentenced-21-years-federal-prison-five-bank-robberies-five-armed-robberies>.

⁴¹ U.S. Attorney’s Office, Western District of Washington Press Release, *Felon sentenced to more than five years in prison for arsenal of ‘ghost guns’ and smuggled silencers*, Oct. 9, 2020, <https://www.justice.gov/usao-wdwa/pr/felon-sentenced-more-five-years-prison-arsenal-ghost-guns-and-smuggled-silencers>.

- In September 2020, a Washington, D.C. resident with a prior felony conviction pleaded guilty to felony possession of a firearm and ammunition after he was found by law enforcement to be carrying a .40-caliber pistol, loaded with ten rounds of ammunition, that he had constructed using a ghost gun kit.⁴²
- Also in September 2020, a man with multiple prior felony convictions obtained a ghost gun and ambushed two Los Angeles County Sheriff's Deputies as they sat in their police car. Both Sheriff's Deputies sustained multiple gunshot wounds.⁴³

These cases are but a few examples of the many cases that powerfully underscore the need for the Final Rule in order to keep ghost guns out of the hands of individuals who are prohibited from legally obtaining and possessing firearms.

B. Domestic Abusers

⁴² U.S. Attorney's Office, District of Maryland Press Release, *D.C. Felon Pleads Guilty in Federal Court in Maryland to Illegal Possession of a "Ghost Gun" Firearm and Ammunition*, Sept. 22, 2020, <https://www.justice.gov/usao-md/pr/dc-felon-pleads-guilty-federal-court-maryland-illegal-possession-ghost-gun-firearm-and>.

⁴³ *Ghost Gun Kit Seller Polymer80 Sued Over Gun Used to Shoot Two Los Angeles Sheriff's Deputies Last September*, Everytown for Gun Safety, Aug. 9, 2021, <https://everytownlaw.org/case/ghost-gun-kit-seller-polymer80-sued-over-gun-used-to-shoot-two-los-angeles-sheriffs-deputies-last-september/>.

It has long been understood that domestic violence and gun violence are “deeply interconnected.”⁴⁴ Where a domestic violence perpetrator has access to a gun, a survivor’s risk of death increases “at least five-fold.”⁴⁵ Indeed, “a woman is shot by her domestic partner every sixteen hours [in the United States].”⁴⁶ Moreover, even when they are not fired, guns are used by domestic abusers to exercise control over domestic violence survivors.⁴⁷ “Abused women frequently report that their intimate partners brandish guns to threaten deadly force.”⁴⁸ Of female survivors alive today, 4.5 million have reported that an intimate partner threatened them with a gun.⁴⁹ Once threatened, “women are more likely to endure long-term abuse out of fear that leaving the relationship will result in their death or the death of their

⁴⁴ See Everytown for Gun Safety, *Domestic Violence*, <https://www.everytown.org/issues/domestic-violence/>.

⁴⁵ Caroline Ramsey, *Firearms in the Family*, 78 Ohio St. L.J. 1257, 1274-75 (2017); see also Giffords Law Center, *Domestic Violence & Firearms*, <https://giffords.org/lawcenter/gun-laws/policy-areas/who-can-have-a-gun/domestic-violence-firearms/> (“[D]omestic violence assaults involving a gun are 12 times more likely to end in death than assaults with other weapons or physical harm.”).

⁴⁶ Jennifer Mascia, *Once Every 16 Hours, an American Woman Is Fatally Shot by a Current or Former Romantic Partner*, The Trace, Feb. 9, 2016, <https://www.thetrace.org/2016/02/women-domestic-violence-death-statistics/>.

⁴⁷ Jennifer L Vainik, *Kiss, Kiss, Bang, Bang: How Current Approaches to Guns and Domestic Violence Fail to Save Women’s Lives*, 91 Minn. L. Rev. 1113, 1117 (2007); see also Jane K. Stoever, *Intimate Partner Violence and Restorative Justice: Firearms and Domestic Violence Fatalities: Preventable Deaths*, 53 Fam. L.Q. 183, 185 (2019).

⁴⁸ Vainik, *supra* note 47, at 1117.

⁴⁹ Stoever, *supra* note 47, at 186.

children.”⁵⁰ Significantly, guns and domestic violence have been found to have a disproportionate impact on American Indian / Alaska Native, Black, and Latina women.⁵¹

To address these risks, Congress and over half the states have passed laws that prohibit persons likely to threaten their intimate partners with violence from obtaining firearms.⁵² Studies have shown that firearm relinquishment laws⁵³ and background checks are critical to keeping domestic violence survivors safe.⁵⁴ Firearm relinquishment laws have been linked to a 16% reduction in intimate partner gun homicides,⁵⁵ and background checks have been shown to reduce domestic violence homicides by

⁵⁰ Vainik, *supra* note 47, at 1117.

⁵¹ Everytown for Gun Safety, *Guns and Violence Against Women*, Oct. 17, 2019, <https://everytownresearch.org/report/guns-and-violence-against-women-americas-uniquely-lethal-intimate-partner-violence-problem/>

⁵² See Kellie Descrochers, *Municipalities Are Not Kingdoms: Regulating Gun Ownership in Cases Involving Domestic Violence in Light of the Pauler Decision*, 29 B.U. Pub. Int. L.J. 277, 285 (2020).

⁵³ Seventeen states and the District of Columbia require those convicted of domestic violence misdemeanors to turn in their firearms after conviction, and twenty-eight states have enacted laws that facilitate the removal of firearms from individuals when they become subject to protective orders. See Giffords Law Center, *Who can have a gun: Domestic Violence & Firearms*, <https://giffords.org/lawcenter/gun-laws/policy-areas/who-can-have-a-gun/domestic-violence-firearms/>. The strongest state laws, such as New Jersey’s, require officers to remove firearms after the issuance of a protective order, while other’s permit judges to require domestic violence offenders to surrender their firearms. *Id.*

⁵⁴ See Giffords Law Center, *supra* n. 53.

