

1 CITY AND COUNTY OF DENVER

2 STATE OF COLORADO

3 Judicial Committee Meeting

4 Held on February 12, 2013

5 HOUSE BILL 13-1229

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7 REPORTER'S TRANSCRIPT

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1	PUBLIC SPEAKERS:	
2	IN SUPPORT:	
	Ron Sloan	29
3	David Chipman	50
	Tom Mauser	65
4	Katie Lyles	68
	Chief John Jackson	72
5	John Head	79
	Marjorie Sloan	83
6	Karina Vargas	88
	Don Macalady	90
7	Amy Miller	92
	Ted Pascoe	96
8	Debbie Kaller	101
	Michael McGuire	101
9	Chuck Saxton	103
	Jessica Watts	105
10	Stu Fraser	106
	Jennifer Hope	110
11	Dr. Vince Markovchick	111
	Terry Crook	114
12	Reverend Timothy Tyler	116
13	IN OPPOSITION:	
	Daniel Carey	124
14	Dudley Brown	145
	Anthony Racz	146
15	Dave Gill	150
	Douglas Howell	155
16	Terry McGuire	158
	Aubrey Allmond	161
17	Patrick Thai	165
	Charles Yates	166
18	Sean Verhoeff	166
	Ronald Dietz	170
19	James Winchester	173
	Ian Jaeger	188
20	Alicia Perez	190
	James Durden	194
21	Jared Wolfe	196
	Toni Winchester	197
22	Michael Billingsley	213
	Robert Edminston	214
23	David Whiteaker	216
	Robert Wareham	218
24		
25		

P R O C E E D I N G S

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P R O C E E D I N G S

THE CHAIRMAN: The committee will come to order.

We have three bills on the agenda for this afternoon. We have House Bill 1126 concerning seven-day court time intervals. That will be the first bill up.

We have House Bill 1229, background checks for gun transfers. That will be the second bill up.

And we have House Bill 1224, prohibiting large-capacity ammunition magazines. That will be the third bill up.

Before we start dealing with these bills, let me just tell everybody here how much we appreciate you being involved in the process of helping us craft good public policy.

Your contribution, your willingness to come down here and give us your views is very much appreciated, regardless of which side of the issue you are on. You are performing a public service, and we are grateful.

Just a few points of procedure here just so that we can actually get these bills properly heard.

The first thing that I'd like everyone to know is that this is a policy -- a policy-making procedure.

1 It's not a political rally. So if I ask you not to engage
2 in applause when somebody says something you agree with or
3 any other expressions of opinion through public
4 proclamation, that would be much appreciated, because we
5 want to just simply get the input of the public into these
6 measures so that we can craft the best public policy that
7 we can in Colorado.

8 So thank you for your restraint in that regard.
9 Much appreciated.

10 As far as timing is concerned, there are a huge
11 number of people who have asked to testify in support of at
12 least the second two bills that we're -- second and third
13 bill that we are hearing, and not as many who are here to
14 testify on Representative Wright's bill concerning
15 seven-day time intervals.

16 But in order to make sure that as many opinions
17 and as many points are made for the benefit of this body, I
18 will be restricting the amount of direct testimony to two
19 minutes for each witness. I'm sorry that it can't be
20 longer, but the sheer numbers make it impossible to be
21 longer.

22 I will not be restricting questioning of the
23 witnesses by members of the committee. And so if the -- if
24 you come forward and the committee members wish to ask you
25 questions to elucidate your position, you will have time to

1 answer those, and committee members will have time to ask
2 those questions.

3 Overall I am going to give on House Bill -- on
4 House Bill -- each of the two house bills following
5 Representative Wright's seven-day time intervals, House
6 Bills 1229 and 1224, overall I will give two hours total
7 for testimony and questions and answers from the committee
8 to each side.

9 I will try and make sure that this is as even as
10 possible. There may be a few-minutes variation on one side
11 or the other, but the goal is to give two hours for
12 proponents on the first bill, two hours for opponents on
13 the first bill, and then we will move to the amendment
14 phase on the first bill, and we will then, having voted on
15 amendments, vote on the bill itself, and then we will
16 proceed to the second bill which, likewise, will be two
17 hours for each side for all of their witness testimony and
18 questioning of witnesses overall.

19 This may mean that some people do not get to
20 testify at all, and that is regretful. But what I will do
21 is I'll make sure that everybody has an opportunity -- if
22 they don't get to testify, they will have an opportunity to
23 show whether they were here in support or here in
24 opposition to the bill, and that opportunity will be made
25 available at the close of the witness phase of each bill.

1 There are many, many people here who cannot
2 unfortunately be seated in the Supreme Court chambers, and
3 there are many of you who are standing at the back. I
4 would like you to know that there is an overflow room in
5 the basement which will have the -- the testimony and the
6 audio fed down to there; that if you are signed up to
7 testify and you are in the basement, we will be calling you
8 by name from the basement, and we will give you advance
9 warning as to when your testimony is coming up.

10 I will be calling the names of the next three or
11 four witnesses at a time to give those who are in the
12 basement adequate time to make their way up here so that
13 they can testify.

14 And so please feel free, if you'd like a little
15 more comfort. You will still hear the proceedings. You
16 will still be able to testify if you choose to go to the
17 overflow room, which is in House Conference Room 112.
18 House Conference Room 112 downstairs. And it's the normal
19 committee room for the Judiciary Committee when we are not
20 as crowded as we are today.

21 So with that, I want to just reiterate again
22 how much we value your input and your -- your willingness
23 to come here and help us make sure that whatever public
24 policy we craft here today is the best we can possibly
25 create. That is very much appreciated. Thank you for

1 being here.

2 And I will ask Representative Wright.

3 UNIDENTIFIED SPEAKER: You should call the roll.

4 THE CHAIRMAN: Oh, I should call the roll.

5 That's a very good suggestion.

6 Ms. Shipley, please call the roll.

7 MS. SHIPLEY: Representatives Buckner?

8 REPRESENTATIVE BUCKNER: Here.

9 MS. SHIPLEY: Court?

10 REPRESENTATIVE COURT: Here.

11 MS. SHIPLEY: Gardner?

12 REPRESENTATIVE GARDNER: Here.

13 MS. SHIPLEY: Lawrence?

14 REPRESENTATIVE LAWRENCE: Here.

15 MS. SHIPLEY: McLachlan?

16 REPRESENTATIVE McLACHLAN: Here.

17 MS. SHIPLEY: Murray?

18 THE CHAIRMAN: Excused.

19 MS. SHIPLEY: Pettersen?

20 REPRESENTATIVE PETERSEN: Here.

21 MS. SHIPLEY: Salazar?

22 REPRESENTATIVE SALAZAR: Present.

23 MS. SHIPLEY: Wright?

24 REPRESENTATIVE WRIGHT: Here.

25 MS. SHIPLEY: Lee?

1 REPRESENTATIVE LEE: Here.

2 MS. SHIPLEY: Mr. Chair?

3 THE CHAIRMAN: Here.

4 And, Representative Wright, thank you. Please
5 tell us about House Bill 1126.

6 (Break in requested transcription portion.)

7 THE CHAIRMAN: Our next bill up is House Bill
8 1229. That's by -- that's being carried by Representatives
9 Fields and McCann.

10 And before we hear about House Bill 1229, I
11 would like to just add one procedural point that I forget
12 to make in my introduction before the last bill, which is
13 that we are giving each witness two minutes to present
14 their direct testimony and no time limitation on the
15 questions from members of the committee or the answers of
16 the witness.

17 I would like to, A, ask witnesses who are going
18 to testify to listen to the testimony of other witnesses
19 and make sure that if your point has been made already, you
20 might like to not come up and make the same point again,
21 because in my experience, members of this committee are
22 rarely persuaded more by hearing the same point several
23 times than they are hearing it the first time.

24 So I just submit that to you, members of the
25 committee, as -- as a thought to consider when deciding

1 whether to testify.

2 The second thing is that with the agreement of
3 my esteemed colleague, the ranking member of the Judiciary
4 Committee, Representative Gardner, we have agreed that the
5 first two witnesses from both sides, the first two
6 witnesses proposing the measure and the first two witnesses
7 opposing the measure, will have extra time so that they can
8 lay out the basic facts.

9 They will have three or four minutes rather than
10 the two, and that is going to be applied to both sides,
11 proponents and opponents equally, but from then on we will
12 go to standard two minutes per witness.

13 Representative Fields, do we know where --

14 REPRESENTATIVE FIELDS: She's on her way. She's
15 downstairs. So we can proceed, and she will join us when
16 she can.

17 UNIDENTIFIED SPEAKER: She's on her way.

18 REPRESENTATIVE FIELDS: Oh, she's on her way?

19 Okay.

20 THE CHAIRMAN: She is? Okay.

21 We'll wait a couple of minutes.

22 THE CHAIRMAN: Members of the public,
23 Representative Fields, we'll wait for a couple of minutes
24 and --

25 REPRESENTATIVE FIELDS: If not, I can proceed.

1 THE CHAIRMAN: And then if -- if Representative
2 McCann is delayed longer than that, you'd like to
3 proceed --

4 REPRESENTATIVE FIELDS: Yes.

5 THE CHAIRMAN: -- in her absence?

6 REPRESENTATIVE FIELDS: Yes, please.

7 THE CHAIRMAN: Very good, Representative
8 Fields.

9 THE CHAIRMAN: Welcome, Representative McCann.

10 REPRESENTATIVE McCANN: Thank you.

11 THE CHAIRMAN: And, Representative Fields,
12 welcome to the Judiciary Committee.

13 REPRESENTATIVE FIELDS: Thank you.

14 THE CHAIRMAN: Thank you for coming here.

15 Representatives Fields and McCann, please tell
16 us about House Bill 1229.

17 REPRESENTATIVE FIELDS: Thank you, Mr. Chair,
18 and members of the Judiciary Committee.

19 And also thank you for providing the opportunity
20 to present to you House Bill 1229, which will require
21 background checks on all guns transferred in the state of
22 Colorado.

23 Members, I ask that you join me, along with 80
24 percent of all the people in Colorado, who have said that
25 we need to close this gun show -- this gun loophole today.

1 It is estimated that 40 percent of all guns
2 purchased occur with a background check -- without a
3 background check. This allows hundreds of thousands of
4 guns to get in the hands of criminals each year. A recent
5 undercover investigation showed that 62 percent of private
6 sellers on the Internet are willing to sell to someone
7 who's actually admitted that they could not pass a
8 background check.

9 According to a national survey of incarcerated
10 individuals, 80 percent of those who use a handgun in a
11 crime acquired it from a private seller.

12 The private-sale loophole is just a way for
13 criminals to skirt around our current background check, and
14 it contributes to the murders of 34 Americans every single
15 day.

16 Background checks are the only systematic way to
17 stop felons, domestic abusers, and the seriously mentally
18 ill and other dangerous people from buying firearms.

19 In 2000, after Columbine in Colorado, we voted
20 to close the gun show loophole by a 70 percent margin.
21 Before any transfer of a gun originating at a gun show, the
22 buyer must first pass a CBI background check.

23 We also know that states that have closed the
24 private state loopholes have lower rates of domestic
25 violence, killings, and suicides committed with a firearm.

1 In states that require a background check for every handgun
2 sale, 30 percent or fewer women are shot because of this
3 requirement of having a background check.

4 House Bill 1229 will require private sellers to
5 perform a background check before a sale is completed.

6 House Bill 1229 will require that a background check be
7 conducted through a licensed dealer. House Bill 1229 does
8 provide exemptions for certain situations, like temporarily
9 loaning a firearm during hunting and sporting events,
10 provides exceptions for gifts to the immediate family. It
11 also provides an exception for the transfer of a firearm
12 due to self defense. House Bill 1229 also has penalties
13 associated with not being in compliance with the law if it
14 passes.

15 So, Mr. Chair, I do have several witnesses
16 available to provide testimony in support of this bill,
17 which will require background checks on all gun transfers
18 in the state of Colorado.

19 THE CHAIRMAN: Representative McCann.

20 REPRESENTATIVE McCANN: Thank you, Mr. Chair.

21 And I join with my colleague, Representative
22 Fields, in presenting this bill to you today to close what
23 is a pretty obvious and distressing loophole in our gun
24 show background check law.

25 Just think about it for a minute. If you were

1 -- if you wanted to get a gun and you knew you wouldn't be
2 able to pass the background check that we currently
3 require, either because of conviction or a domestic
4 violence incident or some adjudication of mental
5 deficiency, what would you do? You would go to a private
6 seller. You would either go on the Internet, or you would
7 find a private seller through an advertisement, through a
8 magazine. You would go to the private seller or the
9 Internet, and you would get your gun.

10 So what's the point of having the background
11 check if we have this enormous loophole through which those
12 who cannot pass a background check can jump?

13 As Representative Fields has noted, in states
14 that have background -- complete background checks, there
15 are fewer deaths by firearm. The whole point of the
16 background check is to prevent those who should not have a
17 gun from obtaining one.

18 Many people here today are responsible gun
19 owners who have purchased their guns through licensed
20 dealers or at a gun show, who went through a background
21 check willingly and obtained their weapon. And they tell
22 you that they do not object -- or they support responsible
23 gun ownership, and that's what we are supporting here
24 today, members of the committee.

25 We are saying those who can pass the background

1 check are entitled to possess a gun. And what you will be
2 able to do here today is say to our community we value
3 public safety such that we will make sure that everyone who
4 purchases a gun has to go through a background check, not
5 just the ones who choose to buy through a licensed dealer
6 or at a gun show. Because believe me, people who know they
7 can't pass a background check are going to seek other
8 methods of getting their guns. And the harder we make that
9 for them to do, the more we are supporting public safety.

10 It is our obligation as legislators to support
11 the safety of your communities. What this bill does is
12 simply say, if you are responsible, if you don't have
13 convictions, if you haven't been involved in domestic
14 violence, or haven't been adjudicated mentally defective,
15 you can purchase a gun, but you have to go through the
16 background check like everyone else does.

17 So what we want to do is make sure those who
18 purchase guns have the ability to do so based on the
19 current background checks that we have, extending that to
20 any sale of guns here in Colorado. It's a public safety
21 issue.

22 Thank you.

23 THE CHAIRMAN: Thank you, Representative
24 McCann.

25 Are there any questions for the proponents of

1 the bill from members of the committee?

2 Representative Lee.

3 REPRESENTATIVE LEE: Thank you, Mr. Chairman.

4 Representative McCann or Fields, can you tell
5 us how many guns are sold in the state of Colorado and what
6 percentage of those are acquired through -- through gun
7 shows and through private sellers? Do we have information?

8 THE CHAIRMAN: Representative Fields.

9 REPRESENTATIVE FIELDS: Thank you, Mr. Chair,
10 and thank you, Representative Lee.

11 I have some here that says 40 percent of guns
12 that are sold nationally are sold by a private seller. So
13 that's not a local statistic, that's just a national
14 figure.

15 THE CHAIRMAN: Any other questions for the
16 proponents?

17 Representative Lee.

18 REPRESENTATIVE LEE: Thank you, Mr. Chairman.

19 And do we know of those guns that are used in
20 crimes? Can you elaborate on the statistics with respect
21 to the acquisition of guns used in crimes?

22 REPRESENTATIVE FIELDS: I don't have --

23 THE CHAIRMAN: Representative Fields.

24 REPRESENTATIVE FIELDS: Thank you, Mr. Chair.

25 I'm sorry, Representative Lee. I do not have

1 those statistics, but we may have a witness here that can
2 provide that kind of data.

3 THE CHAIRMAN: Very good.

4 Seeing no further -- oh, Representative Wright.

5 REPRESENTATIVE WRIGHT: Thank you, Mr. Chair.

6 Representatives, I was wondering if you could
7 tell us -- I have a twofold question.

8 Have you looked at data from other states that
9 have established universal background checks, and is there
10 a corresponding decrease in violent crime?

11 And secondly, because each of us has taken an
12 oath to uphold the constitution of the state of Colorado, I
13 was wondering if you had read Article 2, Section 13, of the
14 Colorado Constitution in which it says, "The right of no
15 person" -- N-O person -- "to keep and bear arms in defense
16 of his home, person, and property or in aid of a civil
17 power when thereto legally summoned shall be called into
18 question, but nothing herein contained shall be construed
19 to justify the practice of carrying concealed weapons."

20 The only exception there I see is concealed
21 carry. So can you tell me how you believe this to be
22 constitutional?

23 Thank you.

24 THE CHAIRMAN: Representative Fields or McCann,
25 if you'd like to answer that, please feel free. If you'd

1 like to wait for a lawyer to testify, that's fine as well.
2 Whichever -- however you would like to proceed.

3 Repetitive Fields.

4 REPRESENTATIVE FIELDS: Thank you, Mr. Chair.

5 And Representative McCann is going to do Part 2,
6 and I'm going to do Part 1.

7 Do you want to go with Part 2 first?

8 THE CHAIRMAN: Representative McCann.

9 REPRESENTATIVE McCANN: Thank you.

10 Thank you, Representative Wright.

11 It's my belief that reasonable restrictions can
12 be placed on constitutional rights, and that has -- that
13 has been upheld through several court cases, including the
14 more recent Heller case by the United States Supreme Court.

15 Constitution rights not -- constitutional rights
16 can be limited by reasonable restrictions by government
17 action.

18 THE CHAIRMAN: Representative Gardner.

19 REPRESENTATIVE GARDNER: Yes. Thank you.

20 So -- just so we are clear, Representative
21 McCann, this is a restriction in your mind upon the
22 exercise of one's Second Amendment right; is that correct?

23 THE CHAIRMAN: Representative --

24 REPRESENTATIVE McCANN: It's a reasonable
25 regulation of the exercise of the Second Amendment.

1 THE CHAIRMAN: Representative Gardner.

2 REPRESENTATIVE GARDNER: Yes.

3 Thank you, Representative McCann. And you and I
4 are both lawyers, so we can do this back and forth.

5 Let me ask you: Whether or not it's
6 reasonable, I think you and I can disagree, but is this or
7 is this not a restriction upon the exercise of one's Second
8 Amendment right?

9 REPRESENTATIVE McCANN: It's a reasonable
10 regulation, just as our current background checks are.

11 THE CHAIRMAN: Okay. Members of the audience,
12 we are trying to have a policy-making discussion here that
13 educates, enlightens, elucidates everybody's views. It is
14 not helped at all if it starts to be treated like a
15 theatrical performance. It is not. Please don't do that.

16 Representative McCann.

17 REPRESENTATIVE McCANN: Thank you, Mr. Chair.

18 It is a reasonable regulation, just as our
19 current backgrounds checks have been upheld as being a
20 reasonable regulation on the ability of people to own
21 firearms.

22 THE CHAIRMAN: Thank you.

23 And Representative Wright -- Gardner.

24 REPRESENTATIVE GARDNER: Thank you, Mr. Chair.

25 And let me -- let me echo your admonition to

1 those in the audience that I understand the emotions run
2 high, and I appreciate your asking people to observe the
3 dignity of this -- of this hearing.

4 So thank you, Mr. Chair, and I -- I echo your
5 request. And those who might agree with me, you do not
6 help me by encouraging me on vocally. But let me just
7 close, and you can respond or not respond.

8 I don't agree with you that it is a reasonable
9 regulation or restriction. And I think you conceded in
10 your -- in your response that it is nevertheless a
11 restriction. Whether or not it's reasonable I think is for
12 courts to decide.

13 THE CHAIRMAN: Representative Salazar.

14 REPRESENTATIVE SALAZAR: I know that -- thank
15 you, Mr. Chair.

16 I know that Representative Wright did ask the
17 question by reading the constitution, and just in terms of
18 maybe providing a buffer for both is that the Colorado
19 Supreme Court back in 1979 said very specifically that
20 there is no absolute right to bear arms, that there can be
21 a restriction by the state's valid exercise of its police
22 powers. That's what the Supreme Court said.

23 So the question here today is: Is this
24 reasonable? So with what Ms. -- with what Representative
25 McCann had said, is that there is no absolute right to bear

1 arms, which is supported by what the Supreme Court has
2 said. It's just that today is about the reasonable
3 restriction of it, and that's what this debate is all
4 about, and that's what this bill is about.

5 And that's -- so if we can all agree on that
6 principle, that the Supreme Court has already said it is
7 not an absolute right, that it can be reasonably
8 restricted, then I think we can probably move on this on a
9 little bit -- a little bit more smoothly.

10 Thank you, Mr. Chair.

11 THE CHAIRMAN: Thank you, Representative
12 Salazar.

13 Let me just state that I think there is a right
14 in the First Amendment to freedom of speech, but it is well
15 known that that does not give you the right to shout fire
16 in a crowded theater. There is a right of assembly,
17 freedom of assembly, but that does not give everyone the
18 right to assemble wherever and whenever they choose without
19 a permit in a way that is considered against the public
20 interest.

21 With all constitutional rights, there are --
22 none of them are absolute. They are subject to reasonable
23 restrictions of time, place, and manner, and I think that
24 is true of all constitutional rights. The question isn't
25 one of absolutism, but it is absolute reasonableness. And

1 any restrictions on any rights must be reasonable, and
2 that's my understanding of the law. And I'd just like to
3 state that for the record.

4 Representative Gardner.

5 REPRESENTATIVE GARDNER: Yes. Thank you,
6 Mr. Chair.

7 Well, that's an interesting observation you
8 make in analyzing to the First Amendment and reasonable
9 restrictions of time, place, and manner, which causes me to
10 think -- and I wonder if Representative McCann or yourself
11 might want to consider and respond to the question of the
12 fact that under the First Amendment -- since it's been
13 raised here. I didn't raise it -- courts are very
14 reluctant to approve prior restraint.

15 In other words, to tell people they can't speak
16 until they've spoken. And I wonder if my analogy it's not
17 the same here because what we are doing is imposing a prior
18 restraint upon one's right to keep an bear arms.

19 So that whereas, in order to speak, I can -- I
20 can speak anywhere, and unless there's something
21 particularly compelling, I'm not restrained. You know, I
22 might be punished afterwards.

23 So isn't a background check, in essence, a
24 prior restraint upon my right to keep and bear arms,
25 assuming I'm a law abiding citizen?

1 THE CHAIRMAN: Representative McCann, if you'd
2 like to answer and continue to debate the First Amendment
3 now. We've moved from the Second to the First. If you'd
4 like to continue to discuss the First Amendment, please
5 feel free, but if you'd like to proceed to witnesses on
6 this particular bill, I think that might be the best thing
7 to do.

8 REPRESENTATIVE McCANN: Just very briefly.
9 Thank you, Mr. Chair.

10 I think it's important to remember that, as the
11 Chair has pointed out, with respect to the amendment there
12 is the ability to put reasonable regulations on them, just
13 as, for example, when people want to have a rally or march,
14 they have to get a permit to do that. That is a lawful
15 exercise of government power that does touch on First
16 Amendment right for assembly.

17 It's a public safety issue, and the government
18 is entitled to say, You can march, but you have to stay
19 within this particular area, you have to have a permit. We
20 already have a requirement that people get permits to carry
21 concealed weapons. Again, a reasonable restriction, if you
22 want to call it that, reasonable regulation on the exercise
23 of the Second Amendment.

24 And we already have background checks here in
25 Colorado for licensed firearm dealers and gun shows. All

1 this bill is doing is saying those reasonable background
2 checks, which have already been upheld, will be extended to
3 all gun sales, including private sales, not just those at a
4 gun show or among a licensed dealer.

5 So we're not really creating any new
6 restrictions. This is -- these are regulations we already
7 have in our law here in Colorado. So we're simply
8 expanding that to include private sales.

9 THE CHAIRMAN: Thank you, Representative McCann.

10 And, Representative Gardner or Representative
11 Wright, if it's directly to the provisions of the bill. I
12 think we should really stick to that because otherwise we
13 really will be here not only all day, but all night and
14 tomorrow as well. So I would ask you to stick to the
15 provisions of the bill, if you would, sir.

16 Thank you.

17 Representative Gardner.

18 REPRESENTATIVE GARDNER: Mr. Chair, I will
19 comment, and then I -- I will move on.

20 I think we ought to stick to the provisions of
21 the bill. The sponsors and, in fact, the Chair, with all
22 due respect --

23 THE CHAIRMAN: Yes.

24 REPRESENTATIVE GARDNER: -- took us down the
25 road of the First Amendment and the comparison. And if you

1 want to make the comparison, then I would make the
2 comparison that, indeed, when I speak in my home, when I
3 speak on the street, I'm not subject to a prior restraint,
4 nor do I need a license to do so or do I need a background
5 check to do so.

6 If -- if I'm willing to entertain some
7 restrictions for concealed weapons and so forth, that may
8 be, and that may be angulous to getting a parade permit.