⁵⁵ *Id.*

47%.⁵⁶ From 1994 to 2012, federal domestic violence-related firearm prohibitions blocked the sale of approximately 314,000 purchases of firearms.⁵⁷

These protective measures for domestic violence survivors, however, are severely undermined by the proliferation and accessibility of ghost guns. Indeed, the very existence of a market for unserialized ghost guns, which can easily be acquired without a background check, obstructs the enforcement of laws requiring the relinquishment of firearms upon conviction of a domestic violence offense or issuance of a domestic violence restraining order. Amici, as well as municipalities and law enforcement across the country, have seen the grave danger that ghost guns pose to domestic violence survivors. For example:

- On February 2, 2023, law enforcement responded to a domestic violence situation where the victim had been assaulted and beaten in the face with a gun. Four days later, police in Rochester arrested the 18-year-old suspect and found a ghost gun in his possession.⁵⁸
- On November 6, 2022, a domestic abuser in Philadelphia broke into the home of his 20-

⁵⁶ Stoeber, *supra* n. 49, at 185; *see also* Aaron Edward Brown, *This Time I'll Be Bulletproof: Using Ex Parte Firearm Prohibitions to Combat Intimate-Partner Violence*, 50 Colum. Hum. Rts. L. Rev. 159, 180 (2019).

⁵⁷ *See* Brown, *supra* note 56, at 178 (noting that this number does not account for those who willingly surrendered their firearms to comply with federal law).

⁵⁸ Evan Bourtis, *RPD: Man accused of Domestic Violence Arrested for Carrying a Ghost Gun*, NBC Rochester, Feb. 8, 2023, <https://www.whec.com/top-news/rpd-man-accused-of-domestic-violence-arrested-for-carrying-a-ghost-gun/>.

year-old ex-girlfriend. That evening, she obtained an emergency protection-from-abuse order against him. Two days later, her abuser shot and killed her with a ghost gun, shooting her ten times on her walk to work.⁵⁹

- In May 2022, an Ohio man who was in violation of an Aggravated Menacing and Domestic Protection Order pointed a firearm at two victims—an adult and a minor—and threatened to shoot the victims’ entire family. Dayton Police later found a ghost gun rifle located in the man’s residence.⁶⁰
- In February 2022, a man in Sacramento used a homemade semiautomatic rifle-style weapon to kill his three daughters, a chaperone who was supervising his visit with them, and himself inside of a local church. The man was subject to a domestic violence restraining order that barred him from possessing a firearm.⁶¹

⁵⁹ Ellie Rushing, *Loved Ones of a Young Woman Slain in a Domestic Shooting Say Police Didn't Do Enough to Protect Her*, Philadelphia Enquirer, Dec. 11, 2022, <https://www.inquirer.com/crime/sahmya-garcia-philadelphia-shooting-domestic-violence-20221207.html>.

⁶⁰ See Decl. of J. Musto, Deputy Law Director at the City of Dayton Law Department, filed in *Division 80, LLC v. Garland*, 3:22-CV-00148 (S.D. Tex. 2022), ECF No. 57-1; see also *Vanderstok v. Garland*, 4:22-CV-000691 (N.D. Tex. 2022), ECF No. 61 at 34-35.

⁶¹ *A Father Used a Ghost Gun to Kill His Three Daughters. It's a Sign of a Growing Crisis*, The Guardian, Mar. 8, 2022, <https://www.theguardian.com/us-news/2022/mar/08/a-father-used-a-ghost-gun-to-kill-his-three-daughters-its-a-sign-of-a-growing-crisis>.

- In August 2020, police officers in San Jose, California arrested an individual for felony domestic violence. The survivor reported that the abuser had pointed a gun at her during the incident. When the officer explained to the assailant that he would not be permitted to get his firearm back pursuant to a “Gun Violence Restraining Order,” the individual replied, “then I’ll just build another one.”⁶²
- In July 2020, a man in Pennsylvania was arrested for shooting and killing his ex-wife and her friend with a ghost gun. The man’s ex-wife had filed for two separate protection-from-abuse orders in the year prior to her murder and the man had been required to relinquish his firearms pursuant to those orders.⁶³
- In September 2019, police officers in Chico, California responded to a call regarding a domestic violence dispute between a man and his girlfriend. The man was already the subject of a restraining order filed by his estranged wife, which prohibited him from

⁶² Compl. ¶ 131, *City of Syracuse v. Bureau of Alcohol, Tobacco, Firearms, and Explosives*, 20-cv-06885 (S.D.N.Y. 2020), https://assets.nationbuilder.com/firearmspolicycoalition/pages/5834/attachments/original/1648681797/Syracuse_v_ATF_Complaint.pdf?1648681797.

⁶³ John Finerty, *State Struggles to Bolster PFA Orders*, June 27, 2020, https://www.ncnewsonline.com/news/local_news/state-struggles-to-bolster-pfa-orders/article_618d2d90-0d07-5f0e-bcb8-8a0e667a201e.html; Marcia Moore, *UPDATE Fernanders’ Murder Charges Headed to Snyder County Court*, Sept. 29, 2020, https://www.dailyitem.com/news/fernanders-murder-charges-headed-to-snyder-county-court/article_41052d22-0285-11eb-9aa6-630b1abad5ed.html.

owning any firearms or ammunition. Officers found ammunition, a semi-automatic AR-15 rifle with an extended magazine, and two loaded pistols at the man's residence. The man was arrested for possession of illegal firearms and for being a prohibited person in possession of firearms. Two months later, when conducting a welfare check at the man's residence, officers found the man holding a loaded AR-15 rifle with at least nine rounds and the safety selector switch set to "fire." Officers also found a semi-automatic handgun, a .308 rifle, a 9mm handgun, and ammunition. The man later admitted that he knew he was not permitted to possess firearms pursuant to his restraining order. He explained, however, that all of his guns were ghost guns that were purchased "80% built from different online websites." He added that "80% firearms were made for people 'like me' who needed to get around not being able to buy guns."⁶⁴

C. Minors

There has been an alarming rise in recent years in the use of ghost guns by minors. In 2021 alone, police officers in Washington, D.C. arrested nearly 100 teenagers who were in possession of ghost guns.⁶⁵ According to data released by the Baltimore City Police Department in 2023, individuals under the age

⁶⁴ See Complaint, *United States v. Villasenor*, 20-cr-00050-KJM (E.D. Cal. Jan. 30, 2020), ECF No. 1.

⁶⁵ Jodie Fleischer, Rick Yarborough, Jeff Piper, and Skye Witley, *Record Number of Ghost Guns Found in DC in 2021*, NBC News, Nov. 19, 2021, <https://www.nbcwashington.com/news/local/dc-gun-violence/record-number-of-ghost-guns-found-in-dc-in-2021/2888734/>.

of 21 account for 40% of all ghost gun offenders in Baltimore.⁶⁶ Moreover, as a result of the accessibility and proliferation of ghost guns among minors, prosecutors and law enforcement in the Amici Cities and Counties have seen an increase in violent incidents involving these firearms. For example:

- On February 13, 2024, two children aged 12 and 13 used ghost guns during a carjacking in Seattle, firing the guns twice.⁶⁷
- On January 8, 2024, a 16-year-old Syracuse minor was arrested and charged with numerous felonies after police found a ghost gun, cocaine, and fentanyl in the teenager's possession.⁶⁸
- Also in January 2024, a 17-year-old minor on juvenile probation for firearm offenses was found to be in possession of a loaded ghost gun. The weapon had an extended magazine and a

⁶⁶ Rebecca Pryor, "It's Alarming" 40% Of Baltimore City Ghost Gun Offenders Under The Age Of 21, Fox News Baltimore, Jan. 25, 2023, <https://foxbaltimore.com/news/local/it-is-alarming-40-of-baltimore-city-ghost-gun-arrests-under-the-age-of-21>.

⁶⁷ Jeremy Harris, *Boys Arrested After Seattle Carjacking, Pursuit Were Armed With 'Ghost Guns'*, KOMO News, Feb. 19, 2024, <https://komonews.com/news/local/kids-arrested-in-seattle-carjacking-and-pursuit-were-armed-with-so-called-ghost-guns-charged-high-speed-chase-greenwood-south-lake-union-bitter-lake-gun-recovered-family-justice-center-king-county-crime>.

⁶⁸ Megan Hatch, *Syracuse Teen Arrested, Found With A Ghost Gun, Fentanyl And Cocaine: Police*, Inform NY, Jan. 11, 2024, <https://www.informnny.com/news/state-news/syracuse-teen-arrested-found-with-a-ghost-gun-fentanyl-and-cocaine-police/?nxsparam=1>.

switch converting it into a fully automatic firearm.⁶⁹

- On December 28, 2023, an 18-year-old was taken into custody in Hartford after firing 19 rounds with a ghost gun that had an automatic switch and a high-capacity magazine.⁷⁰
- On September 12, 2023, two 14-year-olds in Baltimore fired shots from a ghost gun in their possession, which prompted lockdowns at three nearby schools.⁷¹
- In May 2023, three 14-year-old boys were arrested for two armed robberies and an armed carjacking that were undertaken with a ghost gun.⁷²
- In 2022, a 17-year-old suspect was charged in the fatal shooting of a 17-year-old high school

⁶⁹ Office of the Pennsylvania Attorney General Press Release, *AG Henry: Carjacking, Possession Of ‘Ghost Guns’ Among Recent Crimes Involving Young People And Firearms In Philadelphia*, Jan. 18, 2024, <https://www.attorneygeneral.gov/taking-action/ag-henry-carjacking-possession-of-ghost-guns-among-recent-crimes-involving-young-people-and-firearms-in-philadelphia/>.

⁷⁰ Justin Musynski, *18 Year Old Accused Of Firing 19 Rounds In Hartford With Ghost Gun*, Hartford Courant, Dec. 28, 2023, <https://www.courant.com/2023/12/28/teen-reportedly-found-with-ghost-gun-after-hartford-police-alerted-to-19-gunshots/>.

⁷¹ Alex Glaze, *“Ghost Gun” Believed To Have Been Used By 14 Year-Olds In Lansdowne Shooting*, CBS Baltimore, Sept. 12, 2023, <https://www.cbsnews.com/baltimore/news/ghost-gun-believed-to-have-been-used-by-14-year-olds-in-lansdowne-shooting/>.