9 But I would submit to you that this bill and the
10 provisions of this bill run a good deal deeper than that.
11 But since you want to go to the provisions of the bill, let
12 me -- let me go to the provisions of the bill,
13 Representative Fields and McCann, and talk about perhaps
14 what is the elephant in the room.

15 We had a terrible tragedy in Sandy Hook,
16 Connecticut, and we had a terrible tragedy in Aurora. And
17 I'm looking at your bill, and I'm thinking about rules of
18 reasonableness and whether or not it furthers public safety
19 and so forth and -- and I must ask: Would this bill have
20 prevented either one of those perpetrators, alleged
21 perpetrators, either of them from -- under the
22 circumstances and facts as we know them, would it have
23 prevented them from getting those weapons?

24 THE CHAIRMAN: Representative Fields.

25 REPRESENTATIVE FIELDS: Thank you, Mr. Chair

1 and Representative Gardner.

2 You know, it's hard to talk about what should
3 have, could have happened. You know, the focus of this
4 bill is trying to keep guns out of the hands of dangerous
5 people who may be domestic abusers, who may be mentally
6 ill. So this is designed to close a loophole because we
7 know that if you are a convicted felon, the way to get
8 around that -- that process, that background check, is to
9 go buy a gun from a private seller.

10 So this bill is about closing a loophole to
11 protect women, to protect those that are in violent
12 relationships, and also to keep guns out of the hands of
13 folks who may be mentally ill. So this is not to address
14 the -- the situations that had happened in Aurora or Sandy
15 Hook, but I think this is designed to save lives, because
16 we know that backgrounds checks will present a denial for
17 people if they don't meet the qualifications to be able to
18 have a gun.

19 So this is about saving lives, and it's about
20 closing a loophole to prevent those who shouldn't have guns
21 getting access to guns.

22 THE CHAIRMAN: Representative Gardner.

23 REPRESENTATIVE GARDNER: Yes. And thank you.

24 And, Mr. Chair, I am addressing the provisions of the bill.

25 And I'm -- I asked a fairly direct question that

1 I was looking for a fairly honest yes or no about. Those
2 -- those facts and circumstances of those two issues that
3 if anyone seriously says doesn't -- hasn't driven this
4 debate, I think that's disingenuous. I hope that's not
5 what someone is saying because it certainly has driven the
6 debate.

7 But I don't see where the facts, as they are
8 commonly known of either of those incidents, would have
9 prevented -- that this bill would have prevented either one
10 of those perpetrators from having access to firearms under
11 the circumstances as they were.

12 THE CHAIRMAN: Representative Wright.

13 REPRESENTATIVE WRIGHT: Thank you, Mr. Chair.

14 And I apologize. Prior to going down the rabbit
15 hole of the First Amendment discussion, I did have a
16 two-part question. With due respect, I was waiting for the
17 answer to the second part of my question from
18 Representative Fields.

19 And, Representative Fields, I will just make
20 this comment: My fear here is that you may be well
21 intentioned with this legislation; however, the loophole
22 that exists is in the heart of man, and that is a loophole
23 that we're never going to be able, as a government body, to
24 fill or close.

25 I would hope that you could answer my second

1 question with statistical data.

2 Thank you.

3 REPRESENTATIVE FIELDS: Can he restate the
4 question?

5 THE CHAIRMAN: Representative Fields.

6 REPRESENTATIVE FIELDS: Thank you, Mr. Chair.
7 Can you restate your question?

8 REPRESENTATIVE WRIGHT: Yes. Thank you,
9 Representative Fields.

10 I was asking if you could tell me what the
11 statistical data was that would support this legislation
12 when comparing with other states that have passed universal
13 background checks.

14 THE CHAIRMAN: Representative Fields.

15 REPRESENTATIVE FIELDS: Mr. Chair.

16 What I'm going to refer to is to when we closed
17 the gun show loophole. When we closed the gun show
18 loophole in Colorado, we ranked 17th as the largest source
19 of guns that were later found at a crime scene in other
20 states.

21 After closing the gun show loophole, we ranked
22 27th, and by 2009 we ranked 32nd. And then by 2009, we
23 ranked 32nd.

24 So when you look at the trend here, because we
25 closed that loophole and made sure that if you bought a gun

1 at a gun show, you had to have a check, it kind of closed
2 that loophole for guns being used in crimes out of state.
3 So that gives direct evidence that by closing the loophole
4 for gun shows did have an impact on guns being used at the
5 scene in other states.

6 THE CHAIRMAN: Thank you, Representative
7 Fields.

8 Representative Wright for a follow up and --

9 REPRESENTATIVE WRIGHT: Thank you, Mr. Chair.

10 And I was just wondering, Representative
11 Fields, if you could tell me where you got that data? Are
12 there any handouts in front of us now that might have that
13 information?

14 REPRESENTATIVE FIELDS: I can get --

15 THE CHAIRMAN: Representative Fields.

16 REPRESENTATIVE FIELDS: Thank you, Mr. Chair.

17 Sorry about that.

18 I can get you that source. I'll look for it and
19 get it to you.

20 REPRESENTATIVE WRIGHT: Thank you.

21 THE CHAIRMAN: We will now proceed to the
22 witness testimony phase. And as I mentioned at the outset,
23 we will allow the first two witnesses, both proponents and
24 opponents, a few more minutes than the two than we will
25 allow generally.

1 So as I understand it, Representatives McCann
2 and Fields, you would like to hear from Director Sloan of
3 the CBI?

4 REPRESENTATIVE McCANN: Yes.

5 THE CHAIRMAN: I would ask Director Sloan to
6 come forward, if you would, sir.

7 Welcome, Mr. Director.

8 DIRECTOR SLOAN: Thank you, Mr. Chair.

9 THE CHAIRMAN: Please state your name for the
10 record, who you are, and proceed with your testimony, sir.

11 DIRECTOR SLOAN: Thank you, Mr. Chair, and
12 members of the Judiciary Committee.

13 My name is Ron Sloan. I'm the director of the
14 Colorado Bureau of Investigation, and I am present here
15 today to provide support on behalf of the Colorado
16 Department of Public Safety and the Colorado Bureau of
17 Investigation with regards to House Bill 1229.

18 And I will really briefly summerize some
19 issues. And I know that there are time constraints and
20 there is a lot of testimony that you are going to take
21 today.

22 But if you would bear with me, what I thought
23 might be helpful for the committee again is to hear just a
24 brief overview on what CBI does with respect to the current
25 law and how this particular bill and the requirements in

1 this bill would -- in our opinion would advance the goal of
2 preventing individuals who are prohibited by law to possess
3 a firearm from receiving a firearm through the transfer of
4 a firearm.

5 Currently all transfers that are done through a
6 licensed dealer, licensed firearm dealers -- and I'll refer
7 to them as FFLs. That's federal firearms licensees -- and
8 at gun shows in Colorado require a background check on the
9 transferee, the individual receiving the firearm or
10 firearms. And that background check attempts to determine
11 whether they are legally prohibited -- again, lawfully and
12 legally prohibited from possessing a firearm. That's what
13 the current law does.

14 In the prior calendar year, in calendar year
15 2012, 342,302 transfers -- and that isn't firearms. That's
16 transfers. In a number of those transfers, there's
17 multiple firearms that are being transferred -- were run
18 through the background process that currently exists at CBI
19 InstaCheck.

20 The databases that are checked in order to try
21 to determine whether there are prohibitors for the
22 individual transferee to possess a firearm in Colorado --
23 and nationwide motor vehicle files to verify
24 identification, Colorado Crime Information Center, the
25 court's Colorado Judicial Database PAS, and those are

1 unique to Colorado. Colorado InstaCheck checks those.

2 And then there are four other databases that
3 FBI NCIC checks, and we also check those. That's the
4 National Crime Information Center; the Interstate
5 Identification Index, referred to as triple I; the NCIC
6 index; and the ICE database, the Immigration and Custom
7 Enforcement database.

8 The firearm prohibitors that we are looking for
9 when we check those currently with FFLs and at gun shows --
10 and I won't read through all of them. There are about 15
11 items in law, either in federal code or in Colorado
12 statute, that prohibit an individual from possessing a
13 firearm.

14 And again, I won't take your time. If you have
15 questions about them, I can run through what those are.
16 But there are in-statute prohibitors for folks to possess a
17 firearm.

18 In Colorado InstaCheck, by checking other
19 databases other than NCIC, there are firearm prohibitors
20 that we pick up that FBI NCIC doesn't. And some of the
21 examples of that are protection orders, domestic protection
22 orders that are not in the National Crime Information
23 Center, felony juvenile adjudications, which are not in the
24 National Crime Information Center, domestic violence
25 convictions that are not in NCIC, fugitives of justice that

1 are not in NCIC, and felony convictions that are not in
2 NCIC. That's currently the process that's used.

3 House Bill 1229 would, in fact, require that
4 all firearms transfers, whether they are through an FFL or
5 a gun show or through private sales or over the Internet,
6 would undergo the identical background check on the
7 transferee, the individual receiving the firearm or
8 firearms.

9 This is accomplished in the bill through those
10 private sales to have to be done through a federally
11 licensed firearms dealer. It's an identical process. Then
12 the FFL would make the request to CBI InstaCheck for the
13 background check.

14 It -- it's a technical process that occurs right
15 now at gun shows. Private sales at gun shows work this
16 exact same process as articulated in House Bill 1229. This
17 would just extend that process, working through on FFL for
18 the backgrounds check.

19 It will add value. Currently in Colorado our
20 experience is, in the last years, that between 2 to 2.3
21 percent -- 2.5 percent of all firearms transactions
22 currently in the last three years indicate lawfully
23 deniable prohibitors, factors, for individuals accepting
24 the transfer of a firearm through FFLs or gun shows.

25 We believe that universal background checks of

1 all gun sales will at least approximate that, if not
2 exceed, the number of identified prohibited individuals
3 that are proceeding to receive a firearm as a transferee.

4 Very important in House Bill 1229 are the
5 provisions that encourage compliance, if you will. There
6 are sanctions and consequences if compliance is not
7 undertaken. There's civil liability that's articulated in
8 the bill. Class 1 misdemeanor if an lawful transfer takes
9 place without going through the background process, and a
10 conviction for that Class 1 misdemeanor would make that
11 transferee and also the transferor, if they had knowledge
12 of it and were convicted of it, would be prohibited for two
13 years from possessing a firearm.

14 Also in the bill is a very important provision
15 as it relates to mental health adjudications. Currently
16 mental health adjudications -- it's referred to under the
17 Federal Code as mental deficiency -- are prohibited from
18 possessing a firearm.

19 Currently we do get that information.
20 Problematically CBI InstaCheck and FBI NCIC from Colorado
21 and elsewhere throughout the United States gets that
22 information six months delayed. It is batch processed and
23 sent to FBI NCIC, uploaded to FBI NCIC, and then it is
24 accessible.

25 So there's a six-month delay from a possible

1 total of six-month delay from the time of the adjudication
2 as a mentally deficient under federal law, mental health
3 adjudication under our law.

4 This bill would allow -- make it permissible for
5 that information to be transmitted electronically realtime
6 soon after that adjudication is done in the judicial
7 process directly to CBI. So we would know in realtime
8 whether or not that individual was prohibited to possess a
9 firearm again by law.

10 It also builds into the process of mental health
11 adjudication a restoration-of-rights provision, so that if
12 an individual has been adjudicated mentally ill, they have
13 a process they can go through with the court system here in
14 Colorado and get that prohibitor removed, lawfully removed,
15 and then realtime transmission of that information to CBI
16 so it's no longer a prohibitor for those individuals to
17 possess a firearm.

18 So that's -- that's the gist of the testimony I
19 wanted to provide as to how the technical process would
20 occur, and I would be willing to take any questions.

21 THE CHAIRMAN: Thank you, Director Sloan.

22 Representative Lee.

23 REPRESENTATIVE LEE: Thank you, Mr. Chairman.

24 And thank you, Director Sloan, for giving us an
25 overview of how the Colorado system works. It's -- it

1 seems like a fairly comprehensive regulatory scheme applied
2 to people who are attempting to buy weapons. I want to
3 make sure I understand it correctly.

4 Is it your testimony, sir, that prohibitions
5 under federal law would also be prohibitions against a
6 purchase under Colorado law?

7 THE CHAIRMAN: Director Sloan.

8 DIRECTOR SLOAN: Mr. Chair, thank you.

9 Representative Lee, that's correct.

10 Prohibitions under federal law are codified under the
11 statutes in the Colorado Revised Statutes to identify them
12 as prohibitors to possess a firearm in Colorado also.

13 THE CHAIRMAN: Representative Lee.

14 REPRESENTATIVE LEE: Thank you, Mr. Chairman.

15 So it's my understanding, then, that a person
16 who is an unlawful user or addicted to a controlled
17 substance, which is prohibited to purchase a firearm under
18 federal law, would be prohibited under Colorado law as
19 well?

20 DIRECTOR SLOAN: I believe that's -- I'm sorry.

21 THE CHAIRMAN: Director Sloan.

22 DIRECTOR SLOAN: I believe that's true. Let me
23 take a quick look.

24 Yes. An unlawful user of or addicted to any
25 controlled substance is -- is articulated in the U.S. Code.

1 THE CHAIRMAN: Representative Lee.

2 REPRESENTATIVE LEE: I have a couple of others
3 I'd like to ask the witness if I may, Mr. Chairman.

4 THE CHAIRMAN: Representative Lee, go ahead.

5 REPRESENTATIVE LEE: How about a person who is
6 a fugitive from justice?

7 THE CHAIRMAN: Director Sloan.

8 DIRECTOR SLOAN: Yes.

9 REPRESENTATIVE LEE: How about a person who has
10 been adjudicated has a mental defective or committed to a
11 mental institution?

12 THE CHAIRMAN: Director Sloan.

13 DIRECTOR SLOAN: Mr. Chair.
14 Yes.

15 REPRESENTATIVE LEE: How about --

16 THE CHAIRMAN: Representative Lee.

17 REPRESENTATIVE LEE: Thank you, sir.
18 How about a person who has been illegally or is
19 unlawfully in the United States?

20 THE CHAIRMAN: Director Sloan.

21 DIRECTOR SLOAN: Yes.

22 THE CHAIRMAN: Representative Lee.

23 REPRESENTATIVE LEE: Thank you, Mr. Chairman.
24 How about a person who has been discharged from
25 the United States Army under dishonorable conditions?

1 Would that person be prohibited from obtaining a firearm in
2 Colorado under this bill?

3 THE CHAIRMAN: Director Sloan.

4 DIRECTOR SLOAN: Yes, Representative Lee.

5 THE CHAIRMAN: Representative Lee.

6 REPRESENTATIVE LEE: Thank you, sir.

7 And how about a person who is subject to a
8 court order that restrains that person from harassing,
9 stalking, or threatening an intimate partner or a child of
10 such intimate partner, would that person be prohibited
11 under this law from obtaining a firearm?

12 THE CHAIRMAN: Director Sloan.

13 DIRECTOR SLOAN: Yes.

14 REPRESENTATIVE LEE: And --

15 THE CHAIRMAN: Representative Lee.

16 REPRESENTATIVE LEE: Thank you, Mr. Chairman.

17 And how about a person who has been convicted
18 in a court of a misdemeanor crime of domestic violence?
19 Would that person also be prohibited?

20 THE CHAIRMAN: Director Sloan.

21 DIRECTOR SLOAN: Yes.

22 REPRESENTATIVE LEE: And one more, if I may.

23 THE CHAIRMAN: Representative Lee.

24 REPRESENTATIVE LEE: Thank you, Mr. Chairman.

25 How about a juvenile who has been adjudicated a

1 delinquent for a crime, which if committed by an adult
2 would be a felony?

3 THE CHAIRMAN: Director Sloan.

4 DIRECTOR SLOAN: Mr. Chair.

5 As just a clarification on that, it could be an
6 adult who was adjudicated when they were a juvenile. But
7 the answer to that -- the short answer is yes. A felony
8 adjudication as a juvenile would be a prohibitor to possess
9 a firearm.

10 REPRESENTATIVE LEE: Thank you, Director Sloan.

11 THE CHAIRMAN: Representative McLachlan.

12 Sorry. Actually, Representative Gardner, had
13 you asked for the -- to be recognized earlier?

14 REPRESENTATIVE GARDNER: I have questions for
15 the director whenever my term comes, Mr. Chair.

16 THE CHAIRMAN: Very good.

17 Representative McLachlan.

18 REPRESENTATIVE McLACHLAN: Thank you,
19 Mr. Chairman.

20 Director Sloan, would this background check,
21 which is purposed by this legislation, bar the possession
22 of a weapon by a law-abiding citizen?

23 THE CHAIRMAN: Director Sloan.

24 DIRECTOR SLOAN: Thank you, Mr. Chair.

25 If the citizen did not qualify for a denial as

1 a prohibited individual to possess the firearm, the answer
2 is yes.

3 REPRESENTATIVE McLACHLAN: Thank you.

4 THE CHAIRMAN: Representative Gardner, and then
5 we will go to Representative Lawrence.

6 Representative Gardner.

7 REPRESENTATIVE GARDNER: Thank you, Mr. Chair.

8 Director Sloan, thank you so much for your work
9 on behalf of the people of Colorado. As I said in
10 committee before, I think there's no one in Colorado more
11 dedicated to public safety and the well-being of our
12 citizens than yourself.

13 Since you are going to administer this bill and
14 this legislation if it is passed, I wanted to make sure
15 that we had a common understanding and also get on the
16 record what -- what the provisions of this bill actually
17 require.

18 And I'm looking at pages 4 and 5 of the bill
19 where there are exceptions as to who has to get a
20 background check and when transfers -- when there are
21 exceptions. And it's interesting to me on the one hand
22 that there are exceptions because if -- if a background
23 check is a really, really good thing, then it seems like we
24 probably ought to do them all the time, and if there are
25 reasons for exceptions, then there ought to be exceptions

1 that don't sacrifice public safety, and they ought to be
2 reasonable and rational.

3 And the one I'm looking at is on page 5 under
4 subparagraph B, a transfer that's a bona fide gift between
5 immediate family, which are limited to spouses, parents,
6 children, siblings grandparents, grandchildren.

7 First of all, the bona fide gift provision --
8 and just kind of follow through with me here. You know, my
9 -- my brother lives in Texas, a state which has wholly a
10 different attitude toward firearms apparently than our own
11 state. And he has -- he has a fair number of weapons. He
12 is a collector, and some of his weapons are worth a good
13 deal of money, and from time to time I've looked at them.

14 Assuming he lived here in Colorado and had this
15 collection, which would be perfectly legal, if -- if I were
16 to trade him one of my firearms for one of his firearms,
17 would I need to do a background check?

18 THE CHAIRMAN: Director Sloan.

19 DIRECTOR SLOAN: Thank you, Mr. Chair.

20 If I understand correctly the way that you posed
21 the question, if House Bill 1229 were in effect, you would
22 need to effect that transfer through an FFL.

23 THE CHAIRMAN: Representative Gardner.

24 REPRESENTATIVE GARDNER: Okay. On the other
25 hand, if one day he said, Let me give you a gift, Bob, and

1 he handed me that firearm and a week later I said, Oh, by
2 the way, I have a gift for you, and I hand him another
3 firearm, would we need background checks for that transfer?

4 THE CHAIRMAN: Director Sloan.

5 DIRECTOR SLOAN: Mr. Chair.

6 I would have to go through the circumstances
7 that you articulated. To begin with, if you're saying that
8 he is still a resident in Texas --

9 REPRESENTATIVE GARDNER: Well, assuming he's in
10 Colorado.

11 DIRECTOR SLOAN: Okay. That's why I asked the
12 question. I don't know exactly what the circumstances
13 would be.

14 Again, as it relates to House Bill 1229, if this
15 was in effect, if he was your brother and he resided here
16 in Colorado, if that's what you're saying --

17 REPRESENTATIVE GARDNER: Uh-huh.

18 DIRECTOR SLOAN: -- and it was given as a bona
19 fide gift, then it would be an exception under House Bill
20 1229.

21 THE CHAIRMAN: Representative -- Representative
22 Gardner.

23 REPRESENTATIVE GARDNER: Yes. Thank you. And
24 I have several follow ups for the director, Mr. Chair. So
25 I appreciate your indulgence.

1 So it seems to me that it would be very
2 important for us to never swap our firearms but to always
3 gift them to each other.

4 Let me -- let me raise another hypothetical.
5 You know, I have -- I have friends that I consider as close
6 as anybody in my family and about whose safety and security
7 I am concerned. And I have watched the news over the past
8 several years in places like New Orleans where there's been
9 basically a breakdown of civil law and order as a result of
10 disasters.

11 I watched in Connecticut the past few days when
12 the power went out. And, frankly, I have to say, when the
13 power goes out, it is only a matter of time, because there
14 aren't enough police. There isn't enough security, and
15 even if there were, they couldn't reach anyone.

16 So I -- I can see myself having concern for a
17 close friend in my community who doesn't have a firearm.
18 And as I turn on the news, I see that a huge snowstorm is
19 coming or that -- or that we just had an earthquake, and
20 they live a few doors down from me.

21 If I transferred that firearm to them, if I
22 said, you know, you may need this in the next few days to
23 ward off the looting that could happen -- pray God it
24 doesn't -- and I handed that weapon to them and they took
25 it to their home three doors down, I think I would have

1 violated this legislation that is proposed.

2 Don't you agree?

3 THE CHAIRMAN: Director Sloan.

4 DIRECTOR SLOAN: Yes.

5 THE CHAIRMAN: Representative Wright.

6 REPRESENTATIVE WRIGHT: Thank you, Mr. Chair.

7 Director Sloan, I was wondering if I could ask
8 you, while we have you up here, on the costs associated to
9 your department that would be caused by passage of this
10 legislation.

11 I'm looking at the Department of Public Safety
12 on the fiscal note, and they certainly seem to be
13 substantial with an increase from the general fund of over
14 \$1 million, and I'm assuming that's all to your department,
15 and creating 24.9, it says here, new full-time government
16 employee positions.

17 That's the first part of my question, is if you
18 could go in depth and on record describe the increased cost
19 of state government if this legislation was passed.

20 Secondly, I would wonder if you would --

21 THE CHAIRMAN: Let's get an answer to -- let's
22 get an answer to Question 1 first, Representative Wright.

23 REPRESENTATIVE WRIGHT: As long as I can -- I'm
24 hoping I can follow up, Mr. Chair.

25 THE CHAIRMAN: Yeah, yeah. And then we will go

1 to the second to avoid confusion, Representative Wright.

2 Director Sloan.

3 DIRECTOR SLOAN: Thank you, Mr. Chair.

4 Representative Wright, that is correct. In
5 order to appropriately address the goals of Colorado
6 InstaCheck at CBI, and that is to conduct these checks, do
7 the background checks effectively and efficiently to keep
8 firearms out of the hands of prohibited individuals and to
9 do them efficiently and to provide good customer service to
10 those individuals who are wanting to transfer firearms
11 within a short period of time, we have to be appropriately
12 resourced, and that's the additional resource that you see
13 identified in the fiscal note that you're referring to.

14 Now, those resources are projections, if you
15 will, of the expectation that there will be increased
16 volume. We don't know exactly how much. We've seen the
17 same data in terms of estimates of up to 40 percent of all
18 firearms transfers are done through private transfers.

19 And so the calculations that we have added in
20 for what we would expect the volume would be, we've done
21 calculations as to how many transactions we feel that a
22 technician can do during the course of a day and over the
23 course of a week, and we've added in all of those
24 calculations in order to try to determine how we can meet
25 those two goals and effectively and efficiently carry out

1 our statutory duty.

2 THE CHAIRMAN: Representative Wright, your
3 second question.

4 REPRESENTATIVE WRIGHT: Thank you, Mr. Chair.

5 Director Sloan, my second question is: I'm
6 looking at the information in this fiscal note, and it
7 estimates 200,000, 33 percent increase, and I understand
8 you are saying possibly upwards of a 40 percent increase.

9 Can you tell us, in terms of now or this past
10 year, how many background checks you've processed, how many
11 of those checks have been appealed, and how many of those
12 appeals have been upheld?

13 THE CHAIRMAN: Director Sloan.

14 DIRECTOR SLOAN: What I can -- okay. There's
15 several -- I'm sorry.

16 Thank you, Mr. Chair.

17 I'm not quite sure what the question is, if you
18 want to know how many denials there were in the last year,
19 how many appeals of those denials there were, and how many
20 were reversed?

21 REPRESENTATIVE WRIGHT: Thank you for
22 clarification on that.

23 THE CHAIRMAN: Representative Wright.

24 REPRESENTATIVE WRIGHT: Thank you, Mr. Chair.

25 Yes, Director Sloan, that's correct.

1 THE CHAIRMAN: Director Sloan.

2 DIRECTOR SLOAN: Thank you, Mr. Chair.

3 In 2012, calendar year 2012, there were 343,302
4 background checks conducted. There were a total of 7,362
5 denials, which represents 2.1 percent of that 343,302. Of
6 those denials, 1,915 of those denials were denials that
7 would not have been caught by FBI NCIC.