⁷² David Collins, *Baltimore Police Arrest 3 Teens Linked to Armed Carjacking, Robberies*, WBALTV11, May 26, 2023, <https://www.wbaltv.com/article/3-teens-arrested-armed-carjacking-robbery-baltimore/44017268>.

football player with a ghost gun as classes let out for Labor Day weekend in Baltimore.⁷³

- In April 2022, a 17-year-old shot and killed a 16-year-old and injured two other teenagers with a ghost gun outside of a high school in Bronx, New York.⁷⁴
- In January 2022, a 17-year-old Maryland student was charged with attempted second-degree murder after shooting a 15-year-old at his school with a ghost gun.⁷⁵
- In December 2021, a teenager brought a loaded ghost gun to school in Brooklyn, New York.⁷⁶
- In November 2021, a 16-year-old boy in Arizona sold a ghost gun to a 15-year-old boy at school. After an altercation between the two

⁷³ Keith Daniels, *Juvenile Suspect In Mervo Fatal Shooting Held Without Bail, Could Be Charged As Adult*, Fox News Baltimore, Sept. 2, 2022, <https://foxbaltimore.com/news/local/juvenile-suspect-in-mervo-high-school-fatal-shooting-debate-over-charged-as-adult>.

⁷⁴ Aaron Katersky, Mark Crudele, and Ivan Pereira, *17-year-old arrested in connection with Bronx high school shooting that left teen dead*, ABC News, Apr. 9, 2022, <https://abcnews.go.com/US/17-year-arrested-connection-bronx-high-school-shooting/story?id=83981645>.

⁷⁵ Dan Morse, *Magruder High School student charged as adult with attempted second-degree murder*, The Washington Post, Jan. 22, 2022, <https://www.washingtonpost.com/dc-md-va/2022/01/22/magruder-high-shooting-ghost-gun-student-charged/>.

⁷⁶ Thomas Tracy and Michael Else-Rooney, *21 Weapons Recovered at Brooklyn High School Campus Day After Student Caught with Gun and \$30,000*, Daily News, Dec. 2, 2021, <https://www.nydailynews.com/new-york/education/ny-weapons-brooklyn-high-school-campus-20211203-kg4k7xxpmbcepnoej2j2rf4py-story.html>.

boys, the purchaser of the gun used it to shoot and wound the teenager from whom he purchased the ghost gun.⁷⁷

- On May 31, 2021, a 17-year-old boy in Washtenaw County, Michigan was shot by another 17-year-old, who bought the ghost gun online and assembled the weapon “within minutes.”⁷⁸
- In 2019, a 16-year-old shot and killed two students with a ghost gun and injured three others at a high school in Santa Clarita, California.⁷⁹

Disturbingly, many of the incidents involving ghost guns and minors have been the result of accidents, which could have easily been prevented if ghost guns had been more stringently regulated and thus less accessible to the children involved. For example:

- In January 2022, a 14-year-old boy in Florida was accidentally shot and killed by his friend who was “playing” with a loaded ghost gun in

⁷⁷ Aaron Marquez, *2 School Shootings, 1 Common Problem: Teens Had Easy Access to a Firearm*, AZ Central, Dec. 6, 2021, <https://www.azcentral.com/story/opinion/op-ed/2021/12/06/school-shootings-show-arizona-do-more-ghost-guns-gun-safety/8852461002/>.

⁷⁸ Emma Tucker, *Michigan Teen Who Alleges His Underage Friend Shot Him With A Ghost Gun In 2021 Sues An Online Supplier*, CNN, Mar. 15, 2024, <https://www.cnn.com/2024/03/15/us/michigan-accidental-shooting-ghost-gun/index.html>.

⁷⁹ Dakin Andone, *The gunman in the Saugus High School shooting used a ‘ghost gun,’ sheriff says*, CNN, Nov. 21, 2019, <https://www.cnn.com/2019/11/21/us/saugus-shooting-ghost-gun/index.html>.

the boy's bedroom. Authorities believe the boy who was killed ordered the weapon online and assembled it himself.⁸⁰

- In December 2021, a 13-year-old boy in Georgia accidentally shot and killed his 14-year-old sister with a ghost gun that he himself had built. The boy had been manufacturing ghost guns and selling them out of his home. After two people tried to steal one of his ghost guns, the boy opened fire to prevent the theft and, in the process, accidentally shot and killed his older sister.⁸¹
- In November 2021, a seventh grader in California was fatally shot with a ghost gun in his own home. Investigators are still trying to determine whether the 12-year-old boy accidentally shot himself or if his 15-year-old friend, who the police say brought the weapon into the apartment, discharged it while showing it off.⁸²

⁸⁰ Corey Arwood, *Vero Beach boy shot, killed Jan. 30 while playing with gun made from parts bought online*, TC Palm, March 15, 2022, <https://www.tcpalm.com/story/news/crime/indian-river-county/2022/03/15/14-year-old-vero-beach-boy-shot-killed-friend-playing-gun-made-parts-bought-online/7049145001/>.

⁸¹ Yaron Steinbuch, *Georgia boy, 13, accused of accidentally killing sister with 'ghost gun'*, New York Post, Dec. 3, 2021, <https://nypost.com/2021/12/03/georgia-teen-accidentally-killed-sister-with-ghost-gun/>.

⁸² Glenn Thrush, *'Ghost Guns': Firearm Kits Bought Online Fuel Epidemic of Violence*, NY Times, Nov. 14, 2021, <https://www.nytimes.com/2021/11/14/us/ghost-guns-homemade-firearms.html>.

- In August 2021, an 8-year-old boy in Newark accidentally shot and killed himself with a ghost gun.⁸³

Simply put, subjecting gun-building kits to the same regulations as fully-assembled firearms is essential to keeping children safe from intentional gun violence and fatal accidents.