8 And then of those 7,362 denials, 54 percent
9 filed appeals in the appeal process. It's -- under
10 Colorado law it was codified in House Bill 1411 in 2010.
11 And of those, 54 percent of the 7,362, 56 percent of those
12 were reversed, and 44 percent roughly were upheld for
13 denial.

14 THE CHAIRMAN: Thank you, Director Sloan.

15 Representative Wright.

16 REPRESENTATIVE WRIGHT: Thank you, Mr. Chair.

17 Very brief follow up.

18 I'm hearing more than half, then, were reversed.
19 Was there a common denominator there for the reason for
20 reversal?

21 THE CHAIRMAN: Director Sloan.

22 DIRECTOR SLOAN: Thank you, Mr. Chair.

23 First of all, more than half of those who
24 appealed, not half of the denials, more than half of those
25 that appealed were, in fact, reversed.

1 And I don't have specific data on those
2 reversals. I can tell you that there are a number of
3 reasons that reversals are done. One of the primary
4 reasons are a denial that was done because of a prohibitive
5 arrest without a matching disposition in the criminal
6 history, whether it's in Colorado or elsewhere in the
7 United States.

8 Since the year 2000, the lack of matching
9 dispositions in Colorado has become less and less of a
10 problem. We're able to find matching dispositions at a 95
11 percent rate upon the initial check.

12 So many of those are out-of-state arrests or
13 military arrests or federal arrests where we are doing
14 research to determine whether or not there was a
15 conviction. So many of those reversals are the
16 determination that there was not a conviction through a lot
17 of investigative work.

18 Many of those reversals come off of an initial
19 denial because someone is identified as having a
20 prohibitive arrest and a conviction by the personal
21 identifiers that are given upon the attempt to the purchase
22 of a firearm.

23 The individual will claim that's not me. That's
24 someone else that has the same name and other identifiers,
25 and if we cannot distinguish or determine whether it's them

1 or it's not them, there will be a denial in Colorado.
2 And if they appeal that, there is a process,
3 records-challenge process, where they can physically come
4 into CBI, present us with ten prints, fingerprints, and we
5 can do a comparison against the arrest record, if it's a
6 Colorado arrest record, or if we can get the information
7 from the out-of-state arrest and conviction record. And we
8 can then verify biometrically whether it's that individual
9 or not.

10 A number of reversals are verification that it's
11 someone else with identical personal identifiers, but it's
12 not the individual who goes through the biometric check for
13 their identification. Those are just a couple of examples
14 of the types of reversals that are done.

15 THE CHAIRMAN: Representative Lee.

16 REPRESENTATIVE LEE: Thank you, Mr. Chairman.

17 I wonder if you heard the previous question
18 from Representative Wright about the effectiveness of
19 backgrounds checks? He asked something to the effect of,
20 are there statistics to indicate that background checks
21 are, in fact, effective in reducing crime?

22 If you heard the question and have an answer to
23 the question, I would be interested in your response, sir.

24 THE CHAIRMAN: Director Sloan.

25 DIRECTOR SLOAN: Thank you, Mr. Chair.

1 Representative Lee, I don't have specific data
2 or research that I can cite. In terms of criminal conduct
3 and criminal activity around the country through uniform
4 crime reporting, I don't know what kind of comprehensive
5 research has been done that would be correlational to
6 background checks. We do background checks in a number of
7 different areas.

8 To be able to collect the data to determine
9 whether or not background checks prevented criminal
10 behavior is next to impossible. Measuring prevention is
11 one of the most difficult things we do in this business.

12 We try to do correlations between background
13 checks, police strategies, law enforcement actions. Making
14 those correlations is very difficult to do. It -- we try
15 to take steps which are logical and reasonable which would
16 cause someone with extensive knowledge of criminal justice
17 behavior and law enforcement strategies, which are designed
18 to prevent crime and to prevent tragedy and violence.

19 Making those correlations is something I don't
20 have a great deal of data on. So I guess the answer to --
21 the short answer is: I don't have that data.

22 THE CHAIRMAN: Representative Lee.

23 REPRESENTATIVE LEE: Thank you, Mr. Chair.

24 Director Sloan, I wonder, then, if you are
25 aware of the U.S. Department of Justice FBI supplemental

1 homicide report in 2011 indicating that states requiring a
2 background check for handgun sales, that there were 38
3 percent fewer women shot to death by intimate partners. In
4 contrast, that the nonfirearm homicide rates of women
5 killed by partners was nearly identical in all of those
6 states.

7 What sort of conclusion would you draw from
8 that?

9 THE CHAIRMAN: Director Sloan.

10 DIRECTOR SLOAN: Thank you, Mr. Chair.

11 I have not specifically read that data, but it
12 would seem to suggest, that if I understand what you --
13 what you quoted there correctly, is those states that do
14 background checks on firearms have a lower rate of the use
15 of firearms in domestic violence situations, and that would
16 seem to suggest some correlation, that it's preventing the
17 use of firearms in domestic violence situations.

18 THE CHAIRMAN: Thank you so much, Director
19 Sloan. We appreciate you taking the time to come and tell
20 us more about your experience and how it relates to this
21 measure.

22 Thank you.

23 Our next witness is Mr. David Chipman.

24 Mr. Chipman.

25 Welcome, Mr. Chipman. Please tell us your name

1 for the record, who you represent, and proceed to give us
2 your testimony, if you would, sir.

3 MR. CHIPMAN: My name is David Chipman. And
4 thank you very much for having me here today.

5 On December 14, 2012, I watched in horror as
6 the gruesome details of the massacre at Sandy Hook
7 Elementary unfolded on national TV. It was only 145 days
8 after a similar tragedy struck the community of Aurora, not
9 too far from us here today.

10 This past May I retired as a special agent from
11 the Bureau of Alcohol, Tobacco, Firearms & Explosives. I
12 served this nation for 25 years in a variety of roles
13 across the country. As a SWAT team member in Washington
14 and Los Angeles, I apprehended some of the most heavily
15 armed and violent criminals in America. As a bomb-scene
16 expert in Oklahoma City and at the World Trade Center, I dug
17 bodies out of the rubble and witnessed the horrifying
18 capacity of madmen driven by hate.

19 Later, as the leader of ATF's firearms programs
20 division, the Attorney General tasked me with the most
21 challenging assignment of my career: developing a
22 comprehensive strategy to prevent gun violence in 15
23 targeted cities.

24 During my service at ATF, I learned firsthand
25 about which policing efforts work and which do not. I

1 appreciate the value of prevention and proactive
2 intelligence-led policing rather than any strategy aimed at
3 apprehending offenders in response to violent crimes that
4 have already left a trail of victims. I was an operator
5 who not only advised strategies and tactics, I actually
6 enforced the laws in the books.

7 I became an ATF agent in response to a calling
8 from Robert F. Kennedy. He said that Americans needed a
9 system of justice to serve as a shield for the weak and the
10 powerless.

11 I come before you today to confirm what many of
12 you already know: Our shield is not sufficient.
13 Background checks work. They will strengthen our shield.
14 And we have seen the positive impact to public safety of
15 stronger regulations involving gun sales in Colorado and
16 across the nation.

17 After the mass shooting at Columbine, 70 percent
18 of Coloradans voted to require unlicensed sellers at gun
19 shows to conduct criminal background checks. And since
20 closing the gun show loophole, Colorado has exported
21 significantly fewer crime guns to other states.

22 In 2000 the state was the 17th largest exporter
23 of guns later found at crime scenes in other states. A
24 year after the law was passed, Colorado ranked 27th, and by
25 2009 it ranked 32nd.

1 Americans in Oklahoma City, 19 of them children. Like the
2 rest of you, on 9-11 I watched the towers of the World
3 Trade Center crumble to the earth.

4 After these horrific acts, our government acted
5 with urgency and committed to ensuring that terrorists,
6 foreign or domestic, would never take down our buildings or
7 victimize our citizens ever again. The strategy was
8 aggressive, and although not perfect, it has worked.

9 Neither our federal government nor our states
10 have chosen to act with similar urgency to prevent future
11 acts of gun violence. 33 Americans continue to be murdered
12 with guns each and every day in this country, a nation
13 where everyone is guaranteed the right to life, liberty,
14 and the pursuit of happiness.

15 Half measures have availed us nothing. We need
16 to act comprehensively, and we need to do so now. The
17 Brady Bill requires background checks be conducted only at
18 federally licensed firearm dealers, but an estimated 40
19 percent of gun transfers and sales in the U.S. are
20 conducted by individuals who are not licensed and not
21 required to conduct federal checks.

22 The Brady Bill operates similarly to a flawed
23 airport security system that ensures only 60 percent of
24 travelers are free of dangerous weapons through screening
25 while allowing 40 percent of travelers to board the plane

1 unchecked. In Colorado the same holds true.

2 In response to the massacre at Columbine that
3 shook this state to its core, Coloradans closed the gun
4 show loophole only to allow the Internet to continue to
5 thrive as a vast marketplace where prohibited persons could
6 easily purchase scores of weapons with no paperwork and no
7 questions asked.

8 Online private gun sales play a prominent role
9 in fueling violent crime. In October of 2012, for example,
10 Radcliffe Haughton, who is federally prohibited from buying
11 a gun due to the restraining order that his estranged wife
12 had against him, purchased a gun from a private seller
13 through Arms List where no background check was conducted.
14 The next day he went to the spa where his wife worked in
15 Brookfield, Wisconsin, and killed her and two other people
16 and injured four others before taking his own life. Why do
17 we continue to make attempts to prevent an attack as
18 opposed to predicting where we will be attacked next and
19 shore up that vulnerability?

20 The ease with which a high school senior can go
21 on the Internet and arrange to purchase an array of
22 firearms renders all gun laws meaningless. The fact that
23 this state and this government continues to allow the sale
24 of guns without a backgrounds check is not only reckless,
25 not only irresponsible, it is downright dangerous.

1 A system that requires a background check for
2 every gun sale is common sense, and it works. It is a
3 system supported by 92 percent of Americans and including
4 74 percent of NRA members. Will criminals attempt to
5 thwart this regulation? Of course. That's what criminals
6 do. But as criminals and the severely mentally ill make
7 these attempts, their efforts will necessarily become more
8 complex. Mistakes will be made, and law enforcement will
9 be there.

10 Investigators will follow leads and make efforts
11 to apprehend unlawful possessors before they use their
12 illegal guns in crime. Will law enforcement prevent all
13 crime? Unfortunately no, but this new law will give them
14 an additional tool to crack down on gun traffickers who
15 sell guns on the black market. It will also help law
16 enforcement trace guns recovered in violent crimes by
17 requiring dealers to keep the same records they kept for
18 licensed sales for over 40 years.

19 This system protects the privacy of gun owners,
20 ensures that there is no registry of gun owners, and at the
21 same time, helps law enforcement solve crimes.

22 After Oklahoma City I thought, Never again;
23 after Virginia Tech I thought, Never again; after Tucson I
24 thought, Never again; after Aurora I thought, Never again;
25 but after Sandy Hook, I shuttered as I thought to myself,

1 because this is going to happen again, and it will unless
2 we act now.

3 On December 16 of 2012, sources close to the
4 Newtown investigation revealed to me the description of the
5 three firearms carried in the school during the massacre:
6 a Bushmaster assault-style rifle, a 10-millimeter Glock
7 pistol, and a 9-millimeter Sig Sauer handgun.

8 I searched Armslist.com, a renowned online Web
9 site that caters to gun buyers who desire animosity and
10 easily arrange with private sellers to purchase guns
11 without a background check over the Internet. Within 15
12 minutes, I was able to find a city where I could have
13 purchased each of the firearms used at Sandy Hook without
14 identification and without a criminal backgrounds check.
15 That city was Denver, where we sit here today.

16 I'm not a Coloradan, but I am an American and
17 will not sit idly by as 33 of my fellow citizens are being
18 murdered with guns every day. We have the right to live in
19 a country that puts our safety first, and above all, we
20 have the right to live outside the shadows of fear.

21 There has been too much bloodshed in our
22 streets, too much bloodshed in our schools, and too much
23 bloodshed across this great land. I urge you today to act
24 now to help save lives.

25 And thank you.

1 THE CHAIRMAN: Thank you, Mr. Chipman.
2 Representative Gardner.

3 REPRESENTATIVE GARDNER: Yes. Thank you.

4 And thank you, sir, and thank you for your
5 service to our country. And I -- I appreciate your
6 passionate advocacy on behalf of this issue.

7 I'm -- you told us about your training, and you
8 probably don't know I'm trained as lawyer, so I'm -- when I
9 hear advocacy, I try to ensure that it's material and
10 relevant to the matter at hand. So -- and I try to
11 understand where the witness is coming from.

12 So, first of all, let me ask you: You mentioned
13 that you had been tasked by the Attorney General of the
14 United States with some important task. Which Attorney
15 General was that?

16 THE CHAIRMAN: Mr. Chipman.

17 MR. CHIPMAN: That would have been -- geeze,
18 now you've embarrassed me because I don't recollect. It
19 would have been during the Bush Administration. And I'm
20 sorry, I should know that name.

21 THE CHAIRMAN: Representative Gardner.

22 REPRESENTATIVE GARDNER: Thank you.

23 Well, you know, as I get older, my memory fades
24 on things, but I'm really struggling with your references
25 to the Murrah building, which was horrific. I remember

1 that day very well, actually.

2 And I guess I'm puzzled. I don't think there
3 were any firearms directly involved in the Murrah building.
4 I think it was a fertilizer bomb. Are you suggesting that
5 we need to amend this bill to have a background check for
6 transfers of fertilizer, or is it just a discussion about
7 the horrors of violence, sir?

8 THE CHAIRMAN: Mr. Chipman.

9 MR. CHIPMAN: I believe the point that I was
10 trying to make is that for law enforcement, it's imperative
11 that we prevent crimes before they ever happen. And as
12 you've seen recently, even gun crimes are getting close to
13 the scale of what we used to see in bombings.

14 You're right, not yet have we gotten to that
15 scale, but that was the point I was trying to make.

16 THE CHAIRMAN: Representative Gardner.

17 REPRESENTATIVE GARDNER: Yes. Thank you.

18 So there's nothing about this bill that would
19 have prevented the bombing of the Murrah building, is
20 there?

21 THE CHAIRMAN: Mr. Chipman.

22 MR. CHIPMAN: I don't believe that there's
23 anything in this bill that would prevent a bombing. What I
24 do believe is that there are things in this bill that might
25 prevent the next mass shooting.

1 THE CHAIRMAN: Representative Gardner.

2 REPRESENTATIVE GARDNER: Well, yes. Thank you.
3 And I appreciate you going to that, because that goes to my
4 next question.

5 As I understand the events at Sandy Hook, which
6 you, in your opening sentence referenced -- I think they're
7 pretty well known in the press. The individual there
8 obtained the firearms from his mother, who tragically was
9 the first victim, I think, and I think she legally obtained
10 those firearms, but let's just kind of take her situation
11 to here in Colorado.

12 There's nothing in this bill that would have
13 prevented that lady from obtaining firearms, is there?

14 THE CHAIRMAN: Mr. Chipman.

15 MR. CHIPMAN: My understanding is that the
16 woman, Mrs. Lanza, was not prohibited, and so she would
17 have been able to pass a background check on this -- on
18 this law. I believe the story of Newtown is that she
19 didn't properly secure her firearm from someone who was
20 potentially -- had a severe mental disorder.

21 THE CHAIRMAN: Representative Gardner.

22 REPRESENTATIVE GARDNER: So -- so this bill
23 wouldn't -- in similar circumstances, had they occurred in
24 Colorado, this bill wouldn't have prevented that, would it?

25 THE CHAIRMAN: Mr. Chipman.

1 MR. CHIPMAN: I don't believe so.

2 REPRESENTATIVE GARDNER: And let's --

3 THE CHAIRMAN: Representative Gardner.

4 REPRESENTATIVE GARDNER: Thank you. Thank you,
5 Mr. Chair.

6 And let's go to Aurora. I -- you know, that's
7 a pending court case, but all I know is what I've heard in
8 the media.

9 It seems that the individual there had some
10 mental health issues, but they, as I understand, were
11 probably not reported. So there would have been nothing in
12 this bill that would have prevented him from obtaining
13 firearms if this bill is passed, is there?

14 THE CHAIRMAN: Mr. Chipman.

15 MR. CHIPMAN: I believe, on the Aurora
16 incident, that there's nothing specifically in this bill
17 that would have prevented it, but there is a lot of
18 dialogue that we're having today about how we can better
19 prevent people with severe mental illness from acquiring
20 firearms.

21 THE CHAIRMAN: Representative Gardner.

22 REPRESENTATIVE GARDNER: Yes.

23 And I -- I think that mental health dialogue is
24 really important, sir. But there's nothing in this bill
25 that would have prevented that individual from obtaining

1 firearms, is there?

2 THE CHAIRMAN: Mr. Chipman.

3 MR. CHIPMAN: I don't believe so.

4 REPRESENTATIVE GARDNER: Thank you.

5 THE CHAIRMAN: Representative Salazar.

6 REPRESENTATIVE SALAZAR: Thank you, Mr. Chair.

7 I want to go back to something that
8 Representative Gardner had said earlier, and I wanted to
9 ask you this question because I spoke to the public here
10 about the issue of reasonable restriction of ownership of
11 firearms.

12 And as I was taking a look at this bill after
13 what Representative Gardner said, can you please tell me
14 how it's a reasonable restriction to prohibit me and my
15 brother, say, from exchanging our shotguns with each other
16 when he decides he wants to go hunting for quail and I want
17 to go hunting for goose? And how is that a reasonable
18 restriction?

19 THE CHAIRMAN: Mr. Chipman.

20 MR. CHIPMAN: I'm trying to understand your
21 question.

22 I believe that in this bill there are exceptions
23 and which direct family members can transfer firearms. The
24 reason that I believe that that is reasonable is because
25 the law already is very serious if you knowingly transfer a

1 firearm to someone you know you are prohibited.

2 I would imagine that most brothers know if their
3 brother has spent time in prison. So I think that that's
4 why I would think it was reasonable.

5 THE CHAIRMAN: Representative Salazar.

6 REPRESENTATIVE SALAZAR: Thank you, Mr. Chair.

7 I think Director Sloan said that would be a
8 prohibition for me to lend my weapon to my brother. I have
9 a 20-gage. You know, I go for smaller birds. My brother
10 has a 12-gage, and, you know, we use that for goose
11 hunting. I like to goose hunt. He likes to go for smaller
12 birds, so we have issues with our guns.

13 It seems to me that what Director Sloan had
14 said was that I would not be able to lend my gun to him,
15 that it would have to be gifted to him, and that's what the
16 language says.

17 So if I'm reading that wrong, could someone
18 please clarify that for me?

19 THE CHAIRMAN: Representative Salazar, I would
20 just draw your attention to the -- page 5 of the bill,
21 which provides the temporary transfer of possession which
22 takes place at a shooting range or a target firearm
23 shooting range or while hunting, fishing, or trapping is --
24 is -- is completely permissible under this bill.

25 Representative McCann.

1 REPRESENTATIVE McCANN: That's my understanding
2 as well.

3 THE CHAIRMAN: Representative Salazar.

4 REPRESENTATIVE SALAZAR: So the way that I read
5 this language here is that -- is that the temporary
6 transfer would take place while hunting. But what if I'm
7 not with my brother at that time? He has my gun, and he's
8 hunting on his own or with somebody else and I decide to
9 stay at home because I don't like going after my birds. I
10 like sitting in a hole and usually falling asleep goose
11 hunting.

12 But this language in here, it doesn't seem to
13 lend for that, or does it?

14 THE CHAIRMAN: Representative McCann.

15 REPRESENTATIVE McCANN: I think our intent was
16 to allow for a temporary transfer between an unlicensed
17 person if the purpose is for hunting, fishing, or trapping.
18 So I think, if we need to clarify that, we can -- we can do
19 that.

20 THE CHAIRMAN: Thank you.

21 Mr. Chipman, seeing no further questions, may I
22 thank you for coming all this way and giving us the benefit
23 of your insight -- input onto this bill.

24 MR. CHIPMAN: Thank you.

25 THE CHAIRMAN: That concludes the less

1 restricted time of witnesses. And just to reiterate for
2 the benefit of members of the public who are here, the same
3 lax time restrictions will be placed on the first two
4 witnesses in opposition to this House Bill 1229.

5 We will now proceed with our next witnesses.
6 First will be Tom Mauser. And after Tom Mauser, we will be
7 hearing from Katie Lyles, and then we will be hearing from
8 Chief John Jackson of the Greenwood Village Police
9 Department.

10 So, Mr. Mauser, welcome to the Judiciary
11 Committee. Thank you for coming and taking your time to
12 give us your input.

13 MR. MAUSER: Thank you, Mr. Chairman.

14 THE CHAIRMAN: Please state your name for the
15 record and tell us your testimony.

16 MR. MAUSER: Sure.

17 My name is Tom Mauser from Littleton, Colorado.
18 I'm the father of Daniel Mauser, who was murdered in the
19 massacre at Columbine High School in 1999.

20 Two weeks before my son's death, he asked me the
21 question at the dinner table, Dad, did you know that there
22 are loopholes in the Brady Bill? I shrugged off this
23 question, and then two weeks later he was shot in the face
24 as he was pinned down helplessly under a table in the
25 library at Columbine.

1 He was killed with a gun purchased through one
2 of those loopholes. That's why I became dedicated to close
3 those loopholes. And we did that, as you've heard already
4 in testimony, by closing the gun show loophole.

5 And one question I heard a lot from my opponents
6 back then was, well, you know, if they -- if those killers
7 didn't get the guns at the gun show, they would have gotten
8 them someplace else. And I said, Well, thank you for
9 making a case for -- for universal background checks. I
10 appreciate that, but that's not what we are doing now. Now
11 we're back to it.

12 I know there's been discussion here of the
13 pathology of the various crimes that have upset people, but
14 the fact is we are dealing with, as was mentioned, 33
15 people every day. It's that we are trying to deal with,
16 keeping guns away from the wrong people in that way.

17 So I'd like to -- like to mention a few things
18 that haven't been touched on yet.

19 One is, again, when you go to the airport, we
20 all have to undergo that -- that metal detector. What
21 would you think if we had 40 percent of those people were
22 able to bypass that simply because of who they bought the
23 ticket from or what their last name was? You'd be
24 outraged, but that's what we're doing in Colorado.

25 I'm sure we are going to hear a lot of

1 testimony today also that, well, you know, you can't stop
2 criminals from doing what they are going to do. You just
3 can't stop it.

4 Well, I ask you: If you have teenagers, do you
5 let them drink alcohol? No. I would suspect most of you
6 don't. Well, you know, teenagers are going to get alcohol
7 anyhow, so why do we prohibit it at our stores?

8 THE CHAIRMAN: Mr. Mauser, I'm going to ask you
9 to wrap up, if you would, sir.

10 MR. MAUSER: Sure.

11 Of course we don't allow them to do that.
12 That's why we pass laws and it's public policy, so they
13 can't buy it at stores, because we do everything we can for
14 prevention. We do not know who is a criminal, so I think
15 it's important for gun sellers, law-abiding citizens, to be
16 able to know whether the person they are selling their gun
17 to is a criminal or not because we don't wear labels on our
18 heads that says law-abiding citizen, I'm not a criminal.
19 We do background checks.

20 THE CHAIRMAN: Mr. Mauser, thank you so much.

21 Mr. Mauser, when you were talking about the
22 analogy to 40 percent of folks not being checked before
23 they get on the plane and 60 percent being checked, are you
24 referring to in our gun laws that 60 percent of people are
25 checked for background to make sure that they're legally

1 permitted to own the firearm and 40 percent just are
2 completely not required to have their background checked?

3 Is that the analogy you are trying to draw?

4 MR. MAUSER: Yes, that's right, just like the
5 Columbine killers purposefully sought out a private seller
6 at the gun show because they didn't want to have to do the
7 paperwork, didn't want to be creating a trail.

8 THE CHAIRMAN: So the way you get into the 40
9 percent is instead of buying it from a firearms dealer, you
10 buy it from your next door neighbor or over the Internet,
11 and then you don't -- you aren't required and nobody checks
12 your background?