D. Gun Trafficking by Individuals and Organized Crime Syndicates

Gun-building kits also make it easy and convenient for any individual or organized crime syndicate to become an unlicensed gun manufacturer and distributor. With just a few tools and some simple instruction, a criminal entrepreneur can easily turn nearly finished frames and receivers purchased over the Internet into finished, usable, and untraceable guns. As an example of this ready-access to ghost gun kits, on March 15, 2023, the New York Attorney General charged three defendants with trafficking 19 firearms, 12 of which were ghost guns; 6 high-capacity magazines; and more than 560 grams of cocaine.⁸⁴ The New York Attorney General led a similar task force in December 2022 that seized 57 illegal firearms,

⁸³ Rebecca Panico, *Fatal shooting of 8-year-old is 'horrible and tragic,' Newark mayor says and calls for accountability*, NJ.com, updated Aug. 31, 2021, <https://www.nj.com/essex/2021/08/fatal-shooting-of-8-year-old-is-horrible-and-tragic-newark-mayor-says-and-calls-for-accountability.html>.

⁸⁴ Office of the New York State Attorney General Press Release, *Attorney General James and NY Drug Enforcement Task Force Take Down Ghost Gun and Narcotics Trafficking Ring*, Mar. 15, 2023, <https://ag.ny.gov/press-release/2023/attorney-general-james-and-ny-drug-enforcement-task-force-take-down-ghost-gun#:~:text=The%20123%2Dcount%20indictment%20charges,street%20value%20of%20approximately%20%2425%2C000>.

including 51 ghost guns, as part of a 438-count indictment against three individuals.⁸⁵ These examples are not unique, and the conduct at issue is becoming dangerously common. For example:

- In November 2021, a Rhode Island man was arrested for operating a gun “factory” from his home in Providence. Police seized 100 firearms and parts for 45 ghost guns.⁸⁶
- In November 2021, an 18-year-old in Illinois was charged with assembling and selling ghost guns to numerous people, including a minor, after purchasing the parts online.⁸⁷
- Just a few weeks earlier, in Queens, New York, a couple was charged with the criminal sale of a firearm in the third degree after law enforcement found a stockpile of illegal ghost guns in the couple’s basement apartment where they lived with their child.⁸⁸

⁸⁵ *Id.*

⁸⁶ Benjamin Weiser, *Rhode Island Man Operated ‘Ghost Gun’ Home Factory, U.S. Says*, NY Times, Jan. 6, 2022, <https://www.nytimes.com/2022/01/06/nyregion/rhode-island-man-ghost-guns-arrested.html>.

⁸⁷ Mary Schenk, *Champaign 18-year-old charged with producing, selling ‘ghost guns’*, The News-Gazette, Nov. 10, 2021, https://www.news-gazette.com/news/local/courts-police-fire/champaign-18-year-old-charged-with-producing-selling-ghost-guns/article_3e10de2a-b841-54b8-814a-8352082ad134.html.

⁸⁸ Queens District Attorney’s Office Press Release, *Cache of Ghost Guns Seized Following Investigation; Queens Couple Charged with Illegal Possession and Sale of Firearms*, Oct. 15, 2021, <https://queensda.org/cache-of-ghost-guns-seized-following-investigation-queens-couple-charged-with-illegal-possession-and-sale-of-firearms/>.

- In June 2020, the Tenth Circuit affirmed an 87-month sentence of a defendant who used gun-building kits to manufacture and sell ghost guns, including fully automatic pistols and silencers.⁸⁹ The court took note of the extreme danger posed by the defendant's illicit business and found the sentence necessary to deter others from manufacturing and selling illegal and untraceable weapons using easily accessible kits and tools.⁹⁰
- In 2020, a man in Fairfax, Virginia pleaded guilty to unlawfully dealing firearms without a license in connection with his practice of purchasing gun-building kits online, manufacturing untraceable ghost guns, and selling those guns to anyone with enough money to purchase them, regardless of whether the purchaser could lawfully possess a firearm.⁹¹
- In 2019, a New York City police officer pleaded guilty to second-degree criminal possession of a weapon after admitting to using gun-building kits to manufacture and sell dozens of

⁸⁹ *United States v. Trujillo*, 817 F. App'x 634, 635-36 (10th Cir. 2020).

⁹⁰ *Id.* at 640.

⁹¹ U.S. Attorney's Office, Eastern District of Virginia Press Release, *Ghost Gun and Machine Gun Conversion Device Dealer Pleads Guilty*, Sept. 29, 2020, <https://www.justice.gov/usao-edva/pr/ghost-gun-and-machine-gun-conversion-device-dealer-pleads-guilty>.

handguns and rifles to people who could not legally possess them.⁹²

- That same year, a Texas man who had been making and trafficking ghost guns from his home, was killed by law enforcement after he shot and killed an agent.⁹³

The flourishing market for gun-building kits has also fueled the rise of larger illegal gun-dealing enterprises. In September 2020, federal prosecutors charged 15 members of the Sureños street gang in Concord, California with operating an illicit outdoor bazaar out of a shopping center parking lot where they distributed both drugs and illegal firearms, including ghost guns.⁹⁴ Similarly, in 2018, the Los Angeles Police Department arrested ten members of a street gang involved in the manufacture and sale of ghost guns, and seized approximately 50 rifles and handguns manufactured by the gang for sale on the

⁹² Associated Press, *Police officer charged with illegally making, selling guns*, ABC News, Mar. 2, 2019, <https://apnews.com/general-news-447cbd9f97e34d9cafb8a3f8a8ea5640>; see also Michael Woyton, *Former NYC Environmental Cop Admits Selling Illegal Weapons*, The Patch, Dec. 5, 2019, <https://patch.com/new-york/midhudsonvalley/former-nyc-environmental-cop-admits-selling-illegal-weapons>.

⁹³ See Aaron Bracamontes, *Document names El Paso man shot, killed by law enforcement after killing K-9 agent*, KTSM, Dec. 19, 2019, <https://www.ktsm.com/crime/document-names-el-paso-man-shot-killed-by-law-enforcement-after-killing-k-9-agent/>.

⁹⁴ U.S. Attorney's Office, Northern District of California Press Release, *15 Charged on Drugs and Guns Charges as Part of Anti-Gang Sweep in Concord and Surrounding Areas*, Sept. 15, 2020, <https://www.justice.gov/usao-ndca/pr/15-charged-drugs-and-guns-charges-part-anti-gang-sweep-concord-and-surrounding-areas>.

black market.⁹⁵ Not surprisingly, in addition to manufacturing and selling ghost guns at scale, street gangs (many of whose members are likely unable to pass a background check) also manufacture ghost guns for use in their criminal endeavors.⁹⁶

E. Domestic Terrorists and Violent Extremists

Ghost guns have been deemed the “weapon of choice” by domestic terrorists and white supremacist extremists who seek to avoid detection by law enforcement.⁹⁷ A June 2021 report by the Joint Counterterrorism Assessment Team—a coalition of federal law enforcement and intelligence agencies, including the FBI—states that violent extremists use ghost guns to “circumvent security, avoid some state government regulations, and evade detection.”⁹⁸ As Mike Sena, the director of the Northern California Regional Intelligence Center, has explained, the “go-to” for individual extremists, whether they are

⁹⁵ Richard Winton, *L.A. Gangs stockpile untraceable ‘ghost guns’ that members make themselves*, Los Angeles Times, July 6, 2018, <https://www.latimes.com/local/lanow/la-me-la-gangsters-homemade-guns-20180706-story.html>.

⁹⁶ *See id.*

⁹⁷ *See* Everytown for Gun Safety, *Ghost Guns: A Weapon of Choice for White Supremacists Arrested Ahead of Virginia Rally*, Jan. 27, 2020, <https://www.everytown.org/press/ghost-guns-a-weapon-of-choice-for-white-supremacists-arrested-ahead-of-virginia-rally/>.

⁹⁸ *First Responder’s Toolbox*, NCTC, DHS & FBI, June 22, 2021, at 3. The authenticity of this report has been confirmed by The Trace and NBC Bay Area through federal law enforcement sources. *See* Alain Stephens, *The Feds are Increasingly Worried About Extremists Acquiring Ghost Guns, Leaked Report Shows*, The Trace, Aug. 6, 2020, <https://www.thetrace.org/2021/08/ghost-gun-government-report-3d-print-extremism-terrorism/>.

“international terrorists, domestic terrorists, or violent extremists,” is to “try to get a hold of a [ghost gun] because of the belief that [law enforcement] will never be able to figure out where [the] weapon came from.”⁹⁹ Indeed, terrorists and other violent extremists can acquire and use “ghost versions” of military-grade weapons, such as AR-15 assault rifles, even when such weapons are banned under state law.¹⁰⁰ Dangerous extremists have been able to acquire deadly weapons in the highly-accessible ghost gun market that they likely would not have been able to obtain had the Final Rule been in place at the time—weapons that they have gone on to use in mass shootings and other violent crimes.

Prosecutors and law enforcement in the Amici jurisdictions have seen this become an all-too-common occurrence. For example:

- On November 20, 2022, a man arrested in connection with online threats to attack a New York City synagogue was arraigned and found to be in possession of a ghost gun with an extended 30 round magazine and a laser sight designed to aid target acquisition.¹⁰¹

⁹⁹ See Stephens, *supra* n. 98.

¹⁰⁰ Assault weapons are banned in California, Connecticut, Maryland, New Jersey, and New York (and, as such, are banned in the following Amici Cities: Baltimore, Hartford, Los Angeles, Oakland, San Francisco, Newark, Rochester, and Syracuse). See Cal. Penal Code §§ 30500-30685; Conn. Gen. Stat. §§ 53-202a to 53-202c; Md. Code, Crim. Law §§ 4-301 to 4-306; N.J. Stat. Ann. §§ 2C:39-1 to 2C:39-20, N.Y. Penal Law §§ 265.00-265.55.

¹⁰¹ John Miller, Brynn Gingras, Samanta Beech, and Alaa Elassar, *2 Men Charged, 1 With Nazi Arm-Band, In Connection With Threats To Attack New York Synagogue*, CNN, Nov. 20, 2022, <https://www.cnn.com/2022/11/19/us/nyc-jewish-threat-community-arrest/index.html>.

- In late 2022, a Pasadena man who allegedly sympathized with the anti-government extremist “Boogaloo” group allegedly brandished a loaded ghost gun near a South Los Angeles high school.¹⁰² The Boogaloo Movement, is “a right-wing extremist group that harbors a mistrust of law enforcement and government and anticipates a second American Civil War.”¹⁰³
- In July 2021, a grand jury in North Carolina indicted a 21-year-old New Jersey National Guardsman for allegedly supplying ghost guns to members of a white nationalist group who had appeared in videos giving the “Heil Hitler” salute.¹⁰⁴
- In 2020, a California man affiliated with the same movement shot and murdered a federal

¹⁰² DOJ Press Release, *Pasadena Man Who Allegedly Adheres to Extremist Anti-Government Ideology Charged in Federal Complaint with Possessing Machine Gun*, Jan. 26, 2023, <https://www.justice.gov/usao-cdca/pr/pasadena-man-who-allegedly-adheres-extremist-anti-government-ideology-charged-federal>.

¹⁰³ *Alleged Oakland, Ben Lomond Gunman Steve Carillo Linked to Far Right ‘Boogaloo’ Movement*, CBS SF Bay Area, June 16, 2020, <https://sanfrancisco.cbslocal.com/2020/06/16/steven-carrillo-david-underwood-murder-santa-cruz-deputy-fatal-shooting-fatal-oakland-federal-building-shooting/>.