13 MR. MAUSER: That's correct.

14 THE CHAIRMAN: I just wanted to understand that
15 more fully.

16 Are there any other questions for Mr. Mauser?

17 Mr. Mauser, we deeply regret your loss and
18 deeply appreciate your activism over several years to
19 increase the safety of --

20 MR. MAUSER: Thank you.

21 THE CHAIRMAN: -- Coloradans.

22 Thank you.

23 Katie Lyles.

24 Ms. Lyles, please state your name for the
25 record and tell us who you represent and proceed with your

1 testimony.

2 MS. LYLES: I'm Katie Lyles, and I'm a teacher
3 and a Columbine survivor. I'm representing myself and my
4 students today.

5 So thank you, Chairman Kagan and the members of
6 the House Judiciary Committee.

7 I'm here to express my support of HB-1229 that
8 requires anyone who wants to buy a gun to undergo a
9 background check. This bill is a step towards the
10 comprehensive solution that we need to ensure the safety of
11 students at -- our students at schools, as well as the
12 safety for the people of Colorado.

13 I speak as a teacher and also as a survivor of
14 the school violence that occurred at Columbine High School.
15 I felt compelled to speak today in the aftermath of the
16 ever increasing violence that plagues our society.

17 I have never spoken publicly about my experience
18 at Columbine, but after the murders at Sandy Hook, I know
19 that something must be done, and I want to be part of the
20 solution.

21 On the morning of April 20, 1999, I headed to
22 Columbine High School worried about my tenth grade math
23 test that I was supposed to take that day and my upcoming
24 track meet. That math test was never finished due to the
25 tragic events that unfolded at my school leaving 13 dead

1 and countless others wounded and all of our innocence
2 shattered.

3 The shooters at my school obtained their guns
4 illegally through private sales and straw purchases. Today
5 they could easily go online and buy these same weapons
6 without a background check, and what is to stop the next
7 person who chooses from doing just that?

8 Now I am a teacher -- or I have been a teacher
9 for eight years, and I consider every day that I go to work
10 a privilege to be with my students. I cherish their joy
11 and enthusiasm and, most importantly, their innocence. I
12 believe that is our job as a society, to protect these
13 virtues in our young people, and I want them to be worried
14 about math tests and track meets and about the science
15 fairs and student council elections. That is the normal
16 school stuff that builds character. But we are creating a
17 school culture that is instead worrying about safety of --
18 our safety and our intruders, something that no student
19 should be aware of.

20 This became even more apparent to me about a
21 year ago as I was sitting in complete silence in the inky
22 black dark of my classroom's storage room. I was surround
23 by 24 second graders who crouched on the floor with me. I
24 whispered to my students that they were doing such a
25 respectful job hiding, and then a quiet hand found mine, as

1 Anthony, a seven-year-old boy, was crammed next to me, and
2 he was searching for comfort during such an unnatural
3 scenario.

4 We were conducting our monthly emergency drill
5 -- in this case a lockdown -- and my heart broke for
6 Anthony and his classmates, that they have to learn these
7 types of drills at such a young age and if at all. And I
8 thought to myself, This is the result of the Columbine
9 shootings, and this is my reality, and now it is theirs
10 too.

11 THE CHAIRMAN: Ms. Lyles, I'm going to have to
12 ask you to come right to the final point.

13 MS. LYLES: Okay.

14 I ask today that we have the power to work
15 together as a society to create a safer world for our
16 schools, and that starts today with the passage of HB-1229.
17 Learn from my experience and do not wait until you have to
18 experience it firsthand to realize that action needs to
19 happen.

20 Thank you.

21 THE CHAIRMAN: Thank you, Ms. Lyles.

22 Are there any questions for Ms. Lyles?

23 Thank you, Ms. Lyles.

24 MS. LYLES: Thank you.

25 THE CHAIRMAN: And I'm sorry we couldn't give

1 you more time.

2 Chief John Jackson, we will be glad to hear
3 from you.

4 After Ms. -- after Chief Jackson, we will be
5 hearing from John Head, Marjorie Sloan, Don Macalady, and
6 then Amy Miller, just for your information.

7 Chief Jackson, welcome.

8 Please tell us your name for the record and who
9 you represent and give us your testimony.

10 MR. JACKSON: Mr. Chair, members of the
11 committee, my name is John Jackson.

12 I'm here on behalf today of the Colorado
13 Association of Chiefs of Police. The Colorado Association
14 of Chiefs of Police represents the many police departments
15 throughout the state of Colorado who work every day to keep
16 our communities safe and to do our best to protect our
17 citizens from those with ill intent, who wish to do someone
18 else harm.

19 In 2000 the citizens of Colorado voted 70
20 percent to 30 percent to support closing the gun show
21 loophole in Colorado. The passage of Amendment 22 requires
22 that Colorado verify that a person purchasing a gun at a
23 gun show is not a criminal act and has not been adjudicated
24 mentally ill.

25 This is a common sense measure that those who

1 talk about law-abiding citizens possessing firearms should
2 not have a disagreement with, and yet our existing law has
3 a much bigger loophole than one closed by Amendment 22.
4 Currently it is legal for any individual to sell a firearm
5 to another individual with no background check.

6 As law enforcement we regularly see the
7 consequences of this loophole. As previously stated many
8 times, 40 percent of all gun purchases are through private
9 sales by which it is legal to sell a gun without a
10 background check.

11 Our current system allows criminals and
12 dangerously mentally ill to legally buy and possess these
13 weapons. Criminals are using the background check loophole
14 to purchase their weapons because they know they would not
15 be able to pass the background check.

16 The ability of background checks to reduce
17 homicides and gun violence is significantly diminished by
18 this giant loophole for private firearms sales that
19 criminals and traffickers are exploiting.

20 Recently the Colorado Association of Chiefs of
21 Police held a meeting to talk about the many legislative
22 matters currently before you, responsible gun policy and
23 legislation being some of them. There were more than 90
24 Colorado chiefs and commanders present to discuss these
25 issues from their community's perspectives.

1 With respect to the background check gun bill
2 language, the vote taken in the room was unanimous that the
3 Colorado Association of Chiefs of Police support background
4 checks for the purchase of all firearms.

5 THE CHAIRMAN: Thank you, Chief Jackson. I'm
6 going to have to ask you to -- to hold it there.

7 Representative Lawrence.

8 REPRESENTATIVE LAWRENCE: Thank you, Mr. Chair.

9 Okay. I think it's working.

10 Thank you, Mr. Chairman, and thank you, Chief,
11 for coming in to testify.

12 My question is regarding criminals getting
13 guns. My understanding of this bill is that it's going to
14 affect law-abiding citizens and their ability to obtain
15 defensive weapons.

16 How is this going to keep a criminal from
17 getting a gun because they're not going to go through a
18 background check?

19 THE CHAIRMAN: Chief Jackson.

20 MR. JACKSON: Mr. Chair.

21 Representative, that's a very good question.
22 And we do believe that we need incremental steps. We don't
23 believe this will be unreasonable for a law-abiding
24 citizen. We believe that it could prevent a person in the
25 future from committing a crime. There is no way to say any

1 one of these measures will be exclusively right that will
2 fix the problem.

3 I think we all understand this is a
4 multi-faceted problem that's going to take a lot of
5 incremental steps forward to make a difference. And we
6 believe that by simply putting in place the ability to have
7 a background check done on people, some of those people who
8 shouldn't have guns won't be able to get them, and that's
9 proactive instead of reactive.

10 THE CHAIRMAN: Representative Wright.

11 REPRESENTATIVE WRIGHT: Thank you, Chief.

12 THE CHAIRMAN: I'm sorry, Representative
13 Lawrence.

14 REPRESENTATIVE LAWRENCE: Yes.

15 THE CHAIRMAN: You want to follow up there?

16 REPRESENTATIVE Lawrence: Thank you,
17 Mr. Chairman.

18 I guess my question will go back to something
19 that Director Sloan had brought up, is that a lot of these
20 law-abiding citizens that are going through background
21 checks currently are being caught up in denials that are
22 then overturned at a later time. So it is impending the
23 ability of law-abiding citizens to exercise their Second
24 Amendment rights.

25 And I also -- just a second question is: Part

1 of this bill requires that a seller act with a licensed
2 firearms dealer to run the background checks.

3 THE CHAIRMAN: Chief Jackson.

4 REPRESENTATIVE LAWRENCE: What if there isn't a
5 licensed firearm dealer within two hours of two people who
6 want to transfer a weapon?

7 THE CHAIRMAN: Chief Jackson.

8 MR. JACKSON: Mr. Chair.

9 Thank you, Representative.

10 I do believe that they would find a way to
11 legally sell that gun if they are law-abiding citizens.
12 The chiefs of police are not interested in creating undue
13 burden. What we are trying to create and work with is
14 within the public safety realms of what's reasonable, and I
15 don't think that restrictions in legislation are going to
16 be that burdensome to where someone couldn't legally sell a
17 gun should they choose to do so.

18 THE CHAIRMAN: Representative Wright.

19 REPRESENTATIVE WRIGHT: Thank you, Chief.

20 I would like to ask you first: You've taken an
21 oath to uphold the constitution of the state of Colorado
22 and the United States. I'm wondering if you feel that this
23 is constitutional, should it be passed, under Article 2,
24 Section 13, of the Colorado constitution.

25 And secondly, if you do believe it's

1 constitutional, where do you break paths with many of the
2 sheriffs in the state of Colorado, who I'm sure you have
3 heard are opposed to this measure and will do everything
4 that they can to make sure that it's not enforced within
5 their jurisdictions?

6 THE CHAIRMAN: Chief Wright -- sorry, Chief
7 Jackson.

8 MR. JACKSON: Mr. Chair.

9 I would not depart from the federal
10 constitution. I do believe that it allows for reasonable
11 restriction as previously stated, and I think these are
12 that.

13 With regard to the sheriffs, it's very difficult
14 for me to qualify or quantify what their position is. I
15 know that they're neutral on this particular position.

16 But we see it differently and similar in some
17 regards, but this is a matter of public safety, and we
18 believe as chiefs it's responsible for us to get out and
19 make our position known, that we are for enhancing public
20 safety when we can legally do so.

21 THE CHAIRMAN: Representative Wright.

22 REPRESENTATIVE WRIGHT: Thank you, Chief.

23 And admittedly in your testimony you said that
24 you don't believe that this is the be-all solution for
25 public safety. You said that you saw this as an

1 incremental step.

2 I might ask you: What is this an incremental
3 step towards? Greater regulation, greater restrictions,
4 and what are those restrictions?

5 THE CHAIRMAN: Chief Jackson.

6 MR. JACKSON: Mr. Chair.

7 Representative Wright, I don't want to make any
8 inference that this is an incremental step to take away
9 someone's Second Amendment rights or encroach in that way.
10 I truly do believe that we live in a three-dimensional
11 world, and there is no one-dimensional lens that is going
12 to solve this problem.

13 We're going to have to look and take many small
14 steps forward. This could be one of those before we can
15 probably see the incremental steps in public safety that we
16 saw when we closed the gun show loophole. You saw the
17 percentages and the numbers of where our state rank just
18 dropped through the floor, and that's the way I think we
19 are going to fix this. It has to be something that is
20 incremental, and it's not going to be just one -- pardon
21 the pun or phrase -- but magic bullet that fixes this.

22 Director Sloan also testified to how difficult
23 it is to prevent something, to pick someone that looks like
24 they might have been a crime (sic). A day before any one
25 of these tragedies, this person could have been legally a

1 law-abiding citizen and could have possessed all the guns
2 that they wanted.

3 But there's a point in time where someone snaps,
4 and then, all of a sudden, society has a problem, and it's
5 a major public safety health issue for everyone either in
6 that theater, mall, school. I truly believe this is a
7 matter of public health, and it's going to have looked at
8 it in that manner from a very wide, broad scope before we
9 can effect some serious change and see serious results or
10 positive outcomes.

11 THE CHAIRMAN: Thank you, Chief Jackson, very
12 much for your time and contributing to our deliberations.

13 MR. JACKSON: Mr. Chair, thank you. And we
14 strongly urge your support in moving this on to the house
15 for a full vote.

16 THE CHAIRMAN: Thank you, Chief.

17 John Head.

18 Mr. Head, welcome to the House Judiciary
19 Committee, sir. We are glad to have you.

20 Please state your name for the record and tell
21 us who you represent and proceed with your testimony, sir.
22 And if you could keep your testimony to two minutes, we
23 would be grateful.

24 MR. HEAD: I'll try.

25 Thank you, Mr. Chairman, and ladies and

1 gentlemen of the committee.

2 My name is John Head. I am copresident of the
3 Safe Colorado. Safe Colorado was organized 12 years ago as
4 a strictly bipartisan organization to promote public safety
5 by reducing gun violence.

6 Back in 2000 we came before this -- this
7 legislature to advocate five measures recommended by a
8 commission organized by Governor Owens in the aftermath of
9 the Columbine shooting. None of these measure made it out
10 of the committees to which they were assigned.

11 After we were turned away, we announced that we
12 would take one of our measures, an initiative to close the
13 gun show loophole that you heard a lot about today, to the
14 ballot in the 2000 general election, and we did that.

15 Over the spring, summer, and fall of 2000, Safe
16 Colorado, with an entirely volunteer force, out of a
17 membership of some 7,000 Colorado citizens had gathered
18 over 110,000 signatures on a petition, and we didn't spend
19 ten cents doing it.

20 That petition, known as Amendment 22, closed the
21 gun show loophole with 70 percent of the vote at the
22 general election in November of that year. And
23 incidentally, we beat George Bush by 20 points.

24 Background checks do work. And you heard this
25 -- all this information from Ron Sloan from the CBI, so I

1 won't repeat any of it, except that I will note that these
2 denials that he mentioned are based upon records which
3 include homicides, assaults, kidnapping, sexual assaults,
4 and restraining orders, and thus it seems rather obvious
5 that if one wants to limit the possession of guns to
6 law-abiding citizens, an effective and efficient system of
7 background checks would be an obvious place to start.

8 Not only do background checks work, they are met
9 with overwhelming approval by the public, and you've heard
10 some of this today. Over 70 percent of the voters in
11 Colorado in 2000 think that a statute requiring background
12 checks was a reasonable common sense measure to prevent the
13 wrong people from having easy access to guns, the public
14 opinions -- the public attitudes today are even more
15 positive.

16 Every one of the polls taken since the shooting
17 in Aurora shows this to be the case. For example, the
18 Denver Post reported last month --

19 THE CHAIRMAN: I'm afraid we don't have any
20 time for those examples unless --

21 MR. HEAD: Then let me --

22 THE CHAIRMAN: Members of the committee -- yes,
23 sir?

24 MR. HEAD: If I could have one more paragraph.

25 THE CHAIRMAN: Certainly, sir.

1 MR. HEAD: All right.

2 What these measures of public opinion tell you
3 is that there's a big difference between the people here
4 advocating on behalf of the gun lobby and the citizens of
5 Colorado. And you have a judgment to make, and who are you
6 going to listen to? Are you going to listen to the
7 citizens of Colorado, or are you going to hear -- listen to
8 paid lobbyists who want to have more guns in more hands of
9 more people with no restrictions whatsoever?

10 And I can assure you that with the track record
11 that I have established, taking Amendment 22 to the voters
12 and getting 22 percent of the voters to approve it, I know
13 how that judgment is made by the public.

14 I thank you for your attention. I entertain any
15 questions you might have.

16 THE CHAIRMAN: Thank you, Mr. Head.

17 And are there any questions for Mr. Head?

18 Representative (inaudible).

19 UNIDENTIFIED SPEAKER: Do you have percentages
20 of recent polls with regard to closing the loophole and
21 requiring checks for private sales?

22 MR. HEAD: Yes.

23 THE CHAIRMAN: Mr. Head.

24 MR. HEAD: Yes, thank you.

25 Yes. Frank Luntz, who's a well known

1 Republican pollster, did a poll last summer, and he found
2 that 74 percent of the members of the National Rifle
3 Association support the background checks conducted by
4 everyone who buys a gun. He also found that 87 percent of
5 non-NRA gun owners support background checks of people who
6 buy a gun.

7 UNIDENTIFIED SPEAKER: Thank you.

8 THE CHAIRMAN: Thank you. Mr. Head, I want to
9 tell you I thank you for coming here, sir, and I'm sorry we
10 couldn't give you longer to present your testimony.

11 MR. HEAD: I understand. Thank you very much
12 for your courtesy and --

13 THE CHAIRMAN: Thank you, sir.

14 MR. HEAD: -- listening to me. Thank you.

15 THE CHAIRMAN: Thank you, sir.

16 Marjorie Sloan, please come forward.

17 And just so witnesses know where we are,
18 Marjorie Sloan is going to be followed by Don Macalady, Amy
19 Miller, and then Ted Pascoe.

20 Ms. Sloan, welcome. Please tell us who you are
21 and who you represent and present your testimony.

22 MS. SLOAN: Thank you, Mr. Chair, members of the
23 committee.

24 I am Marjorie Sloan, mayor of Golden. And I'm
25 here today representing Golden City Council and also

1 speaking as a member of the National Bipartisan Coalition
2 of Mayors Against Illegal Guns. Both organizations support
3 universal background checks.

4 On this issue I'm often asked if Golden has a
5 gun violence policy -- or problem, and the answer is: Gun
6 violence menaces all of Colorado communities: urban,
7 suburban, and rural. Golden is no different from Aurora or
8 Newtown or Tucson. Colorado School of Mines is no
9 different from Virginia Tech.

10 The steady stream of shootings in our country
11 has shocked all of us out of our trust in the safety of our
12 homes, streets, schools, shopping areas, and gathering
13 places.

14 The facts are these: 62 percent of private gun
15 sellers on the Internet agreed to sell a firearm to buyers
16 who said they probably couldn't pass a background check.
17 80 percent of criminals who used a gun in their crimes
18 obtained one through a private sale.

19 We've heard testimony demonstrating that
20 background checks work to solve this problem. Colorado is
21 a can-do state. If there is a hole in the fence, we want
22 to fix it.

23 At least 83 percent of Coloradans, including a
24 large majority of NRA gun owners, want to fix the loophole.
25 They recognize the value of background checks on all gun

1 sales. Please listen to them and vote yes on HB-1229.

2 THE CHAIRMAN: Mayor, thank you very much.

3 Are there any questions for the witness?

4 Representative Wright.

5 REPRESENTATIVE WRIGHT: Thank you, ma'am, for
6 your testimony.

7 I would -- I would ask you this: You're stating
8 some statistics there. Are you aware of the statistic that
9 when we closed the alleged gun show loophole in 2000 that
10 we actually saw a spike in the murder rate in Colorado
11 between 2000 and 2004? And are you also aware of
12 statistics from the U.K., where some of the most
13 restrictive gun laws have been passed, far beyond simply
14 background checks, in 1997, and the subsequent rise in the
15 murder rate there from 13,874 annually in 1997 to 21,521
16 gun-related murders in 2006?

17 Are you aware of those statistics, ma'am?

18 THE CHAIRMAN: Mayor Sloan, go ahead.

19 MS. SLOAN: Excuse me.

20 THE CHAIRMAN: Yeah.

21 MS. SLOAN: Yes. Representative, I have been
22 reading everything I can on this issue, and I understand
23 that there are conflicting interpretations by
24 statisticians.

25 I also understand that the London -- or the

1 England statistics include the subway bombings they had,
2 which will throw the statics off in a lot of ways.

3 I heard today Mr. Sloan, who I am not related to
4 but I respect, you know, explain that background checks do
5 work and that in St. Louis, when they actually -- Missouri
6 -- took away the background check provision, the area was
7 flooded with guns.

8 So I don't think we're going to come to a
9 resolution about this, unless you and I sit down and we can
10 go through all the studies, and maybe we can do it.

11 UNIDENTIFIED SPEAKER: Something to drink.

12 THE CHAIRMAN: Mayor Sloan -- Representative
13 Wright for a follow up.

14 REPRESENTATIVE WRIGHT: Thank you for that.

15 And I actually would -- I would enjoy getting
16 together. This -- this is from the British Journal of
17 Criminology, peer-reviewed journal, and it shows only
18 firearms-related crimes. And the rise in crime from 1997,
19 again, from 13,874 to 21,521 firearms-related. And this is
20 far, far beyond a simple background check.

21 My concern here is, again, that we're putting
22 our best foot forward allegedly with this legislation, but
23 we are not going to solve the problem.

24 Thank you for your testimony.

25 THE CHAIRMAN: Mayor Sloan, thank you so much

1 for your time and giving us your views.

2 MS. SLOAN: Thank you.

3 THE CHAIRMAN: Don Macalady. I hope I haven't
4 mispronounced that.

5 REPRESENTATIVE McCANN: Mr. Chair.

6 THE CHAIRMAN: Sorry, yes. Representative
7 McCann.

8 REPRESENTATIVE McCANN: Thank you.

9 Both Representative Fields and I are needed
10 downstairs to vote on a bill. So could we have a very
11 brief recess to allow us to head down, and we'll come right
12 back?

13 THE CHAIRMAN: Absolutely, Representative
14 McCann and Representative Fields. Please do your civil
15 duty.

16 REPRESENTATIVE McCANN: Thank you.

17 THE CHAIRMAN: And we will stand in brief
18 recess until you've had the opportunity to vote.

19 (A recess was taken at this time.)

20 THE CHAIRMAN: The House Judiciary Committee
21 will come to order.

22 On next witness will be Karina Varga (sic), and
23 she will be followed by Don Macalady, Amy Miller, and then
24 Ted Pascoe.

25 Karina Varga, please -- tell us your name for

1 the record and who you represent, if anyone other than
2 yourself, and proceed to give us your testimony.

3 Welcome to the House Judiciary Committee.

4 Thank you for being here.

5 MS. VARGAS: Thank you for having me.

6 My name is Karina Vargas, and I am a youth
7 leader with Together Colorado.

8 About two years ago, on December 6 of 2010, what
9 seemed to be a regular day ended up being the worst day of
10 my life.

11 No one ever thinks it will happen to them, and
12 then it happened to me. That year my life changed.
13 Someone so carelessly took my will to walk. If it wouldn't
14 have been for my friends that took my life in their hands
15 and rushed me to the hospital, I wouldn't be speaking to
16 you guys today. My 16th year of life nearly ended.

17 Nothing would ever be the same. Even sleeping
18 isn't the same. Everyone loves that good morning stretch
19 when all their bones pop. I don't even get that anymore.
20 Even when I'm exhausted from pushing myself in my
21 wheelchair all day, I still have to lift my body and lay
22 myself in bed.

23 After the shooting I had a fear of going back to
24 school because I felt like somebody was after me. That day
25 not only changed my life -- my physical life, it literally

1 changed everything. I was left with nothing. My friends
2 abandoned me. I was left alone. Never would I wish this
3 on anybody because it's no fun.

4 Until this day there's not one second that
5 passes by that I don't wish that I could walk. It's a
6 journey I'm willing to take, and I won't give up until I
7 do.

8 If this -- if this law had not been -- if this
9 law had been in place, I wouldn't be in the situation I am
10 in now. My goals will be completely different, but I
11 believe that God could move mountains, and he'll help me
12 through this. I'm here today to share my story and bring
13 awareness to what gun violence causes to innocent people in
14 our communities.

15 For those who oppose this bill and don't think
16 it's a problem because they haven't experience gun
17 violence, you take your kids to school thinking they will
18 be safe and the unthinkable happens.

19 Thank you.

20 THE CHAIRMAN: Thank you, Ms. Vargas. Thank
21 you for sharing your experience with us here today.

22 Are there any questions for this witness?

23 Thank you so much.

24 MS. VARGAS: Thank you.

25 THE CHAIRMAN: Thank you.

1 Mr. Don Macalady, please. Come forward, sir.

2 Please state your name for the record. Tell us
3 who you represent, if anybody other than yourself, and
4 proceed to give us your testimony.

5 MR. MACALADY: Chairman Kagan, members of the
6 Judiciary Committee, thank you so much for this opportunity
7 to speak to you today.

8 My name is Donald Macalady, and I represent an
9 organization called Hunters Against Gun Violence.

10 Our group was established several weeks ago to
11 put to rest the notion all gun owners, specifically
12 hunters, are opposed to reasonable legislation concerning
13 firearms. We are a growing group of hunters and include
14 hunters varying in age from 20 to 75, and we strongly
15 support House Bill 13-1229.

16 As a young man, I joined the NRA to learn gun
17 safety and to participate in their educational programs. I
18 left the NRA many years ago as it moved primarily from a
19 gun-safety organization to a gun organization.

20 I have lived in Colorado for the past 30 years.
21 I've lived and hunted in Colorado. All my children are
22 hunters. My family and the members of our organization are
23 testimony to the fact that many, if not most, gun owners do
24 not oppose sensible gun legislation.

25 As hunters we understand that gun ownership

1 means responsibility. We all believe in and support the
2 Second Amendment. This is, in fact, one reason that we
3 urge the passage of HB13-1229. It actually protects our
4 Second Amendment right by making sure that guns do not fall
5 into the wrong hands, the hands of those who are not able
6 or willing to handle the serious responsibility of gun
7 ownership.