¹⁰⁴ See Stephens, *supra* n. 98; see also Justin Rohrlich, *NJ National Guardsman Charged in Neo-Nazi ‘Ghost Gun’ Conspiracy*, The Daily Beast, July 2, 2021, <https://www.thedailybeast.com/new-jersey-national-guardsman-joseph-maurino-charged-in-neo-nazi-ghost-gun-conspiracy>.

security officer and a sheriff's deputy using a "homemade" AR-15 style rifle.¹⁰⁵

- In May 2020, law enforcement in Queens arrested two men who were assembling an arsenal of weapons, including "an AR-15 style assault rifle 'ghost' gun with a silencer attachment and high capacity magazine."¹⁰⁶ One of the men's social media posts suggested that these weapons were likely intended for use in a mass shooting: he had advocated for a "racial civil or holy war"; posted a picture of himself giving a Nazi salute with the caption that he "hate[s] women jews and n----rs"; posted a picture where he displayed a large knife with the caption that read, "overthrowing [Jews] is our Christian duty"; posted a photograph of a Planned Parenthood location being blown up by the comic book character The Joker; commented in response to a bloody crime scene photograph from the December 2019 machete attack at a synagogue in Monsey, New York that it was "pretty f-----g exciting"; and "posted Instagram messages displaying suicidal ideations" and fantasies

¹⁰⁵ Stephen Stock and Jeremy Carroll, *Ghost Guns Sought by Violent Extremists, Tied to Thousands of Potential Crimes, Feds Warn*, NBC Bay Area, Aug. 7, 2021, <https://www.nbcbayarea.com/investigations/ghost-guns-sought-by-violent-extremists-tied-to-thousands-of-potential-crimes-feds-warn/2624959/>.

¹⁰⁶ U.S. Attorney's Office, Eastern District of New York Press Release, *Two Queens Men Charged After Buying Three Illegally Defaced Firearms and Two Assault Rifles*, May 13, 2020, <https://www.justice.gov/usao-edny/pr/two-queens-men-charged-after-buying-three-illegally-defaced-firearms-and-two-assault>.

“about ‘martyring’ himself and ‘going out in a blaze of glory’ in a mass shooting.”¹⁰⁷

The Final Rule is essential to keep untraceable ghost guns out of the hands of dangerous extremists.

¹⁰⁷ See U.S. Attorney’s Office, Eastern District of New York Press Release, *supra* n. 106.

CONCLUSION

There can be no doubt that ghost gun kits have enabled countless individuals in cities across the country to flout some of the most fundamental gun regulations, including the laws prohibiting convicted felons and domestic abusers from possessing firearms; have led to a substantial increase in guns and gun violence in cities across the country; and have undermined the efforts of law enforcement agencies across the country to deter and prosecute gun violence. As early statistics demonstrate, the Final Rule is absolutely necessary to curb the dangerous proliferation of ghost guns and to promote public safety. For these and all of the reasons set forth herein, Amici urge the Court to reverse the judgment of the court of appeals.

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Lee S. Richards*
Arthur S. Greenspan
David B. Massey
Rachel S. Mechanic
Jacob J. Taber
Samuel E. Gelb
PERKINS COIE LLP
1155 Avenue of the Americas
New York, NY 10036
(212) 262-6900
leerichards@perkinscoie.com

*Attorneys for Amicus Curiae
Prosecutors Against Gun
Violence*

**Counsel of Record*

Ebony Thompson
 City Solicitor
 100 N. Holliday Street
 Suite 101
 Baltimore, MD 21202
 Ebony.Thompson@baltimorecity.gov

*Attorney for the City of
 Baltimore, MD*

Adam Cederbaum
 Corporation Counsel
 1 City Hall Sq.
 Room 615
 Boston, MA 02201
 (617) 635-4030
 adam.cederbaum@boston.gov

*Attorney for the City of
 Boston, MA*

Mary B. Richardson-Lowry
 Corporation Counsel
 City of Chicago
 Department of Law
 121 N. LaSalle St.
 Room 600
 (312) 744-7764
 Chicago, IL 60602

*Attorney for the City of
 Chicago, IL*

Zachary M. Klein
 City Attorney
 City of Columbus,
 Department of Law
 77 N. Front Street
 Columbus, OH 43215
 (614) 645-7385

*Attorney for City of
 Columbus, OH*

Barbara J. Doseck
 City Attorney
 City of Dayton, Ohio
 101 W. Third St.
 Dayton, OH 45401

*Attorney for the City of
 Dayton, OH*

Jonathan Harding
 Corporation Counsel
 550 Main Street
 Room 210
 Hartford, CT 06103

*Attorney for the City of
 Hartford, CT*

Hydee Feldstein Soto
Los Angeles City
Attorney
Michael Bostrom
Senior Assistant City
Attorney
200 N. Main Street
6th Floor
Los Angeles, CA 90012

*Attorneys for the City
of Los Angeles, CA*

Kristyn Anderson
City Attorney
City Hall, Room 210
350 South Fifth Street
Minneapolis, MN
55415

*Attorney for the City of
Minneapolis, MN*

Kenyatta K. Stewart
Corporation Counsel
920 Broad Street
Room 316
Newark, NJ
(973) 733-8935
stewartk@ci.newark.nj.
us

*Attorney for the City of
Newark, NJ*

Barbara J. Parker
City Attorney
Oakland City Attorney's
Office
Oakland City Hall
1 Frank H. Ogawa Plaza
Oakland, CA 94612
(510) 238-3601
BParker@oaklandcityatt
orney.org

*Attorney for the Oakland
City Attorney's Office*

Renee Garcia
City Solicitor
City of Philadelphia Law
Department
1515 Arch Street
17th Floor
Philadelphia, PA 19102
(215) 683-5003
renee.garcia@phila.gov

*Attorney for the City of
Philadelphia, PA*

Kryisia Kubiak
 City Solicitor
 City of Pittsburgh
 Department of Law
 313 City-County
 Building
 414 Grant Street
 Pittsburgh, PA 15219
 (412) 255-2015

*Attorney for the City of
 Pittsburgh, PA*

Robert Taylor
 Portland City Attorney
 1221 SW Fourth Ave,
 Room 430
 Portland, OR 97204
 (503) 823-4047

*Attorney for the City of
 Portland, OR*

Jeffrey Dana
 City Solicitor
 444 Westminister St.
 Ste. 220
 Providence, RI 02903

*Attorney for the City of
 Providence, RI*

Patrick Beath
 Corporation Counsel
 City of Rochester
 30 Church Street
 Room400A
 Rochester, NY 14614
 (585) 428-6986

*Attorney for the City of
 Rochester, NY*

Mara W. Elliott
 City Attorney
 San Diego, California
 1200 Third Avenue
 Suite 1620
 San Diego, CA 92101

*Attorney for the City of
 San Diego, CA*

David Chiu
 City Attorney
 City Hall Room 234
 One Dr. Carlton B.
 Goodlett Pl.
 San Francisco, CA 94102

*Attorney for the City and
 County of San Francisco,
 CA*

City Attorney
 Nora Frimann
 City of San José
 200 E. Santa Clara
 Street
 16th Floor
 San José, CA 95113
 (408) 535-1900

*Attorney for the City of
 San Jose, CA*

Ann Davison
 City Attorney
 701 Fifth Avenue
 Suite 2050
 Seattle, WA 98104

*Attorney for the City of
 Seattle, WA*

Susan R. Katzoff
 Corporation Counsel
 City Hall Room 300
 233 East Washington
 Street
 Syracuse, NY 13202
 (315) 448-8400
 Skatzoff@syrgov.net

*Attorney for City of
 Syracuse, NY*

MinhChau Corr
 County Attorney
 Arlington County
 Attorney's Office
 2100 Clarendon
 Boulevard, #403
 Arlington, VA, 22201
 (703) 228-3100
 mcorr@arlingtonva.us

*Attorney for the County of
 Arlington, VA*

Ben Pearlman
 Boulder County Attorney
 David Hughes
 Deputy County Attorney

*Attorneys for the Board of
 County Commissioners of
 Boulder County, CO*

Office of the Harris
 County Attorney
 Christian D. Menefee
 1019 Congress Street
 Houston, TX 77002
 (713) 274-5101
 Christian.menefee@harri
 scountytexas.gov

*Attorneys for Harris
 County, TX*

Leesa Manion
 Prosecuting Attorney
 King County
 Prosecuting Attorney's
 Office
 516 3rd Avenue
 Seattle, WA 98104
 (206) 477-1200
 leesa.manion@kingcount
 y.gov

*Attorneys for King
 County, WA*

Office of the County
 Counsel, County of Los
 Angeles
 500 W Temple Street
 6th Floor
 Los Angeles, CA 90012

*Attorneys for the
 County of Los Angeles,
 CA*

John P. Cooley
 Chief Deputy County
 Counsel
 Office of County Counsel,
 County of San Diego
 1600 Pacific Highway,
 Room 355
 San Diego, CA 92101
 (619) 531-4892
 john.cooley@sdcounty.ca.
 gov

*Attorney for San Diego
 County, CA*

John D. Nibbelin
 County Attorney
 Office of the County
 Attorney
 500 County Center
 4th Floor
 Redwood City, CA 94063
 (650) 363-4250

*Attorneys for San Mateo
 County, CA*

County of Santa Clara Tony LoPresti County Counsel Hannah Godbey Deputy County Counsel County Counsel's Office for the County of Santa Clara 70 West Hedding Street, San José, CA 95110 (408) 299-9041 hannah.godbey@cco.scc gov.org	Dawyn Harrison County Counsel Scott Kuhn Assistant County Counsel Peter S. Lee Senior Deputy County Counsel John M. Nonna Westchester County Attorney 148 Martine Avenue 6th Fl. White Plains, NY 10601 (914) 995-2690 JNonna@westchestercou nty.ny.gov
---	---

*Attorneys for the
County of Santa Clara,
CA*

*Attorneys for Westchester
County, NY*

Joe D. Gonzales
Bexar County Criminal
District Attorney
101 W. Nueva
4th Floor
San Antonio, TX 78205
(210) 335-2311

*Attorney for Bexar
County, TX*

Darcel D. Clark
Bronx District Attorney
Gina Mignola
Deputy General
Counsel
Bronx District
Attorney's Office
(929) 303-4257

John C. Creuzot
Dallas County
Criminal District
Attorney
133 N. Riverfront L.B.
19
Dallas, TX 75207
(214) 653-3620

Kim Ogg
Harris County District
Attorney
Harris County District
Attorney's Office
1201 Franklin Street
Ste. 600
Houston, TX 77002-
1923
(713) 274-5800

José P. Garza
Travis County District
Attorney
Ronald Earle Building
415 West 11th St.
Austin, TX 78701
(512) 854-9400

Eli Savit
Prosecuting Attorney
Washtenaw County
200 N. Main Street
P.O. Box 8645
Ann Arbor, MI 48107
(734) 222-6620
savite@washtenaw.org