8 Despite the makeup of the people in this
9 chamber, polls in Colorado and other similar states, in
10 fact, show that over 85 percent of voters support universal
11 background checks. Even among NRA members a recent
12 national survey showed that 75 percent of NRA members
13 support universal background checks.

14 So take comfort in the fact that the voters in
15 Colorado know what is in their best interest, something the
16 NRA does not know, and about which it shows little or no
17 concern.

18 Thank you for your attention.

19 THE CHAIRMAN: Thank you very much,
20 Mr. Macalady.

21 Are there any questions for this witness?

22 Sir, has your organization had a chance to
23 consider the exceptions that are made for hunters and the
24 temporary transfers that take place in this bill, and are
25 they satisfactory to your organization?

1 MR. MACALADY: Yes, we have. As a matter of
2 fact, part of my testimony that I scratched off because of
3 the time limit had to do with that very -- that very
4 stipulation. I'm very happy that this bill takes that into
5 account in a very constructive and I think in a very
6 complete way.

7 THE CHAIRMAN: Thank you very much.
8 Are there any other questions for Mr. Macalady?
9 Thank you, sir.

10 MR. MACALADY: Thank you very much.

11 THE CHAIRMAN: Our next witness is Amy Miller.
12 Please come forward.

13 Ms. Miller, please tell us your name for the
14 record. Welcome to the House Judiciary Committee. We are
15 glad to have you.

16 Tell us who you represent, if anyone other than
17 yourself, and proceed with your testimony. And if you
18 could keep it to two minutes, plus questions, we would be
19 grateful.

20 MS. MILLER: Thank you, Mr. Chair and members
21 of the committee.

22 My name is Amy Miller. I represent the Colorado
23 Coalition Against Domestic Violence. We're a statewide
24 nonpartisan, nonprofit organization representing the
25 domestic violence organizations around the state of

1 Colorado who serve thousands of women and children and men
2 who are victims of domestic violence each year.

3 On December 8 of last year, just a few days
4 after the tragedy in Newtown, there was another mass
5 shooting in Longmont, Colorado. It was a domestic violence
6 shooting in which three victims were murdered followed by
7 the perpetrator's suicide.

8 The domestic violence offender, Daniel Sanchez,
9 had just been released six hours prior from an overnight
10 stay in jail for holding his ex-girlfriend hostage for
11 several hours, assaulting her, stealing her cell phone, and
12 sending threatening text messages to her new boyfriend.

13 Sanchez was released at 10:00 p.m. Monday night,
14 and at 4:00 a.m. he shot and killed his ex-girlfriend,
15 Beatrice Sentora-Silva, age 25; her sister, age 22; and her
16 brother-in-law, age 29, with a .45-caliber Glock handgun.

17 Under federal law, individuals who have been
18 convicted of a qualifying misdemeanor conviction for
19 domestic violence or who are subject to a qualifying
20 protection order for domestic violence, like Sanchez was,
21 can't legally buy or possess firearms, but an estimated 30
22 to 40 percent of guns are purchased without background
23 checks making thorough enforcement of the law all but
24 impossible and creating a loophole through which domestic
25 abusers obtain guns.

1 Here in Colorado in 2011, the most recent year
2 for which data is available, at least 13 of the 34 domestic
3 violence deaths in our state occurred in cases where the
4 domestic violence offender used a firearm despite being
5 prohibited under the law from purchasing or possessing
6 firearms.

7 Studies reveal that the presence of firearms
8 significantly increase the lethality of domestic violence
9 incidents. According to one of these studies, domestic
10 violence assaults involving a firearm are 23 times more
11 likely to result in death than those involving other
12 weapons or bodily force. Another such study found that
13 abused women are five times more likely to be killed by
14 their abuser if their abuser is in possession of a firearm.

15 According to Department of Justice statistics in
16 states that require background checks for every handgun
17 sale, 38 percent fewer women are shot to death by intimate
18 partners. 38 percent fewer woman.

19 We know existing background checks keep guns
20 out of the hands of domestic abusers and that lives will be
21 saved in this state by keeping guns out the hands of even
22 more of those abusers.

23 Please take this opportunity to keep Colorado's
24 women and children safe. I urge your vote in favor of
25 House Bill 1229. The coalition is strongly in support of

1 this legislation.

2 Thank you.

3 MR. CHAIRMAN: Ms. Miller, thank you for taking
4 the time to come and help us make this decision today.

5 Representative Lee.

6 REPRESENTATIVE LEE: Thank you, Mr. Chairman.

7 Ms. Miller, was it your testimony that the 34
8 cases of domestic violence murders in Colorado were by
9 individuals who would have been prohibited from getting a
10 firearm had this law been in effect? Is that a fair
11 interpretation?

12 THE CHAIRMAN: Ms. Miller.

13 MS. MILLER: Thank you, Mr. Chair.

14 Representative Lee, there were 34 deaths due to
15 domestic violence in 2011, and 13 of those, I believe,
16 according to news accounts, could have been prohibited had
17 this law been in effect.

18 REPRESENTATIVE LEE: Thank you for the
19 clarification.

20 THE CHAIRMAN: Thank you so much, Ms. Miller,
21 for coming forward today. We appreciate it. Thank you.

22 MS. MILLER: Thank you for your time.

23 THE CHAIRMAN: We're glad to have you here and
24 glad to have your perspective, Ms. Miller.

25 Mr. Ted Pascoe. And Mr. Pascoe will be

1 followed by Reverend Anastos (phonetic) and then Sheriff
2 Grayson Robinson.

3 So, Mr. Pascoe, please tell us your name for the
4 record and who you represent, and proceed to give us your
5 testimony. If you could keep it to two minutes, that would
6 be much appreciated, sir.

7 MR. PASCOE: Thank you very much.

8 My name is Ted Pascoe, and I'm testifying on
9 behalf of Colorado Cease Fire, which is an organization
10 that has been fighting for stronger gun laws in Colorado
11 for 14 years. We are here to voice our enthusiastic
12 support for HB-1229.

13 I'll skip the parts that have been covered by
14 other witnesses and just mention a few things that I don't
15 think have really been touched on yet.

16 Backgrounds checks prior to all gun sales would
17 preserve public safety and provide peace of mind to the
18 seller, assuring him he's not selling to a criminal.
19 Private gun sellers have a competitive advantage over
20 licensed dealers because dealers must subject all buyers to
21 background checks. This legislation will level the playing
22 field for responsible licensed gun dealers.

23 To those opponents of this legislation who
24 would invoke the Second Amendment, let's turn to the
25 landmark 2008 Heller decision in which the U.S. Supreme

1 Court found background checks to be reasonable and
2 constitutional.

3 The majority -- the majority opinion written by
4 Justice Scalia reads, quote, "Like most rights, the Second
5 Amendment is not unlimited. The Court's opinion should not
6 cast doubt on longstanding prohibitions on the possession
7 of firearms by felons and the mentally ill or laws imposing
8 conditions and qualifications on the sale of firearms," end
9 quote.

10 In a recent poll by Keating Research, 80 percent
11 of Coloradans favor background checks prior to all gun
12 sales. In another recent poll by the Denver Post, the
13 response in favor to the same question was 83 percent.

14 There is overwhelming public support for
15 background checks prior to all gun sales. On behalf of
16 Colorado Cease Fire, I ask for a yes vote on HB-1229.

17 Thank you.

18 THE CHAIRMAN: Mr. Pascoe, thank you very much
19 for your testimony.

20 Representative Wright.

21 REPRESENTATIVE WRIGHT: Thank you, Mr. Pascoe.
22 I appreciate you testimony.

23 What I'm hearing from you and other members that
24 are testifying today is that there is overwhelming support
25 for this from the people of the state of Colorado.

1 I would ask you this: If there is indeed
2 overwhelming support, why has your organization, who has
3 been operating in this state for the past 14 years, not
4 promulgated a referendum and sent this to a vote of the
5 people?

6 THE CHAIRMAN: Mr. Pascoe.

7 MR. PASCOE: Well, a coalition of organizations
8 concerned about passing stronger gun laws and preventing
9 gun violence did, in fact, pass a referendum requiring
10 background checks at gun shows in 2000.

11 THE CHAIRMAN: Thank you, Mr. -- Representative
12 Wright.

13 REPRESENTATIVE WRIGHT: And I thank you, and I
14 would both note that in that referendum, person-to-person
15 transfers were not included, correct?

16 THE CHAIRMAN: Mr. Pascoe.

17 MR. PASCOE: That's correct.

18 THE CHAIRMAN: Representative Court.

19 REPRESENTATIVE COURT: Thank you, Mr. Chair.

20 Please say hello to your mother for me,
21 Mr. Pascoe.

22 MR. PASCOE: Thank you.

23 REPRESENTATIVE COURT: To the comment about
24 whether or not you have gone to the ballot, it is my
25 recollection that the reason that the gun show loophole was

1 closed after Columbine was that this body -- I wasn't a
2 member yet -- refused to act as representatives of the
3 people and therefore the group that felt strongly about
4 closing the gun show loophole felt forced to go to the
5 ballot.

6 I am correct?

7 THE CHAIRMAN: Mr. Pascoe.

8 MR. PASCOE: That's correct. There was a bill
9 sponsored by Senator Ken Gordon that failed in committee
10 which would have required background checks for all sales
11 at gun shows, and also the guns acquired at Columbine were
12 acquired at a gun show. So I think those were the two
13 motivating factors for those of us who worked very hard to
14 get that on the ballot.

15 THE CHAIRMAN: Representative Court.

16 REPRESENTATIVE COURT: Thank you, Mr. Chair.

17 So now we have another opportunity for this body
18 to act as representatives of the people, which we are
19 elected to do, and pass this law, which would then prevent
20 the need for you to go to the ballot.

21 Am I correct?

22 THE CHAIRMAN: Mr. Pascoe.

23 MR. PASCOE: That's correct. 40 percent -- as
24 we've heard today, 40 percent of all gun sales are not
25 subject to background checks. So that's the reason why

1 we're here today and trying to ask the state legislature to
2 address that issue.

3 THE CHAIRMAN: Mr. Pascoe, thank you for coming
4 today. We appreciate your testimony and you having taken
5 the time.

6 MR. PASCOE: Thank you.

7 THE CHAIRMAN: The next witness is Reverend
8 George Anastos. And as Mr. Anastos comes forward, I
9 understand that the sheriff of Arapahoe County, Sheriff
10 Robinson, who wants to be next, after that -- that first
11 witness, would like to be accompanied by some other members
12 of the -- other sheriffs.

13 So Representative Fields.

14 REPRESENTATIVE FIELDS: Thank you, Mr. Chair.

15 And our sheriff of Arapahoe County had to leave
16 early, so he will not be testifying today.

17 THE CHAIRMAN: Thank you, Representative
18 Fields. That frees up one testimony slot, unless the other
19 sheriffs that he was going to testify with as a group would
20 like to be after Reverend Anastos.

21 Reverend Anastos, would you please come forward.

22 Reverend Anastos is absent.

23 Are the sheriffs that were going to testify as a
24 group available to testify?

25 Well, if they are not, we will carry on to Deb

1 McGuire and Mike McGuire, who I understand want to testify
2 together. Please come forward.

3 Ms. McGuire, Mr. McGuire, please state your --

4 MS. McGUIRE: Thank you. Actually --

5 THE CHAIRMAN: Tell us who you represent, if
6 anybody other than yourselves --

7 MS. McGUIRE: Okay.

8 THE CHAIRMAN: -- and proceed with your
9 testimony.

10 MS. McGUIRE: Actually, Michael McGuire is my
11 husband, and I usually go by my own name, which is Debbie
12 Kaller, but I also go by McGuire.

13 Chairman Kagan and other House Judiciary
14 Members, we are here to represent our own point of view, by
15 the way. I think everyone here shares a belief in our
16 First Amendment right. We thank you for this opportunity
17 to share our values. We also wish to thank the sponsors
18 for bringing this bill.

19 As passionate gun violence control advocates, we
20 both strongly support HB-1229, background checks for
21 private transfers. We are very concerned for our safety,
22 as well as the safety of our loved ones, and of all
23 Colorado citizens.

24 We see no legitimate reason why anyone should be
25 able to purchase or transfer firearms without first being

1 subject to a thorough background check.

2 MR. MCGUIRE: As indicated earlier, random
3 polls show that even among gun owners there is overwhelming
4 support for gun -- the gun control measures that are
5 included in this bill, and there is also even more
6 overwhelming support among nongun owners.

7 We do not believe that House Bill 1229 violates
8 Second Amendment rights, as interpreted by the U.S. Supreme
9 Court. In fact, we believe that this bill certainly shows
10 respect for Second Amendment rights.

11 We believe that the legacy of this legislature
12 can be safer communities for all our citizens in Colorado.
13 We believe that this bill is part of that legacy and
14 encourage you to vote yes for that future.

15 Thank you.

16 THE CHAIRMAN: Thank you both.

17 Are there any questions for these witnesses?

18 We very much appreciate you taking the time.

19 Thank you for being here.

20 Our next witness is going to be Chuck Saxton
21 (phonetic).

22 Is Mr. Chuck Saxton here?

23 UNIDENTIFIED SPEAKER: He left.

24 THE CHAIRMAN: In that case -- oh, Mr. Saxton.

25 Welcome, sir.

1 Welcome to the Judiciary Committee. Thank you
2 for being here. Please give us your name for the record.
3 Tell us who you represent, if anyone other than yourself,
4 and proceed with your testimony.

5 MR. SAXTON: Thank you.

6 My name is Chuck Saxton. I do represent myself.
7 I'm a Colorado resident and a Colorado voter, a member of
8 Pheasants Forever, of Ducks Unlimited, a gun owner, a
9 hunter, a father, and a grandfather.

10 I began carrying a single-shot 28-gage shotgun
11 when I was five years old. It was empty. When I was eight
12 years old, I started hunting pheasants. Since then I've
13 hunted big game and numerous small game.

14 Some of my deepest and most treasured memories
15 are of hunting with my father and with my -- and with my
16 brothers. I would give all that up right now if that would
17 bring back the children from Newtown, Connecticut. It
18 can't, of course.

19 I would also give all that up right now if that
20 were necessary to save my children's lives or any of the
21 children of any of the parents in this room. I have a hard
22 time imagining anyone in this room feels differently.

23 But I don't think we need to treat this gun
24 control debate as an either/or situation, as an
25 all-or-nothing conversation. I think it is entirely

1 reasonable for us to give up some gun rights because I
2 believe there is a much more profound right of our children
3 and our grandchildren to have a life.

4 I understand that no amount of guns or gun
5 restrictions can save all lives, but I refuse to accept the
6 notion that there is nothing we can do about gun control to
7 save many lives.

8 I believe giving up rapid-fire shooting is part
9 of an increasingly -- is part of an appropriate response to
10 the carnage we are seeing inflicted upon our children.
11 High-capacity magazines, as some fantasize, certainly are
12 not going to help my neighbors and me either assist or
13 resist the U.S. military, and such magazines most certainly
14 are not necessary for shooting targets for hunting.

15 I was taught to aim carefully and make my shot
16 count. I recall my father only once ever used more than
17 one rifle shot. Limiting our shots will make us better
18 hunters and a safer society.

19 I support background checks on all family -- on
20 all but family gun transfers. I encourage fees to support
21 those backgrounds checks, and I support restricting all
22 firearm capacities to two or three bullets.

23 Thank you.

24 THE CHAIRMAN: Now, please. I've -- I've
25 really asked if you agree with something the witness says

1 or if you disagree with something the witnesses says,
2 please tell the press, tell your friends, or tell us here
3 when you testify, but don't applaud. Don't boo. This is
4 not theater. This is not a political rally. This is a
5 hearing to determine public policy. So I would ask people
6 to treat it with appropriate respect. And if -- those who
7 can't, I will ask to leave.

8 Thank you, Mr. Saxton.

9 Are there any questions for this witness?

10 THE CHAIRMAN: Thank you very much, sir, for
11 coming and giving us your views.

12 MR. SAXTON: Thank you.

13 THE CHAIRMAN: The next -- we have only a few
14 more witnesses that we have time for, so I will keep going
15 through the list.

16 We have Jessica Watts, if she is here.

17 Jessica Watts, welcome.

18 Please tell us your name, Ms. Watts. We
19 appreciate your being here, and tell you us who you
20 represent and present -- give us your testimony.

21 MS. WATTS: My name is Jessica Watts, and I'm
22 here today in support of proposals to curb gun violence. I
23 am personally affected four times since 1999 with gun
24 violence, each being in the state of Colorado. Most
25 recently was my cousin Jonathan Blunk, and he was murdered

1 in Aurora, Colorado.

2 Um, I believe that we need common sense
3 solutions to stop families like mine from being forced to
4 live with pain and suffering. Background checks will help
5 prevent guns from getting into the hands of the wrong
6 people.

7 Having to start somewhere, I think it is the
8 least that we can do is asking you guys to start by making
9 changes to prevent this from happening because no one is
10 immune. And, you know, I'm here directly for my cousin
11 Jonathan, because not only was he in the Navy, but his
12 dream was to be a Navy Seal, and he never got that chance
13 because he was affected by gun violence.

14 THE CHAIRMAN: Ms. Watts, thank you so much for
15 coming here today.

16 Are there any questions for Ms. Watts from
17 members of the committee?

18 We appreciate you sharing your experience. We
19 know it's not easy, and thank you.

20 The next witness that I'm going to call forward
21 is Stu Fraser. And after Mr. Fraser, if the following
22 witnesses could -- if you're in the overflow room, come
23 here because we are going to be calling you. It's going to
24 be Dave McCally, Vince Markovchick, and Jennifer Hope, and
25 -- and Steven Wewier (phonetic).

1 Mr. -- yes, Representative Fields.

2 REPRESENTATIVE FIELDS: Thank you.

3 And we also have a representative here for --
4 from 1 Million Moms Against Gun Violence. I would like to
5 make sure she gets an opportunity to speak.

6 THE CHAIRMAN: We would be glad to make her the
7 witness directly following Mr. Fraser.

8 Mr. Fraser, welcome. Please give us your name
9 and who you represent and present your testimony. Thank
10 you for being here.

11 MR. FRASER: Mr. Chairman and members of the
12 committee, my name is Stuart Fraser. I'm the mayor of
13 Telluride. I'm here representing the National Coalition
14 of Mayors Against Illegal Guns and the town council of
15 Telluride.

16 Gun violence impacts all of us. Every day
17 across the United States, 33 or 34 -- I've heard both
18 numbers today -- people are murdered with guns. That one
19 extra person matters.

20 Gun violence isn't just a tragic drama that
21 unfolds on television when individuals decide to commit
22 mass murder. Gun violence is common, and it is easy to let
23 it fade into the background when it happens so often. One
24 thing is certain: For those it does impact, it will never
25 be forgotten. If they live, they will live with trauma for

1 the rest of their lives. If they don't live, then their
2 loved ones will carry that heartbreak to their graves.

3 There are more than 300 million guns in the
4 private marketplace in the United States. My focus is to
5 underscore the need for law enforcement tools that can be
6 used to keep guns out of the hands of criminals and
7 individuals with mental health issues in an environment
8 where weapons proliferation is a serious concern.

9 Background checks are the most effective method
10 for reducing and preventing gun crime. Criminals actually
11 do submit to background checks. In 2010 the FBI denied
12 76,000 prohibited purchasers, the majority of whom were
13 felons, a firearm.

14 But even if dangerous people don't submit to
15 background checks, the law would still be effective. Some
16 laws act as deterrents, others are punitive, and some are
17 both. Rape laws don't stop all rapes, but we still have
18 them and punish them, those who violate that law.

19 In concluding, Mayors Against Illegal Guns is
20 not a gun-control organization. We are a crime-control
21 organization. Our purpose is not to deprive people of
22 their rights. It is to ensure that everyone's rights are
23 protected, whether we choose to carry a gun or not.

24 Rights as defined in the Declaration of
25 Independence. This document enshrines three basic rights:

1 the rights to life, liberty, and the pursuit of happiness.
2 The right to life is the only fundamental right from which
3 all other rights are derived.

4 Background checks are a major step in the
5 direction of allowing all of us to have our rights
6 protected. We believe this bill will have an enormous
7 impact on public safety, and I ask you to please vote yes
8 on HB-1229.

9 Thank you.

10 THE CHAIRMAN: Thank you very much, Mayor
11 Fraser.

12 Are there any questions for the mayor?

13 Thank you, Mr. Mayor. We really appreciate you
14 being here.

15 Oh, Representative Court.

16 REPRESENTATIVE COURT: Thank you, Mr. Chair.

17 Thanks for being here, Mayor.

18 Can you tell me how many mayors, how many
19 cities, are involved in the organization you represent?

20 THE CHAIRMAN: Mr. Fraser.

21 MR. FRASER: I didn't bring that sheet up, but
22 there are over 850 mayors across the nation. There are a
23 variety of towns. There are 65 million people that are
24 represented by those 850 mayors.

25 REPRESENTATIVE COURT: Thank you.

1 THE CHAIRMAN: Thank you, Mayor Fraser. And
2 thank you for testifying here today.

3 MR. FRASER: Thank you for having this hearing.

4 THE CHAIRMAN: Thank you, Mr. Mayor.

5 Representative Fields, the next witness that
6 you wanted to bring forward was?

7 REPRESENTATIVE FIELDS: Mr. Chair, Jennifer
8 Hope.

9 THE CHAIRMAN: Jennifer Hope. Thank you.

10 Jennifer Hope, please come forward. State your
11 name, tell us who you represent, if anyone other than
12 yourself, and give us your testimony.

13 MS. HOPE: Thank you for having me here today.
14 My name is Jennifer Hope, and I'm with the 1 Million Moms
15 for Gun Control, the Denver chapter, but I'm here today
16 mostly just as a mom -- and as a native of Colorado. As of
17 this year, I will have lived here for 50 years, and what we
18 do here matters to me.

19 With my oldest four children, I lived through
20 the horrors of Columbine and waiting and worrying all those
21 long hours while we waited to see if their friends and
22 neighbors had survived that.

23 Now, with my younger four children, that I've
24 adopted in the last few years, my job is not only to love
25 and take care of them, but to protect them. And I feel

1 that this bill can help me do that job. I can't protect
2 them if -- if people who are not supposed to have guns are
3 allowed to have them or if they are able to get them. I'm
4 powerless against that. I can't do anything. This bill
5 would help me to do that job better, my job better.

6 THE CHAIRMAN: Thank you, Ms. Hope.

7 Are there any questions for this witness?

8 Ms. Hope, thank you for taking the time to come
9 and testify here today. We appreciate it.

10 Our next witness -- we are getting close to
11 running out of time because we are allotting the same two
12 hours of actual witness testimony time and question and
13 answer to both sides, and we are actually running out on
14 the side of the proponents. But we do have time for Vince
15 Markovchick, if he is here.

16 Dr. Markovchick, welcome.

17 DR. MARKOVCHICK: Thank you.

18 THE CHAIRMAN: Please state your name and tell
19 us your -- what you have to say.

20 DR. MARKOVCHICK: My name is Vince Markovchick.
21 I'm an emergency medicine physician for the past 39 years,
22 and I'm here on behalf of myself.

23 I've worked at Denver Health in the emergency
24 department for 32 years and was director of emergency
25 medical services there for 20 years, completing that time

1 in 2009. I have personally seen up close and personal
2 hundreds of gunshot wound victims, since we are the Level 1
3 trauma center for Denver.

4 I have seen the personal tragedy and heartache
5 from the victims, as well as their families. I am here to
6 support common sense gun legislation, that if it keeps just
7 a few people who should not have access to weapons, and far
8 too many people have easy access to weapons, and -- and
9 decreases at all the gun violence, I think that's a very
10 positive step.

11 I also need to remind everybody here that the
12 statistics that were all cited so far have been fatalities
13 from gunshot wounds. The vast majority of gunshot wounds
14 do not die because of excellent trauma care. They survive,
15 but they live with these wounds for the rest of their life.

16 Thank you.

17 THE CHAIRMAN: Dr. Markovchick, thank you so
18 much for your testimony.

19 Representative Lee.

20 REPRESENTATIVE LEE: Thank you, Mr. Chairman.

21 Doctor, do you have any idea the number of
22 people who are afflicted by gunshot wounds in the course of
23 a year, five years, ten years?

24 THE CHAIRMAN: Dr. Markovchick, go ahead.

25 DR. MARKOVCHICK: Those statistics are very

1 difficult to come by because of research that's been
2 prohibited on the -- at a national level by some former
3 legislation. The numbers I can come by is there is well
4 over 10,000 persons a year who are victims of gunshot wound
5 violence.

6 THE CHAIRMAN: Representative Lee.

7 REPRESENTATIVE LEE: In Colorado, sir?

8 MR. MARKOVCHICK: In Colorado, I do not know
9 that I have those statistics. At Denver Health I believe
10 we would average about 200 victims a year.

11 REPRESENTATIVE LEE: Thank you, sir.

12 THE CHAIRMAN: Dr. Markovchick, thank you so
13 much for coming to testify here today.

14 DR. MARKOVCHICK: Thank you.

15 THE CHAIRMAN: We appreciate it.

16 Is Dave McCally here?

17 Dave McCally, please come forward.

18 Oh, we did? Okay.

19 Steven Wewier, please come forward and give us
20 your testimony.

21 Is Steven Wewier here, who has requested to
22 testify?

23 Amy Moore.

24 Are there any others with us here to testify in
25 support of House Bill 1229 and who have not yet had the

1 opportunity to testify?

2 Please come forward, ma'am.

3 You are welcome. Your testimony is appreciated.

4 Are you signed up to testify?

5 MS. CROOK: Yes, I did sign up. I'm not sure
6 where it is, but I signed up.

7 THE CHAIRMAN: Well, thank you --

8 MS. CROOK: My name is Terry Crook.

9 THE CHAIRMAN: Terry Crook.

10 MS. CROOK: I'm from Boulder, Colorado.

11 THE CHAIRMAN: And who do you represent, if
12 anyone other than yourself?

13 MS. CROOK: I represent my parents and my
14 family. My parents were victims of gun violence.

15 THE CHAIRMAN: Thank you, Ms. Crook. Please
16 proceed.

17 MS. CROOK: Okay. On March 29, 1990, my
18 daughter Katie was born. Ten days later I was flying to
19 Ohio for the funeral of my mom and my dad. They never saw
20 her.
21 They were murdered by my mom's uncle, who said -- who shot
22 them, and also he shot himself.

23 After -- weeks after the murder or right after
24 the murders, I saw an article in the newspaper, and the
25 police were quoted as saying, Well, we had many encounters

1 with him. We could see he was getting crazier and crazier.
2 We thought he might shoot himself, but we never thought
3 he'd shoot someone else.

4 My mom's uncle was mentally ill and -- but had
5 been a gun owner all of his life, and so he had a lot of
6 guns. But then, when he became older -- he was almost 70
7 and mentally ill -- then, of course, he had these guns.

8 So -- but if for some reason -- if there were
9 background checks in that case, my parents would have been
10 alive because my -- might have still been alive if the
11 police would have checked and made sure that this person
12 did not have guns through some sort of system that they
13 might have, if there were records. And anyway -- or if the
14 police had more power to report the mentally ill. But at
15 the very least, background checks for everyone.

16 So no one did anything to take away the guns of
17 a mentally ill person, and my parents were dead because of
18 it. And they lost their right to life. And I hear a lot
19 of people who want their rights to own a gun, but what
20 about the people who lose their right to life? I mean,
21 that's your first life.

22 You can't help but thinking after something like
23 this happens: What is the cost of a bullet? Is it a
24 dollar? Is that the price of a life, a dollar? You know,
25 it makes no sense. And my daughter never saw her

1 grandparents. It's senseless, and anything you can do to
2 stop it, please do.

3 And 10-round magazines, that's a no-brainer. We
4 don't need those. They kill way too many people.

5 THE CHAIRMAN: Thank you, ma'am. We really
6 appreciate -- if you'll just stay -- stay with us in case
7 there are any questions for this witness.

8 No. Thank you so much. Thank you for giving
9 us the benefit of your experience and insight.

10 Representative Fields.

11 REPRESENTATIVE FIELDS: Thank you, Mr. Chair.

12 I invited my pastor to come forward. This is
13 Reverend Timothy Tyler.

14 THE CHAIRMAN: Thank you, Representative
15 Fields.

16 Representative (sic) Tyler, welcome.

17 DR. TYLER: Thank you.

18 THE CHAIRMAN: Please state your name for the
19 record, and let us know what you have to say, and who you
20 represent as well.

21 DR. TYLER: I'm Dr. Timothy Tyler, and I am the
22 pastor of Shorter Community African Methodist Episcopal
23 Church here in Denver, Colorado, the oldest African
24 American church in the state of Colorado. And I represent
25 my church, and I represent my community.

1 THE CHAIRMAN: Thank you, Reverend.

2 MR. TYLER: I want to thank you for the
3 opportunity to speak to this issue, the issue of gun
4 violence and the need for sensible laws to protect the
5 welfare of all of our citizens.

6 When I was asked to appear today, I called my
7 17-year-old son, and I asked him what I should say. First
8 he said, Dad, tell them about girl, and when he said, Tell
9 them about the girl, I understood what he was talking
10 about.

11 He was talking about events that happened after
12 July 20, 2012, when the theater was shot up. We -- my son
13 and I went down to the high school where the families were
14 waiting for word on who had lived and who had died in the
15 theater.

16 While there, we met a girl. She was in tears.
17 She was in distress. She had said to us that while in the
18 theater, her boyfriend shielded her from the bullets and
19 pushed her under the seat and she had not seen him since.
20 So she did not know whether he was dead or alive, and she
21 was in great distress.

22 So I asked her if she wanted us to pray with
23 her, and she hesitated and really didn't want prayer.
24 Then I said, Well, can we hug you? And she allowed me to
25 hug her. We had a group hug. My son was there, and I

1 could tell just by looking at him that it had affected him
2 -- it had affected him greatly. As I watched my son
3 participate in this group hug, I could tell that he was
4 visibly shaken by the scene of people in pain and helpless.

5 On the Saturday after the shooting, the young
6 people who are members of my church met to talk about the
7 shootings. My son was a part of that gathering. The young
8 people wept about their friends and relatives who were in
9 the theater, and they struggled to make sense out of a
10 culture and community that fails to protect innocent
11 people.

12 The next week I was asked to officiate at one of
13 the funerals of the persons who died in that Aurora
14 shooting. My son was not at the funeral, but there were
15 hundreds of teenagers and young people there. I saw their
16 faces, and when I saw their faces, I saw my son's face.

17 I'm here today because my 17 -- I'm here today
18 because of my 17-year-old son. Our street have become
19 increasingly violent, and they have been violent long
20 before Aurora or Connecticut, but this is the time and the
21 place to take action so that our children can have a
22 future.

23 Urban gun violence in Chicago, New York, and Los
24 Angeles, and even in Park Hill and northeast Denver, has
25 become a day-to-day reality, and I believe that this is

1 your opportunity to help us to begin the process of
2 stopping the violence.

3 THE CHAIRMAN: Thank you, Reverend. We
4 appreciate that. I'm going -- I'm going to have to ask you
5 to --

6 DR. TYLER: Sure.

7 THE CHAIRMAN: -- hold it there, and ask if
8 there are any questions for Reverend --

9 Representative Wright.

10 REPRESENTATIVE WRIGHT: Thank you, Mr. Chair.

11 Pastor, I appreciate your conviction, and
12 that's a great story. I -- I want to ask you this, though:
13 Because of the fact that you're extremely well-spoken and
14 moving, and you remind me of one of my heroes, which is
15 Martin Luther King, Jr. --

16 MR. TYLER: That's a great compliment, sir.

17 REPRESENTATIVE WRIGHT: I would just ask you
18 this, though: Looking at Martin Luther King, Jr.'s, life
19 and the fact that he was outspoken about civil rights and
20 fought for what he believed in, he was threatened numerous
21 times.

22 MR. TYLER: Sure.

23 REPRESENTATIVE WRIGHT: He was compelled to the
24 point to protect his family that he himself sought a
25 concealed weapons permit in the 1950s. He had armed

1 individuals around him protecting him. The fact that he
2 had been arrested himself numerous times because of his
3 civil disobedience under this law, it's very likely that
4 his arrest would have prevented him from protecting
5 himself.

6 Would you agree that that is a potential problem
7 for people in the future that will be speaking out for what
8 they believe is right?

9 THE CHAIRMAN: Reverend THAI.

10 MR. TYLER: Though some of what you say may be
11 true, I would -- I could never image Reverend Dr. Martin
12 Luther King saying that people need to protect themselves
13 with high-powered ammunition weapons. I would never -- I
14 could never imagine the Reverend Dr. Martin Luther King
15 advocating that people should not -- that everyone should
16 not have to deal with gun checks.

17 It's like going to the airport and seeing two
18 lines: one is with security, and one is without. Which
19 one do you think the thieves would go to or the crooks
20 would go to or the criminals would go to?

21 So I think that Dr. Martin Luther King would
22 have been at that funeral that I attended. I think that
23 Martin Luther King would have wept at what happened in
24 Aurora. I think he would weep at what's happening in
25 Chicago, Los Angeles, and I think he would have fought for

1 the rights of people, but I also believe that he would
2 speak up to the urban communities that are dying because
3 we, as legislators and leaders, have not done what we
4 should do to secure and make people safe in our
5 communities.

6 THE CHAIRMAN: Reverend THAI, thank you.

7 Reverend (sic) Lawrence -- Representative
8 Lawrence.

9 MR. TYLER: I can be the representative, and
10 they can be the reverend today.

11 THE CHAIRMAN: Representative Lawrence.

12 REPRESENTATIVE LAWRENCE: Thank you,
13 Mr. Chairman.

14 Reverend, thank you so much for coming down.

15 MR. TYLER: My pleasure.

16 REPRESENTATIVE LAWRENCE: And you do have a
17 compelling story, and I'm sure that was an extremely
18 emotional day.

19 MR. TYLER: It was.

20 REPRESENTATIVE LAWRENCE: You raise the issue
21 of Chicago and LA, who I believe have some of the most
22 restrictive gun laws in the country and yet they have some
23 of the highest murder rates in the country. I don't think
24 that equates to saying that backgrounds checks and
25 restrictive gun laws are doing anything to prevent the

1 violence.

2 THE CHAIRMAN: Reverend Tyler, would you like
3 to respond?

4 MR. TYLER: I would argue that Chicago -- in
5 fact, I listened to the news conference from Chicago's
6 chief yesterday. And what he said was it is a fallacy to
7 say that Chicago or Illinois has one of the most
8 restrictive set of -- has the most restrictive set of gun
9 laws. He says that's just not true. And I'll have to --
10 I'll have to yield to the police chief on that.

11 But I don't think it's one thing or the other.
12 I think that the places where there are laws and
13 restrictive laws, then I think something needs to happen in
14 the community in terms of going into the urban communities
15 and -- and putting in place the initiatives that would cut
16 out the gun violence.

17 I think in the places like Colorado and Denver
18 where we don't have the laws, then we need to put the laws
19 in place that will partner with the community initiatives.
20 I don't think it's going to be one or the other. I think
21 we've got to -- in all places, whether it's Chicago, LA, or
22 Denver, we've got to work together in the community
23 initiatives, such as jobs and giving people hope and giving
24 people a way out like many times in Chicago and LA and New
25 York they don't feel, but on the other hand, the

1 legislature is going to have to support the notion that the
2 laws are going to have to be in place.

3 And I believe it's not one or the other, it's
4 all of this working together so that we can stop dying and
5 allow our young people and our citizens a chance to live
6 and live without fear.

7 THE CHAIRMAN: Reverend -- thank you very much,
8 Reverend THAI.

9 Are there any more questions for this witness?

10 Seeing none, we thank you for being here today.

11 And that concludes our testimony on behalf of
12 the proponents.

13 Thank you, sir.

14 MR. TYLER: Thank you.

15 THE CHAIRMAN: That concludes the testimony of
16 the proponents for this bill. This committee will stand in
17 recess for literally five minutes.

18 (A recess was taken at this time.)

19 THE CHAIRMAN: The House Judiciary Committee
20 will come to order.

21 We are on House Bill 1229 by Fields and McCann
22 concerning criminal background checks performed pursuant to
23 the transfer of a firearm. We have heard from the
24 proponents of the bill, and we now will hear from the
25 opponents to the measure.

1 As I mentioned at the outset, it is my intention
2 to regretfully limit the time that the witnesses testify to
3 two minutes, except in the case of the first two witnesses,
4 who, by agreement between both sides, have agreed that it
5 would be good to have two witnesses with less restrictions
6 on time if they have particular expertise that needs
7 elaboration, and so we have -- we are going to hear from
8 those two witnesses first.

9 I will not put restrictions on the questions by
10 -- proposed by the members to the witnesses, but I will
11 regretfully have to bring the testimony phase to a close
12 after two hours of witness testimony for the opponents, as
13 I did with the proponents.

14 And with that, I would call the first witness
15 forward, who is Mr. Daniel Carey.

16 Mr. Carey, please come forward.

17 Mr. Carey, please state your name for the
18 record, tell us who you represent, and give us your
19 testimony. And please accept our thanks for coming here to
20 the House Judiciary Committee and giving us your
21 perspective.

22 MR. CAREY: Absolutely. Thank you for having
23 me.

24 My name is Daniel Carey. I am the state
25 lobbyist for the National Rifle Association, and I'm here

1 to testify on behalf of House Bill 1229.

2 I have some documents here that I would like to
3 pass out to the committee, if I could. (Inaudible.)

4 House Bill 1229, as it may seem to some
5 proponents of this bill, is an inoculant enough piece of
6 legislation, but it unnecessarily looks to make criminals
7 out of family members and law-abiding citizens. And
8 specifically to this bill, it would make criminals out of
9 what you-all just passed into the civil unions because it
10 did not make an allowance for those individuals.

11 This bill would place an unjust burden on
12 law-abiding citizens who may live miles, you know, two
13 hours, from the nearest gun dealer, where they would have
14 to go and register with an FFL or go through and do the
15 background check procedure.

16 House Bill 1229 is going to do nothing to curb
17 criminal activities because plainly enough, criminals do
18 not obey the law and will not submit to a background check,
19 and this will not overlap with those individuals.

20 To require a background check for private
21 transfers is not a real solution. And as you'll see from
22 some of the information I've given to you related to
23 California, it is a failed policy that has no qualitative
24 effect for a positive trend when it relates to violent
25 crimes and murder.

1 House Bill 1229 is very similar to the
2 background check laws currently in place in California.
3 This is some of the information I've given to the
4 governors's office and other members in your caucus prior
5 to being here today that outlined the comparison between
6 California, Colorado, and the national average as it
7 relates to crime and murder rates.

8 A comparison of California, Colorado, and the
9 national average as it relates to crime and murder rates
10 from 1960 to 2011 illustrates one main and overriding
11 trend: Crime and murder rates the last two decades have
12 continued to decline at similar rates, in California,
13 Colorado, and nationally, on the average, with California
14 consistently maintaining a higher than average than both
15 Colorado and nationally.

16 I'd also like to point out that we have to the
17 take into consideration that when comparing these violent
18 crime rates that California is only one of two states in
19 the nation who actually implements such a universal
20 background check and that this national average, as it
21 holds lower than California, does not have this between the
22 48 states that they have.

23 As I mentioned earlier, most criminals do not
24 acquire their firearms through legal purchases. In 1991
25 the Bureau of Alcohol, Tobacco, and Firearms reported that

1 37 percent of armed criminals obtain firearms from street
2 sales, 34 percent from criminal acts and associates, 8
3 percent from relatives, and only 7 percent from dealers,
4 and 6 percent from flea markets and gun shows.

5 More recently, in a 2001 Bureau of Justice
6 Statistics survey of state prison inmates convicted of
7 firearms crimes, found that 79 percent acquired their
8 firearms from street or illegal sources or friends and
9 family. This includes theft from firearms, black market
10 purchases of stolen firearms, and straw purchases.

11 The survey also found that 12 percent obtain
12 their firearms from firearms dealers. These are gun stores
13 and pawn shops, while only 1.7 percent obtained their
14 firearms from anyone, dealer or nondealer, at a gun show or
15 flea market.

16 As I reiterated earlier, criminals will not
17 submit to background checks. We are creating a system
18 where we would belabor the ability of law-abiding citizens
19 to sell off potentially their old hunting shotgun, as
20 Representative Salazar had mentioned with his brother, or
21 to their neighbor after they had legally purchased a new
22 gun.

23 Now, I've heard the 40 percent fact that's been
24 mentioned here quite a few times by those who are with
25 Michael Bloomberg's group, Mayors Against Illegal Guns, and

1 I was looking forward to setting the record straight,
2 because I'm looking at the same information that they're
3 pulling from.

4 Mayor Bloomberg and his group, Mayors Against
5 Illegal Guns, along with many other gun control advocates
6 and even the president of the United States, claimed that
7 as many as 40 percent of guns are purchased without a
8 background check. This is not only misleading, it's
9 factually inaccurate and came from the Police Foundation
10 survey taken in 1994.

11 The survey is frequently misquoted by gun
12 control advocates, which was taken actually of 251
13 individuals -- or gun owners I should say -- found that
14 only 4 percent of gun owners acquired their guns from gun
15 shows and flea markets, from dealers and private sellers
16 combined.

17 More than three-quarters of the survey's
18 respondents covered the sales act before the Brady Act took
19 place, which instituted a mandatory federal background
20 check on February 28, 1994.

21 This means that three-quarters of the
22 respondents to this survey could have actually made a
23 purchase from a licensed dealer, someone who held an FFL,
24 as the director of CBI mentioned earlier, and it would have
25 been beyond their knowledge.

1 Let me also state the fact that Obama had
2 stated 1.5 million criminals were stopped by background
3 checks. In 2010, 94 percent of these people who were
4 stopped from background checks were overturned -- were
5 overturned -- I'm sorry.

6 62 people or .1 percent involved in this type of
7 background check who had their purchase stopped were -- had
8 enough evidence to prosecute, and only 13, 13 of these
9 individuals, were convicted or pled guilty to this.

10 Legal transfers for law-abiding citizens will
11 only become more difficult. The Colorado Bureau of
12 Investigation's, CBI, InstaCheck has been so overburdened
13 with background checks since late last year that the recent
14 wait stands at nearly seven days and has gone upwards of
15 ten with almost 10,000 people at times waiting in the queue
16 to have their Second Amendment rights exercised in the
17 purchase of a legal and lawful firearm.

18 CBI also stands as one of the state system's
19 highest rate of denials, as was mentioned earlier. It also
20 stands as one of the highest rate of appeals in those
21 denials. This means that the law-abiding citizens are
22 unnecessarily being denied their right to exercise their
23 Second Amendment rights in the purchase of a firearm.

24 By adding hundreds of thousands of unnecessary
25 checks to be placed in the queue by this struggling system,

1 we are setting up law-abiding Coloradans the opportunity to
2 be unnecessarily victimized by potential criminals because
3 they have not been able to go out and potentially purchase
4 a firearm for self-protection.

5 Private transfer of a firearm is a
6 constitutional right. I know that some of you here have
7 talked about the First Amendment today and how there are
8 restrictions on some constitutional rights and nothing is
9 absolute. Our belief is that this bill here today would be
10 an unjust burden on Colorado citizens and is
11 unconstitutional for that reason.

12 Thank you very much.

13 THE CHAIRMAN: Mr. Carey, thank you so much.

14 Are there any questions for Mr. Carey?

15 Representative Lee.

16 REPRESENTATIVE LEE: Thank you, sir.

17 Can you share with us some of your ideas as to
18 how we might address the problem of gun violence?

19 MR. CAREY: Absolutely.

20 THE CHAIRMAN: Mr. Carey.

21 MR. CAREY: Mr. Chairman, thank you.

22 Representative Lee, some of the things that
23 we've been advocating, not only on a national level, but
24 something that we would like to advocate here in Colorado,
25 is making sure that we're prosecuting all of these crimes

1 that are currently taking place related to firearms crimes
2 or deaths as it's related.

3 THE CHAIRMAN: Representative Murray.

4 REPRESENTATIVE MURRAY: Thank you, Mr. Chair.

5 And thank you, sir, for your testimony.

6 Earlier in some testimony we were told about
7 Chicago, the issues related to handguns in Chicago. And I
8 understand that while handguns were banned for a while in
9 Chicago, violent crime with guns went up during that period
10 of time. Since then, that -- that ruling has been struck
11 down and basically Chicago now has laws that make it so
12 difficult to get a permit that it's almost like a ban; and
13 that there were over 500 homicides in Chicago last year
14 despite these strict measures. So they have tried to come
15 up with the strictest measures they possibly can and still
16 have 500 homicides in the city.

17 Do you have anything to add to that?

18 THE CHAIRMAN: Mr. Carey.

19 MR. CAREY: I'm sorry, Mr. Chairman.

20 THE CHAIRMAN: That's all right.

21 MR. CAREY: Representative, I think what I would
22 like to add is it goes back to the point that criminals
23 don't abide by the law. That's what makes them criminals.
24 So by instituting these laws, you're only affecting the
25 law-abiding citizens.

1 THE CHAIRMAN: Mr. Carey, I think what the
2 proponents of this bill are hoping to do is to keep those
3 who are prohibited from possessing firearms because of
4 their past, their criminal history, their mental condition
5 or whatever reason it is that they are by law prohibited
6 from having a firearm, I think proponents are trying to
7 make it more consistent that those folks do not get the
8 firearm. And one of the ways that those folks get the
9 firearm is by buying it in a private sale.

10 It's not the only way they get them, but it's
11 one of the ways they get them. And I think the point that
12 you've made is that it is burdensome to require law-abiding
13 citizens who are qualified to demonstrate that they are
14 qualified through a background check, and that's
15 burdensome.

16 Um, I -- I, as I sit here as legislator
17 legislature, can't help but agree that it is a burden. It
18 is burdensome to demonstrate that one is qualified to
19 exercise that right, just as it is burdensome to stand in
20 line to vote, and I see that.

21 Are there any burdens that you think are
22 justified in trying to keep weapons out of the hands of
23 people who are not legally required to possess them? Is
24 there any burden light enough to be worth undertaking, or
25 is it just wrong to undertake the effort?

1 MR. CAREY: Mr. Chairman, I appreciate the
2 question.

3 I think that I would get back to the point that
4 I just made earlier, which is if we continue to prosecute
5 these criminals, those who continue to use firearms
6 illegally or continue to misuse firearms, because I see
7 behind me there are many individuals here today who are
8 opposed to this, who support what I'm here saying today.
9 And I would say, of the people that we have here today,
10 they would find it not only a burden, but they do not plan
11 on committing these crimes. They will not be those who are
12 going to be considered a criminal. So I think that our
13 difference is that you see this as a just burden, where I
14 see it as an unjust burden.

15 So getting back to prosecuting criminals, my
16 advice or my -- what I would advocate on behalf of is
17 making sure that those individuals who are committing these
18 crimes that are using firearms or misusing firearms should
19 be locked away and shouldn't have the opportunity to get
20 out and use them again.

21 THE CHAIRMAN: Thank you for that, Mr. Carey,
22 and I appreciate it.

23 But are you saying that there is no -- even if
24 this process were almost completely relieved of burden, if
25 it could be done with -- without requiring people to travel

1 to a FFL, if it could be done very, very quickly, if it
2 could be done free of charge, if it could be done in -- in
3 an almost completely burdenless, if that's a word, way,
4 would -- would you support that?

5 MR. CAREY: As it relates to this bill here
6 today, I could not support this bill. I could not support
7 the initiatives or the efforts that it's trying to move
8 forward with. No, sir.

9 I would be more than happy to see any language,
10 but as far as the bill that we are talking about here
11 today, no, sir, I could not support that.

12 THE CHAIRMAN: So it doesn't matter how light
13 that burden is made, you don't think this is worth
14 undertaking?

15 MR. CAREY: If it relates to the burden of
16 criminalizing law-abiding citizens through the use of a
17 private transfer, as it relates to this bill here that we
18 are talking about, no, sir, I would not support that.

19 THE CHAIRMAN: Representative Buckner.

20 REPRESENTATIVE BUCKNER: So your position is
21 that there should be no background checks for gun ownership
22 regardless of how little burden it places on the gun
23 purchaser? Is that what I'm hearing you say?

24 THE CHAIRMAN: Mr. Carey.

25 MR. CAREY: Mr. Chairman, Representative

1 Buckner.

2 I think that, as you'll see from our history, we
3 have supported background checks as far as they were done
4 on the NCIC system. So, no, we think that there are
5 individuals -- as a gun owner, I don't believe that there
6 should be criminals, violent criminals or whatever the
7 prohibitor may be, who should be in possession.

8 So we're not asking to repeal anything. What I
9 am saying here today that as this bill stands in its
10 effort, no, we do not support this bill.

11 THE CHAIRMAN: So, Mr. Carey, you are in favor
12 of backgrounds checks for the 60 percent but not for the
13 remaining 40 percent?

14 MR. CAREY: Well, again I would like to go back
15 to the statistics. And you have there in front of you, and
16 I would happy to provide you a copy of the poll that had
17 come out.

18 It is not 40 percent, but as the background
19 checks exist today through the NCIC system, yes, we do
20 support that, but, no, we do not support that here today,
21 what you are talking about, the private transfer.

22 If you look back at the Gun Control Act of 1968,
23 it was lined out for the specific purchases that these
24 private transfers should be held differently from those
25 that have to go through a licensed dealer, and I still

1 support that here today.

2 THE CHAIRMAN: Thank you, Mr. Carey.

3 Are there any further question for Mr. Carey?

4 Representative Court.

5 REPRESENTATIVE COURT: Thank you, Mr. Chair.

6 Mr. Carey, if I remember correctly, because we
7 talked a little bit ago about closing the gun show loophole
8 through a citizen initiative, if I remember correctly, the
9 NRA hotly contested that citizen initiative.

10 Am I correct in my memory?

11 THE CHAIRMAN: Mr. Carey.

12 MR. CAREY: Mr. Chairman.

13 Representative, I was not here at the time as a
14 representative of the NRA, but I believe from history that
15 we did oppose that initiative. Yes, ma'am.

16 REPRESENTATIVE COURT: Okay.

17 THE CHAIRMAN: Representative Court.

18 REPRESENTATIVE COURT: Thank you, Mr. Chair.

19 And then about 70 percent I think is what
20 Representative Fields said of Coloradans supported closing
21 that gun show loophole by voting for that citizen
22 initiative because the legislature had failed to act.

23 And so I guess where I want to go with this is
24 recognizing the passion with which people voted in favor of
25 closing the gun show loophole, why would you think that

1 people today would still favor leaving this extra loophole
2 available?

3 THE CHAIRMAN: Mr. Carey.

4 MR. CAREY: Mr. Chairman, Representative.

5 Thank you for the question. I think it's a
6 good question, but I think the problem is: One, let me
7 talk about the statistics of who I represent. I represent
8 our members, our almost 5 million members of the National
9 Rifle Association. And I've heard a number thrown out
10 today that 70 percent or 72 percent or 74 percent of NRA
11 members support a so-called universal background check.

12 That's absolutely factually inaccurate, and
13 it's inaccurate for a couple reasons. One, there are, from
14 recent statistics, almost 30 million people who identify
15 themselves as NRA members one way or the other.

16 Now, would we like to have 30 million members?
17 Absolutely. In reality we have closer to 5 million
18 due-paying members, and those members are not assessable to
19 any group, whether it be Mayor Bloomberg's group MAG or
20 President Obama.

21 So when they talk about the statistics of NRA
22 members who support a universal background check, 92
23 percent of the people that we reached out to, 1,000 across
24 the country, NRA members that only we have access to, 92
25 percent of them said that they oppose this initiative.

1 REPRESENTATIVE COURT: Mr. Chair.

2 THE CHAIRMAN: Representative Court.

3 REPRESENTATIVE court: Thank you, Mr. Chair.

4 No, I'm not talking about NRA members. I'm
5 talking about the fact that the people of Colorado, 70
6 percent of the people of Colorado, voted to close the
7 background check loophole, so why would you think now the
8 people of Colorado, not NRA members, but the people in
9 general wouldn't want this other loophole closed? Why
10 would that not be logical to think that the people again,
11 not just the NRA members, but the entire population of
12 Colorado who voted so overwhelming to close the gun show
13 loophole would not now want this other loophole closed?

14 THE CHAIRMAN: Mr. Carey.

15 MR. CAREY: Mr. Chairman.

16 Representative, thank you for the question.

17 Again, I'm here representing members of the NRA
18 and those who are advocates for gun rights and the Second
19 Amendment.

20 That was in 2000. That was for a different
21 bill. That was for a different initiative, and I agree, it
22 was, I believe, 70 percent. I haven't seen the specific
23 statistics, but I'm not going to quibble with you over it.

24 But I think that what we are talking about here
25 today is something wholly different. And again, I think

1 that we're advocating because we see it as an unjust burden
2 and a constitutional burden on us as NRA members and
3 supporters of the Second Amendment.

4 THE CHAIRMAN: Representative Court.

5 REPRESENTATIVE COURT: Thank you, Mr. Chair.

6 Well, we'll just have to agree to disagree
7 because I think it's a very, very similar issue. It's a
8 different loophole, but it's still a loophole. And when we
9 asked gun show people to deal with the background check,
10 they figured out how to do it, and people are buying --
11 have been buying guns at gun shows ever since.

12 So I think this is a very similar issue, and I
13 believe from the response I've had from my constituents,
14 that there is comparable support for closing this loophole
15 as there was a decade ago. So I guess we'll just have to
16 agree to disagree on this one.

17 Thank you.

18 THE CHAIRMAN: Representative Salazar.

19 REPRESENTATIVE SALAZAR: Thank you, Mr. Chair.

20 As I take a look at the law -- and I don't want
21 my words to be mistaken here -- I don't think that you
22 quite understand where I'm coming from, that on the private
23 sales, these private sales I have concerns that background
24 checks aren't being done.

25 I don't know you, you don't know me, you want to

1 purchase a gun that I'm selling. I don't know what you are
2 going to do with it. It could be that you go hunting with
3 it just like I go hunting with it. It could be that you
4 use it for home defense like I use it for home defense, or
5 it could be that you're a criminal and I'm just giving it
6 to somebody that's going to go and commit a crime.

7 For me it's about the exceptions, and that's --
8 that's what I'm most concerned about, is that, you know,
9 that I have family members that I may want to give a gun to
10 so they can go hunt or that I just may want to give it to
11 them, and they may not be a brother or sister, but they may
12 be my first cousin, right? Those are the areas that I'm
13 concerned with.

14 Make no doubt about it, I'm concerned about the
15 individuals who sell their guns to other individuals that
16 they don't know, and that's the loophole that should be
17 closed. And do I figure that's an unreasonable burden? I
18 don't think that's an unreasonable burden. I think that
19 that's something that we have to address as this
20 legislature and as a people. That's something that we have
21 to address because that's a loophole there that maybe a lot
22 of people jump through. And I just want to make my
23 position clear on that.

24 THE CHAIRMAN: Representative Murray.

25 REPRESENTATIVE MURRAY: Thank you, Mr. Chair.

1 With all due respect to Representative Court,
2 whenever we are talking about our constitutional rights, if
3 there are two people in the room that feel that their
4 constitutional rights are be abridged, I think all of us
5 need to be paying attention to that. This isn't a matter
6 of, you know, who has the majority or minority on any one
7 issue. This is about constitutional rights. And when it
8 comes to that, I think it's a whole different conversation.

9 THE CHAIRMAN: Representative McLachlan.

10 REPRESENTATIVE McLACHLAN: Thank you,
11 Mr. Chairman.

12 I think one of the critical issues we need to
13 examine when we talk about constitutional rights is what
14 the ruling of the courts are and what the courts have
15 stated on the issue of background checks. And it's
16 previously been testified here the United States Supreme
17 Court per Justice Scalia, upheld the constitutionality of
18 background checks.

19 So we can't live in a parallel universe. We
20 have to deal with the rule of law, and the rule of law says
21 background checks, when applied appropriately, are
22 constitutional. So if we are going to attack this
23 legislation, we have to do it on other grounds besides
24 constitutionality.

25 THE CHAIRMAN: Representative Gardner, and then

1 Representative Wright.

2 REPRESENTATIVE GARDNER: Well, thank you,
3 Mr. Chair.

4 And just I suppose if -- if members of the
5 committee are going to advocate and pontificate, let me
6 just say that just because something in context has been
7 held unconstitutional, I don't know whether the transfer of
8 a firearm from myself to a family member in a private sale
9 is necessarily constitutional, and it's not something that
10 I know of that the United States Supreme Court has looked
11 at.

12 So I think to try to criticise other members of
13 the committee or foreclose that discussion and just say,
14 well, it's -- it's all settled so we ought to do something
15 else, with all due respect, I think that's probably not
16 appropriate, but others can decide otherwise.

17 Mr. Carey, my -- my observation with respect to
18 some of the questions that have been asked of you and
19 people citing what their constituents have said about this,
20 it's very clear that my constituents overwhelming are
21 opposed to this legislation.

22 There may be differences between Metro Denver
23 and rural Colorado or El Paso County and the City and
24 County of Denver and Boulder County. So I represent a set
25 of constituents who think that this is not going to

1 contribute to public safety but rather is going to be an
2 imposition upon their ability to do some things I addressed
3 earlier, which was as simple as handing a firearm to a
4 close friend who may need some protection.

5 So you can respond or not as you wish. Thank
6 you.

7 THE CHAIRMAN: Mr. Carey, if you care to
8 respond, please do.

9 MR. CAREY: Sure, Mr. Chairman.

10 Representative, I appreciate the comments, as it
11 relates to the constitutionality of it and as you were
12 relating to the rest of the committee as we've spoken on
13 this.

14 Again, I would like to relate back to that there
15 is no constitutional right that is allowed to be executed
16 without any -- some type of restriction, as we've seen with
17 the First.

18 But again, I think, when you place an unjust
19 burden, which we see this initiative as, on law-abiding
20 citizens to exercise that right, we see it as
21 unconstitutional, and we can't stand by and let them try
22 and pass these types of initiatives because we do not agree
23 with it.

24 THE CHAIRMAN: Mr. Carey, thank you.

25 Representative Wright.

1 REPRESENTATIVE WRIGHT: Thank you, Mr. Carey.

2 And you likely have testified to this or at
3 least have those sorts of statistic in hand.

4 Can you tell me: Has the NRA located any
5 statistic that supports states that have taken this
6 universal background check approach that would show that,
7 in fact, it is beneficial to decreasing violent crimes?
8 And I would specifically, I guess, look back at the
9 statistic that there was an increase or spike in the murder
10 rate in Colorado immediately following closing the gun --
11 the gun show loophole.

12 Can you comment on that as well?

13 THE CHAIRMAN: Mr. Carey.

14 MR. CAREY: Mr. Chairman.

15 Representative Wright, I appreciate the comment
16 and the question.

17 I think that if you look at the information that
18 I've provided to the committee as it pertains to not only
19 the model as it is in California, which is similar to
20 what's being proposed here today, that, one, it has had no
21 positive effect that can be measured as it relates to crime
22 and murder rates.

23 So what are we doing here today with this
24 legislation if we cannot attribute it to a positive effect
25 on these things that we're trying to curb?

1 Secondly, if you could refresh my memory. I
2 apologize. What was the second portion of your question as
3 it relates to 2000 to 2004? Was that -- if you look again
4 at the data that you had before you when 70 percent of
5 Coloradans passed the so-called gun show loophole by vote,
6 you'll see that there was an increase in violent crime
7 rates here in Colorado.

8 So again, I don't see the correlation between
9 initiating this type of check and reducing the amount of
10 crime the state.

11 THE CHAIRMAN: If there are no further
12 questions for Mr. Carey, may I -- please accept our thanks
13 on behalf of the committee for giving us your perspective.
14 It's been very helpful. Thank you, sir, for testifying
15 here today.

16 MR. CAREY: Thank you all very much.

17 THE CHAIRMAN: Is Mr. Dudley Brown here?

18 Mr. Brown, welcome to the -- back to the
19 Judiciary Committee. We're always glad to see you.

20 MR. BROWN: Thank you, Mr. Chairman.

21 THE CHAIRMAN: And please tell us your name,
22 who you represent, and proceed with your testimony.

23 MR. BROWN: Mr. Chairman, members of the
24 committee, my name is Dudley Brown. This is my 21st year
25 representing gun owners in this state. I'm the executive

1 director of Rocky Mountain Gun Owners and also the CEO of
2 the National Association for Gun Rights.

3 I represent gun owners all around the country
4 in congress, and I want to encourage you, before you vote
5 on any of this, this particular bill, to read Article 2,
6 Section 13, and see if this really does call in question
7 the right to keep and bear arms. I submit to you that it
8 does call in question your First Amendment rights, if you
9 put people through Brady checks prior to practicing your
10 First Amendment rights.

11 I think every member of the press here would
12 agree to that. That is exactly what this bill does to
13 private sales. And if you took the oath of the
14 constitution seriously, and I believe most of you do -- you
15 certainly say you do -- you have to justify that.

16 I'd like to concede my time, though, to a
17 personal story to a member and let him -- let him speak.
18 And he's signed up to speak. His name is Mr. Anthony Racz.
19 He's from -- his family is from Hungary. If that's
20 permissible by the Chairman.

21 THE CHAIRMAN: That would be fine, Mr. Brown.

22 And then let's hear from Mr. Racz, is it?

23 MR. BROWN: Yes.

24 THE CHAIRMAN: You're Mr. Racz?

25 MR. RACZ: Yes, I'm Anthony Racz. I'm a

1 Hungarian immigrant. Our family came here in 1956 to
2 escape the Russian invasion of Hungary, and my perspective
3 of these gun issues is very personal. It's not as a
4 bystander. It's not philosophical.

5 My family escaped because my grandfather was
6 arrested by the Soviets when they came in and removed him
7 from his position in charge of the police in Budapest
8 because he would not give up the gun registry. He knew
9 what the result would be. And we know history. We see
10 there was a result, a bloody result. Many of my past
11 countrymen died in that.

12 So I'm particularly sensitive to anything that
13 is going to incrementally increase restrictions and
14 eventually end up in lists or registries or whatever term
15 you want to use for them.

16 I know that's not probably the intent of the
17 current bill, but I know that that does come about. I'm
18 also a concealed carry holder, so I'm on a list, lists that
19 are periodically published that achieve no result in
20 reducing crime. They only serve to punish and penalize
21 those that are gun proponents. They've also resulted in
22 danger to people that are on that list, such as our law
23 enforcement officers that are retired, judges, and so on.
24 So I'm particularly sensitive to registration and
25 incrementally increasing controls.

1 Sometimes we hear the truth pop out. We heard
2 that word incremental come out and then quickly back
3 peddled because we know where that can lead.

4 So I have a great deal of sympathy for all of
5 the people who have suffered. We've heard horrendous
6 stories today of what has happened, but in none of those
7 instances would this bill have made any change.

8 The mother in the school incident had not -- if
9 she had not been murdered, this bill would have allowed her
10 to give a weapon to her son. No impact whatsoever on
11 reducing that. Any one of the other incidents you pick,
12 you're going to see the same situation, that this bill
13 would have made no impact whatsoever.

14 My concern is that I took an oath as a citizen,
15 just as you all have, our law enforcement or military.
16 Oaths that vary, but in every single one of them, we took
17 an oath that we would uphold the constitution and defend it
18 against all enemies, foreign and domestic.

19 My family risked their life to come here for
20 those freedoms, and I take that seriously. And I think
21 that's one of the things that we have to look at here. I
22 want to see effective reduction in crime. This isn't going
23 to do it.

24 We must legislate from a position of logic and
25 one eye on the constitution and law at all times. We must

1 not legislate based on hysteria and emotion. And what is
2 considered reasonable, that's a sliding window, and that's
3 where the danger comes in.

4 So I very much appreciate the opportunity to
5 speak before you, and I speak from my heart. I don't have
6 a speech prepared. I'm not a public speaker, but I speak
7 from my heart, and that's where all of this comes.

8 THE CHAIRMAN: And you speak very articulately
9 and very persuasively and very well, sir.

10 MR. RACZ: Thank you. And hopefully with not
11 much of an accent.

12 THE CHAIRMAN: Are there any questions for
13 Mr. Racz?

14 Representative Murray.

15 REPRESENTATIVE MURRAY: Thank you, Mr. Chair.
16 Thank you so much for your testimony, sir.

17 I appreciate hearing the international nature of
18 your comments because I think that's very important and
19 instructive of what's happened in other countries with gun
20 restrictions.

21 A Harvard study recently pointed out that
22 nations with stringent anti-gun laws generally have
23 substantially higher murder rates than those who do not.
24 And, in fact, Russia has all but eradicated gun ownership,
25 and they have a murder rate that exceeds four times that of

1 the United States. So thank you for bringing -- bringing
2 that thought to my mind from some research that I had done.

3 Thank you.

4 MR. RACZ: Thank you as well.

5 THE CHAIRMAN: Mr. Racz, thank you so much for
6 testifying before us today.

7 MR. RACZ: Thank you, Mr. Chairman. Appreciate
8 it.

9 THE CHAIRMAN: We now move to the part of the
10 witness testimony phase which is somewhat too much close to
11 speed dating for my liking, but none the less, as a matter
12 of practicality, we are going to restrict the witness's
13 direct testimony to two minutes, as we did the proponents.

14 And the first witness to come forward, Mr. Dave
15 Gill, please.

16 And as Mr. Gill is preparing to testify, may I
17 just mention the names of some of those witnesses who will
18 be following Mr. Gill so that they can come up, if they are
19 in the overflow room, and if they are not, at least they
20 will know that they are going to be testifying shortly.

21 They are Mr. Patrick Smitwick (phonetic) or
22 Smitwick. I suspect that's Smitwick. Douglas Howell,
23 Terry McGuire, and Aubrey -- Aubrey of Littleton. Aubrey
24 Allmond I think it is.

25 But if you recognize yourself from Littleton,

1 maybe you'll give us the correct way to pronounce your
2 name.

3 So Mr. Gill.

4 MR. GILL: Thank you, Mr. Chairman.

5 My name is Dave Gill. I'm the vice president of
6 the Colorado State Shooting Association, which was
7 established in 1926, and I suspect, therefore, is probably
8 the oldest civil rights group in this state. I am
9 testifying on behalf of our members in opposition to this
10 bill.

11 First and foremost, there has been no factual
12 demonstration that anything in this bill would do anything
13 to reduce crime. The statement that a number of our
14 criminals do not buy their weapons through normal process
15 is not at all surprising, nor does it imply that this bill
16 would do anything to change their behavior or to make them
17 honest citizens.

18 What it would do, on the other hand, is make
19 many honest citizens criminal. Several examples: One, a
20 friend of mine last year, lives in a rural part of Douglas
21 County, and he had his life very directly threatened by a
22 person who did not appear rational. He didn't have a
23 weapon of any kind in his house. He hadn't seen the need
24 to have one. After his life was threatened, he began to
25 see things a little differently. I lent him a handgun and

1 gave him instructions on how to use it.

2 If I had not been able to do that, would he have
3 been able to protect himself? Was the ability that he had
4 to protect himself significant in deterring the individual
5 who had threatened his life? Could well have been. But
6 this bill would have made me a criminal for lending this
7 person a firearm. He wasn't a relative. He was just a
8 friend of the last 10, 15 years that I know very well.

9 There is a nephew of mine who will probably be
10 receiving most of my firearms. This would not allow me to
11 give them to him without him going through and extensive
12 background check. And once again, this infringement, this
13 inconvenience, as it has been referred, would do nothing to
14 reduce crime. So if our goal is to reduce crime, then
15 maybe this isn't the approach we should take.

16 CSAA has a program where we lend firearms to
17 competitive shooters. And as you probably know, the
18 standard firearm today is the AR rifle for competitive
19 shooting. This bill, as I understand it, would prevent us
20 from lending these rifles to citizens who are competing in
21 matches and national matches.

22 THE CHAIRMAN: Mr. Gill, I'm going to have to
23 ask you to hold it there. But you've raised some very
24 interesting points.

25 And I would like to just tell you that this bill

1 does allow without a background check the transfer -- a
2 temporary transfer of a firearm to somebody while in the
3 home of the transferee. So you are allowed to temporarily
4 lend a friend your firearm, should you think that
5 appropriate, and that might be a good thing to do in the
6 situation that you had with your friend who decided he
7 would really like to have a firearm. Until such time as he
8 can acquire his own, you could lend him his (sic), as long
9 as you did so in his home.

10 And also in the bill there are -- there are
11 provisions to allow a transfer of firearms, if it's done at
12 a -- at a shooting competition or while hunting or fishing
13 or trapping or -- yeah. There are provisions.

14 But I think you raise important points, and I do
15 think that if this bill moves forward from here, those
16 points may require clarification, but they are to deal with
17 exactly the situation you talked about.

18 As far as the transfer of a firearm to your
19 nephew, you're right, there would have to be a background
20 check done if the bill were passed in unamended form and
21 enacted into law. But we really appreciate you bringing
22 your perspective, and thank you for your testimony, sir.

23 Are there any questions for Mr. Gill?

24 Representative Lee.

25 REPRESENTATIVE LEE: Thank you.

1 Again thank you for your testimony, and thank
2 you for giving us your thoughts on this bill. More in the
3 nature of a comment than a question because I -- I keep
4 hearing repetitive statements to the effect that there --
5 criminals won't go through legal means to acquire weapons.
6 But we have information to the effect that in 2010 the FBI
7 denied 76,000 prohibited purchasers, the majority of whom
8 were felons or domestic abusers, from obtaining weapons.
9 And those weren't all of the attempted acquisitions of
10 weapons, that there's an estimate that 150,000 criminals
11 and domestic abusers, felons, attempted to acquire weapons
12 and that the background checks in effect at the federal
13 level presented those transfers.

14 So I just wanted to put those statements out
15 there because we keep hearing that that's not the case,
16 that felons will not be stopped from getting weapons. And
17 factually 76,000 documented and 150,000 others have been
18 stopped from getting weapons by background checks.

19 THE CHAIRMAN: Mr. Gill.

20 MR. GILL: Thank you, sir.

21 I'm not saying that background checks do not
22 have a benefit or might not. I am saying this particular
23 bill and this particular expansion would not be likely to
24 have a beneficial effect, and there has been no
25 demonstration that this particular bill would also have any

1 decrease in crime.

2 And, Mr. Chairman, also the way that we lend our
3 rifles out, we're not actually at the range and say, Here
4 it is and hand it to them. They pick it up. They sign it
5 out from us, and that is their rifle to use for a year or
6 two years, that they will carry home, that they will take
7 to matches while they're shooting, while they are learning,
8 while they decide what it is they want to have as their
9 personal target rifle.

10 THE CHAIRMAN: Thank you, Mr. Gill. That's an
11 important distinction to make, and it's very helpful that
12 you made it.

13 There are no further question for Mr. Gill.

14 So thank you, sir, for giving us your
15 perspective on this matter.

16 MR. GILL: Thank you very much for the
17 opportunity.

18 THE CHAIRMAN: We appreciate -- we appreciate
19 your testimony, sir.

20 Next up we have Mr. Patrick Smitwick, if he's
21 here.

22 And Mr. Smitwick is not here apparently, so we
23 will go to Mr. Douglas Howell, please.

24 MR. CAMPBELL: What's the last name again?

25 UNIDENTIFIED SPEAKER: Howell.

1 THE CHAIRMAN: Howell, Douglas Howell.

2 MR. CAMPBELL: It's not Campbell?

3 THE CHAIRMAN: Not at this point, Mr. Howell --
4 Mr. Campbell. Not yet. We are looking for Douglas Howell.

5 Are you Mr. Howell?

6 Excellent. Please come forward, sir.

7 We are very grateful that you came and agreed
8 to give us your perspective on House Bill 1229. Thank you
9 for doing that, sir.

10 Please state your name for the record. Tell us
11 who you represent, if anyone other than yourself, and then
12 proceed with your testimony.

13 MR. HOWELL: Thank you, Chairman.

14 My name is Douglas Howell. I've served the
15 United States for 19 and a half years from the military,
16 military and nuclear weaponry. So I have a -- a gripe
17 about this.

18 First thing I want to say is: I hear the
19 amount of 33 people every day are killed by guns. I don't
20 know, is that Colorado? Is that national? I don't know.

21 Next thing, bill writers right now are being run
22 by emotions, not by facts. Drunken drivers and pot-smoking
23 drivers kill more people than guns in this country. So if
24 you want to outlaw something, all right, go after
25 automobiles, get rid of automobiles, if you want to try.

1 That will save more people than guns will, and see how long
2 that lasts.

3 Government has gone back to the tyranny that
4 was fought for in the Revolutionary War. Government keeps
5 extending their power and taking away our rights. Every
6 time you meet, you put in more legislation and more laws.
7 And because of this right now, I am being taxed out of my
8 house because of the state of Colorado.

9 Okay. I've had guns since I was 16 years old,
10 and not one of them has gotten up and shot anybody.
11 They've all stayed right where they were.

12 I was in the Strategic Air Command, and the
13 motto there was peace through deterrent, and that won the
14 Cold War. We had bigger and a better nuclear force than
15 Russia had, so they backed down. So if homeowners have the
16 privilege of having guns in their own house, people will
17 think twice or even three or four times about trying to
18 enter those houses.

19 THE CHAIRMAN: Mr. Howell, thank for your
20 service, and thank you for your testimony.

21 Are there any questions for Mr. Howell?

22 Thank you, sir.

23 MR. HOWELL: Can I just close with one real
24 quick thing?

25 THE CHAIRMAN: All right, Mr. Howell.

1 Certainly.

2 MR. HOWELL: Switzerland mandates that all homes
3 have at least one assault weapon. People in Switzerland
4 live in the happiest country in the world. Our government
5 has stressed our population to its breaking point. That's
6 why we are having more and more people get upset. But
7 Switzerland has a gun in every house, and it is mandated to
8 do that.

9 THE CHAIRMAN: Thank you, sir. And that's a
10 very interesting question, which I'm sure we will hear more
11 about. And thank you for raising it, sir.

12 MR. HOWELL: Okay. Thank you for letting me
13 speak.

14 THE CHAIRMAN: I am pleased that you came.

15 Mr. Howell, thanks.

16 Our next witness is Terry McGuire, who will be
17 followed by -- if you'll come forward please, Terry McGuire
18 -- who will be followed by Aubrey Allmond and then Paul
19 Myersick, and then Brian Lane, and then Patrick Thai.

20 So welcome, Mr. McGuire.

21 MR. MCGUIRE: Thank you, sir. Thank you --
22 thank you, Chairman, Representatives, Citizens of Colorado.
23 I appreciate the opportunity to speak before you this
24 morning.

25 I'm reminded of a passage in the Bible, in the

1 scriptures, where Peter, it records, knew not what to say,
2 therefore he spake. I think sometimes we do that with
3 legislation. I think sometimes more than a -- a critical
4 evaluation of what the problem is and what it is we are
5 trying to do, we have a gut reaction.

6 It's amazing to me that our nation survived very
7 well for over 200 years without the legislation we are
8 considering today.

9 My concern is that this added legislation puts
10 an added layer or regulation upon a constitutional right.
11 Could you imagine if anyone took the First Amendment and
12 said that you have to go through a process of government
13 approval? And I'm sure it could come to that someday in
14 America, as it has in other nations.

15 My concern is that we're adding regulation upon
16 regulation. The average waiting period, when the
17 background check was instituted through CBI, was about
18 three minutes. Now it's over a week, and who knows what it
19 will become if it goes beyond what we're proposing today.

20 My concern is that, as a family member tries to
21 transfer a firearm to another family member -- we've done
22 that for over 200 years with very limited problems. And
23 I'm just -- I think we're -- it's not a characteristic of a
24 great society that piles laws upon laws. It's a
25 characteristic of a great society that men's hearts are in

1 tune with what's right, and there's a minimum of laws.

2 I forget which great Roman orator said that, but
3 nevertheless, I believe it's true. So I would -- I would
4 ask for an overturn on the extensive background checks.

5 THE CHAIRMAN: Thank you, sir. And you are the
6 first witness to have come to a halt at exactly two
7 minutes. And I -- I am most impressed by that and by your
8 argument. But that is particularly impressive.

9 MR. MCGUIRE: I would say I'm a Baptist
10 preacher, so you'll never see me do this again in my life.

11 THE CHAIRMAN: Are there any questions for this
12 witness?

13 Representative Murray.

14 REPRESENTATIVE MURRAY: Thank you, Mr. Chair.

15 And welcome to my constituent, Mr. McGuire.
16 Thank you for coming.

17 I really appreciate that phrase men's heats are
18 right, because one of the things that many of us talk
19 about, and we haven't brought it up today, is what's going
20 on in our society that there is some trigger that is
21 causing people to do things that maybe we are not
22 accustomed to seeing happen in our society. So it is not
23 the gun's fault that this is happening. We have to look in
24 our own hearts and see what is changed.

25 I saw on TV a mother of a child that was killed

1 in the massacre in Connecticut, and -- you know, she wasn't
2 a mother. She was a neighbor to the shooter. And she had
3 indicated that the neighbors had sort of not been around
4 this family very purposefully, had not extended themselves
5 and their hearts to them and that she felt very guilty that
6 -- she felt that somehow, if they had had some extension of
7 love from their neighbors, which, you know, in the old days
8 we all used to extend ourselves to our neighbors, and it's
9 like we don't do that anymore. That's an issue that we
10 need to be dealing with in our society.

11 So I appreciate that phrase, and thank you for
12 bringing that to us.

13 THE CHAIRMAN: Further questions for
14 Mr. McGuire?

15 Seeing none, thank you very much, Mr. McGuire,
16 for helping us make this difficult decision.

17 MR. MCGUIRE: Thank you, sir. Thank you all.

18 THE CHAIRMAN: Thank you.

19 Aubrey Allmond, Paul Miesick, Brian Lane,
20 Patrick Thai.

21 Mr. Thai, please come forward, sir.

22 Oh, sorry, Mr. Thai. I over -- I was a little
23 too enthusiastic there.

24 We have Mr. Allmond?

25 MR. ALLMOND: Yes.

1 THE CHAIRMAN: Please, welcome. Thank you for
2 coming. And please state your name properly, because I
3 probably haven't, and tell us who you represent, and give
4 us your testimony.

5 MR. ALLMOND: Thank you. And thank you for
6 allowing me to be here today.

7 My name's Aubrey Allmond. I live in Littleton,
8 and I represent myself and the security of my family.

9 Bill 1229 permits the state to tell a private
10 citizen when and if they can sell a personal possession.
11 This is similar to asking for permission from the state if
12 you can sell a car or a pocketknife or a baseball bat.

13 The state should not have the power to dictate
14 to what its citizens -- if they can sell personal
15 possessions. 1229 allows the state to overstep its bounds
16 and responsibilities to the personal lives of its citizens.

17 CBI recently requested an additional half a
18 million dollars in order to keep up with the increased
19 demand for background checks. The request was denied.

20 Denver Post, January 12, 2013, Ronald Sloan, CBI
21 director, told the Denver Post on Wednesday that proposed
22 legislation would increase the volume of gun background
23 checks incredibly.

24 Without additional resources, the already long
25 Colorado wait times would lengthen. These extremely long

1 wait times could mean life or death to someone that needs
2 to protect themselves, and HB-1229 places undue hardship on
3 state resources and its citizens.

4 This bill is also unenforceable. No one would
5 know if a firearm was sold or gifted to a friend or
6 relative unless they intentionally sought a licensed
7 firearm dealer and followed the process.

8 This bill also does nothing to prevent the
9 transfer from happening in other states with the firearm
10 eventually residing in Colorado. You will never know the
11 numbers of private sales of guns, baseball bats, or kitchen
12 tables.

13 I submit to you read the text of Deadly Lessons,
14 Understanding Lethal School Violence written by the
15 National Research Counsel. I plead for you to vote no on
16 1229.

17 Thank you.

18 THE CHAIRMAN: Mr. Allmond, thank you.

19 And are there any questions for Mr. Allmond?

20 Mr. Allmond, I just want to mention: I think
21 that you're right, that this bill would prohibit the sale of
22 a firearm to a family member without first getting a
23 background check, but it would not prohibit the gift of a
24 firearm to a family member. If they were a member of the
25 immediate family, there would be no background check

1 required even under this bill. So just for clarification
2 purposes.

3 MR. ALLMOND: There's no definition of will
4 either.

5 THE CHAIRMAN: Sorry?

6 MR. ALLMOND: There's no definition of will. So
7 if I were to receive within my father's will a firearm
8 collection and he's out of the state, there's nothing to
9 address that transfer.

10 THE CHAIRMAN: Well, just for purposes of
11 clarification, the language of the bill says that a
12 transfer that is a bona fide gift between immediate family
13 members, which are limited to spouses, parents, children,
14 siblings, grandparents, and grandchildren is -- is exempt
15 from the requirement.

16 So that's -- that's the way that the bill is
17 written. I just want you to know that that's the way the
18 bill is at the moment. But your point is nevertheless well
19 taken. That is presumably not a big enough exception to
20 satisfy you, and we -- we note that. And it's very helpful
21 that you came and explained your position to us here in the
22 House Judiciary Committee. It will help us make a decision
23 properly.

24 MR. ALLMOND: Thank you.

25 THE CHAIRMAN: Thank you very much,

1 Mr. Allmond.

2 Mr. Patrick Thai.

3 Welcome, sir. Thank you for coming.

4 MR. THAI: Thank you, sir.

5 THE CHAIRMAN: Please give us your name.

6 MR. THAI: My name is Patrick Thai.

7 THE CHAIRMAN: Please tell us who you represent,
8 if anyone other than yourself.

9 MR. THAI: I'm just representing myself, sir.

10 THE CHAIRMAN: Please give us your testimony.
11 Thank you, sir.

12 MR. THAI: I'm going to keep it brief. The
13 last witness covered most of what I had to say regarding
14 enforceability.

15 My issue with that is I've sold firearms to
16 private sellers before. Whenever I do so, I always make
17 sure and verify that they've got a Colorado driver's
18 license, make sure they are not an out-of-state buyer,
19 because that would be a violation of the law.

20 But if this law is passed into place and if I
21 wanted to do -- and if I wanted to do that, I would have to
22 go through a dealer. But if there was a criminal who, you
23 know, thought ahead, didn't try to go to a dealer, which
24 some clearly don't, as Representative Lee had stated
25 before, if they don't want to go to dealer, there's no way

1 to catch them until they are caught in a crime with the
2 weapon, if at all.

3 And that's the only point I had to make on this
4 issue, sir.

5 THE CHAIRMAN: Thank you, Mr. Thai.

6 Are there any questions for Mr. Thai?

7 Mr. Thai, thank you for coming and making that
8 point to so clearly and concisely. I appreciate it.

9 MR. THAI: Thank you, sir.

10 THE CHAIRMAN: We now would ask Daniel Carey to
11 come forward. I already heard -- oh, I already heard from
12 Daniel Carey. We already heard from Daniel Carey, so I
13 would not ask for Daniel Carey to come forward.

14 Mr. Dave McCally, please. Step forward and give
15 us your testimony with regard to House Bill 1229.

16 Um, failing that, Charles Yates.

17 Charles Yates, I hear you are here. Good,
18 excellent, superb, Mr. Yates.

19 And so that the next witnesses can be ready, let
20 me just tell you that following Mr. Yates, we will have
21 Mr. Sean Verhoeff, right? Okay.

22 Sean Verhoeff after Mr. Yates. Then Mr. Ronald
23 Dietz, Mr. James Winchester, and Alicia Perez.

24 Mr. Yates, correct?

25 MR. YATES: Yes, sir. Thank you.

1 THE CHAIRMAN: Mr. Yates, thank you for being
2 here.

3 MR. YATES: My name is Charles Yates. I'm from
4 Colorado Springs.

5 I'm a normal citizen. I have a normal job. I
6 do a normal daily thing. I'm a law-abiding citizen. And
7 my problem with this bill, as stated here, is it does not
8 -- I'm sorry for the representation. It does not address
9 the criminals that are going after the weapons. It doesn't
10 address the punishment or the criminals that are stealing
11 guns out of homes, stealing guns out of cars, stealing guns
12 at home invasions, and going in and doing what they will.

13 It is a burden on people to go through the
14 background. And we've heard stated it could take up to 10,
15 could go up 12, could go up to 30 days with the amount of
16 background checks that are going to have to be performed if
17 you continue down this road.

18 The background process is apparently a very
19 costly process when it comes to the government checking
20 everybody's background. I've had background checks done.
21 I don't -- I didn't mind having a background check done
22 because I'm a law-abiding citizen. I don't have to look
23 for other ways to go about in getting weapons, but the
24 criminals won't have to do that, and they won't do that.
25 They are just going to go into people's houses.

1 What are the possibilities of this law actually
2 causing an uptick in criminal activity? Because they are
3 now not even going to go through any kind of background
4 check. They are just going to go ahead and go illegally
5 obtain their weapon and cross the border into Mexico, get
6 back in here. There's so many possibilities that this bill
7 just does not affect.

8 And that's what I'm here to state.

9 THE CHAIRMAN: Well, thank you for coming here
10 and being patient and saying it, sir. We appreciate the
11 input.

12 Are there any questions for Mr. Yates?

13 Seeing none, please take -- accept our thanks.

14 Mr. Sean Ver -- Sean?

15 Sir, please come forward.

16 Please state your name, tell us who you
17 represent, and proceed with your testimony.

18 MR. VERHOEFF: My name is Sean Verhoeff. I'm
19 representing myself, as well as the voices of southeastern
20 Colorado.

21 THE CHAIRMAN: Welcome.

22 MR. VERHOEFF: Thank you.

23 THE CHAIRMAN: Carry on.

24 MR. VERHOEFF: I've got a couple issues with --
25 with the current legislation. One of the things is the

1 inherent -- is what happens if somebody who owns rifles and
2 firearms passes away, what would be the -- what would
3 happen to their stockpile of guns? You know, there's --
4 there's many gun owners who have anywhere from 1 to 30
5 guns, 50 guns to hundreds of guns.

6 One of my cousins, for instance, died a couple
7 years ago, and he had several hundred guns. And under this
8 bill, it would not allow family members like myself to
9 receive guns from his stockpile of weapons.

10 THE CHAIRMAN: That's a very interesting
11 question, and maybe the bill sponsor would like to answer.

12 Representative McCann.

13 REPRESENTATIVE McCANN: Thank you, Mr. Chair.

14 There is an exception in the bill for a
15 transfer that occurs by operation of law. And so I believe
16 that if someone is -- if a will has been -- if something is
17 included in a will, it will pass by operation of the
18 probate law.

19 So I believe that -- and this is something we
20 can perhaps get clarification from the drafter if we need
21 to, but I believe that property would be passed by law
22 through a will through the probate court.

23 THE CHAIRMAN: Thank you.

24 MS. McCANN: So you would be able to inherit
25 guns from a family -- from someone by operation of law.

1 THE CHAIRMAN: Thank you, Representative
2 McCann.

3 MR. VERHOEFF: I have also another issue that
4 the fact of this bill also would restrict my Second
5 Amendment Right. I'm 19 years old, and if -- if -- it's
6 not just this bill that comes down the pipe, but it's the
7 next bill and the next bill and the next bill.

8 What is the state of Colorado going to do to
9 protect my gun rights? I would -- I've been shooting since
10 I've been ten years -- since I was ten years old. I love
11 shooting. It's a fun sport to do. It's also for the
12 production of myself and for the protection of my family.

13 So what is the state of Colorado going to do
14 next? If we take this step, what are they going to do for
15 the next step?

16 THE CHAIRMAN: Thank you very much, Mr. --
17 please tell me your last name again.

18 MR. VERHOEFF: Verhoeff.

19 THE CHAIRMAN: Mr. Verhoeff.

20 Are there any questions for Mr. Verhoeff?

21 Mr. Verhoeff, you make the point very clearly,
22 and we appreciate you having done so.

23 MR. VERHOEFF: Thank you.

24 THE CHAIRMAN: Thank you for coming.

25 Mr. Ronald Dietz, who will be followed by --

1 welcome Mr. Dietz -- by James Winchester, then Alicia
2 Perez, and Ian Jaeger, and then James Durden.

3 Mr. Dietz, welcome to the House Judiciary
4 Committee. Welcome back if you've been here before.
5 Please give us your name, tell us who you represent, and
6 proceed with your testimony.

7 MR. DIETZ: Thank you, Mr. Chairman.

8 My name is Ronald Dietz, and I am representing
9 myself.

10 THE CHAIRMAN: Please proceed, sir.

11 MR. DIETZ: Okay. Thank you.

12 I am going to direct my testimony to who has
13 not been dressed at any of these meetings and by any of
14 these bills, and that is the real cause of why someone
15 would want to go in and shoot up a school or a mall or a
16 theater.

17 And I want to start this testimony by showing
18 everybody a picture. This is a picture of the memorial
19 plaque on my son's headstone. My son died for the same
20 reason that those children in Newtown did and Columbine and
21 the theater, and that reason is psychiatric drugs.

22 Like Adam Lanza, my son had Asperser's syndrome.
23 Like Adam Lanza, he could not function socially, and like
24 all of the shooters and mall shooters, when I went to get
25 him help, they put him on anti-depressant drugs.

1 Every school shooter, every mall shooter has been on these
2 drugs. There has never been a school shooter or a mall
3 shooter who has not. Before these drugs came on the
4 market, there were no school shootings. There were plenty
5 of semi-automatic automatic weapons that could have done
6 the job. And as I saw my son on these drugs go downhill,
7 he became more suicidal, and he became violent. He became
8 wanting to hurt people and attack people.

9 One day, for example, he came to me, and he
10 said, At school I was standing in a line, and I suddenly
11 had this urge to attack everybody in front of me. He said,
12 Why? Why do I need to do that?

13 We went to the psychiatrist who was treating
14 him, and they refused to accept that as a symptom of the
15 drug. They refused to get him another treatment, and they
16 said he had to stay on these drugs forever, for the rest of
17 his life.

18 Seeing the way things were going -- and my son
19 also realized this problem, because he came to me and
20 talked to me a lot -- we had to get ourselves off the drug
21 against the doctor's advice. After that he got better but
22 never got quite well, and he committed suicide when he was
23 20 years old.

24 After my son died, I assumed that things just
25 couldn't get any worse, but then other people started

1 coming and telling me, friends at work, other people I
2 knew, forums I was on on the Web, where they had seen the
3 same thing done to their loved ones. And I suddenly
4 realized, yes, it can get a lot worse: My son could have
5 done what Adam Lanza did, and I would have had to endure
6 even greater pain and suffering.

7 These bills do nothing to address this problem.
8 We're overmedicating our kids. We're putting everybody on
9 the drugs that they can, and these side effects, they are
10 very serious. These drugs are very dangerous. They are
11 killer drugs. They turn people into killers, and it's
12 unacceptable that we continue to allow this to happen.

13 THE CHAIRMAN: Mr. Dietz, you've shared a very
14 painful story with us, and it takes a lot for you to do
15 that, and we appreciate it. We know you are just trying to
16 advance our state's public policy.

17 Are there any questions for Mr. Dietz?

18 Thank you, sir, for coming today.

19 MR. DIETZ: Okay. Thank you.

20 THE CHAIRMAN: Mr. James Winchester, please
21 come forward.

22 Mr. Winchester, welcome to the House Judiciary
23 Committee. Please tell us your name. Tell us who you
24 represent, not in your capacity as attorney at law. We
25 don't want to hear your entire client list, but who you

1 represent in your testimony and proceed to give us your
2 testimony.

3 MR. WINCHESTER: Thank you, Representative
4 Kagan.

5 Before I start, may these be passed out? It
6 will be -- there are two pages. I didn't staple them
7 together. I hope I have enough for everyone.

8 My name's James Winchester. I'm an attorney,
9 retired. I spent 27 years with the United States
10 Department of Justice doing some criminal cases. I also
11 spent a great deal of time on the Denver police reserve
12 doing law enforcement work. But perhaps most
13 significantly, I was the legislative director of the
14 Colorado State Shooting Association when John Head and I
15 crafted the current bill.

16 I have to say that I don't think either
17 Mr. Head, nor could I foresee what was going to happen with
18 this bill. Let me give you the history.

19 In the 1990s a grand plan was establish to let
20 CBI do background checks instead of the FBI. The firearms
21 community had great concerns about this, but the carrot
22 that was held out to us was the CBI checks would remain
23 free, as are the FBI checks.

24 Second, the InstaCheck program would be
25 InstaCheck. Somehow I think we've strayed a bit from that.

1 And the third carrot was that the program would
2 be adequately funded to present day.

3 We agreed to this, and we made a mistake. The
4 mistake we made -- there are two. We should have insisted
5 on a sunset so that there would -- this legislative body
6 would be forced to review their competence and efficiency
7 in the administration of the program.

8 And the second error was that we did not have an
9 oversight board appointed so they would be accountable to
10 someone other than the executive branch of the state
11 government, because I think they -- they need to be.

12 So everyone in the state knows that CBI is
13 many, many days behind. My understanding is it's seven or
14 eight days, and this is far from what was ever intended.
15 Mr. Head and I spoke before this meeting. We did not
16 intend that this would ever become the problem as it has.

17 About three weeks ago, I advised the governor
18 that CBI was operating illegally, and essentially nothing
19 was done. I advised the Post that CBI was operating
20 illegally, and something was done. CBI then said they are
21 going to consult with the Attorney General.

22 THE CHAIRMAN: Mr. Winchester, since we've
23 reached two minutes, I'm going to ask you to stop, but I
24 can't -- I think it would be unfair not to ask you to
25 explain in what respect the CBI has been operating the

1 InstaCheck illegally in your view.

2 MR. WINCHESTER: Thank you, sir.

3 The handout, the first handout, is 18 United
4 States Code, 922, Subsection T-1. And this is essentially
5 the Brady National Check System. And the pertinent part is
6 that it says a dealer cannot transfer to any person not
7 licensed -- that means a gun buyer -- unless -- and if you
8 look at double I down there, it says three business days,
9 meaning a date on which state offices are open, have
10 elapsed since the licensee contacted the system. That's
11 critical language.

12 Now, if you looked at the other page I gave
13 you, you will see what CBI said they're doing. They have a
14 very novel interpretation of that statute.

15 What they are saying basically is they don't
16 count the three days when the dealer initiates the check.
17 They count the three days when they get around to doing it.
18 In my opinion, it's flagrantly illegal. Nobody has spoken
19 about it, and I think it is a very serious problem.

20 I don't know why the committee or anyone in this
21 legislature would expect gun owners to trust a system that
22 is basically corrupt the way it's going now. My opinion as
23 a lawyer is that is operating outside the law.

24 People are very concerned about their gun
25 rights, and they are justifiably concerned because of this

1 kind of problem. Laying a huge additional burden on the
2 CBI for additional background checks when they cannot get
3 it right now. And this is just not this year. We've had
4 years of problems where they have taken hours and hours and
5 hours, the medium wait time. I got the documents in
6 (inaudible).

7 It's not a new problem, and my request is that
8 you simply PI this bill until you get an answer on how CBI
9 is going to fix this problem and why it is violating the
10 law. I -- I recommend you have a hearing on it because I
11 think it needs to have some answers.

12 That's my testimony, sir.

13 THE CHAIRMAN: Mr. Winchester, the speed of the
14 InstaCheck system, has been, especially in recent weeks,
15 been less than instant. You're absolutely right. The time
16 for the turnaround has gone from minutes to hours and now
17 days. The demand on the system has gone from steady to
18 massive, and I think that's a result of a spike of huge
19 proportions in the number of people conducting firearms
20 transactions in the state of Colorado.

21 One can speculate as to why there has been such
22 a rush of firearm transactions, and I don't want to do
23 that. I'm not in the firearms business. But I know that
24 there has been a massive rush of firearm transactions. The
25 system has, therefore, slowed because of this catastrophic

1 -- not catastrophic, but this massive rush of activity.

2 But I think it would be wrong for the people of
3 Colorado to conclude that once the spike is over and things
4 settle back down the normal level of transactions, that the
5 InstaCheck system will not be able to turn around the
6 background checks in a very speedy fashion. And that's
7 certainly my hope as a legislator here, that this is a
8 temporary spike and this is not going to be the continual
9 situation. And if it is, and if this background check
10 carries on being this way, I certainly think there will be
11 strong, strong pressure to provide additional resources and
12 to -- to get those waiting periods down.

13 So Representative Wright.

14 REPRESENTATIVE WRIGHT: Thank you,
15 Mr. Winchester, for your testimony.

16 You have a particularly interesting background.
17 I think I'd like to ask you this question specifically --
18 you this question.

19 Can you -- earlier we had testimony from the
20 CBI director regarding appeals to people that were turned
21 down, essentially, to purchased a weapon through
22 InstaCheck.

23 In that testimony we heard that 56 percent of
24 those appeals were overturned. And I wonder if you have
25 done any research into that or if you might be able to

1 speak to a lack of competency there possibly, or if there's
2 something else going on.

3 MR. WINCHESTER: Well --

4 THE CHAIRMAN: Mr. Winchester.

5 MR. WINCHESTER: Thank you, sir.

6 It's an interesting subject. CBI developed a
7 program called Denial on Arrest. Now, the National
8 InstaCheck System allows denial only for conviction. CBI
9 developed a policy of denial on arrest.

10 And basically what they said was your name is in
11 the database as having been arrested. We do not have a
12 disposition, therefore you are denied until you come back
13 and prove to us that you're either not that person or there
14 was a dismissal or a plea of such a nature as not to be a
15 disqualifier.

16 That was an enormous paper chase for some
17 people. That's why a significant number of people get
18 these reversed, is because they're wrongly denied.

19 And I'd like to make a point, if you wouldn't
20 mind, sir.

21 Represent Kagan made a very interesting
22 analogy, which I think really sums up the problem. He said
23 that getting a background check is like waiting in line to
24 vote. It's not. It's not even close. It's like waiting
25 in line to vote, bringing your photo identification to

1 prove who you are, having your background criminally
2 investigated, waiting for hours, maybe days, to go exercise
3 your right to vote. You would never accept this with
4 voting conditions, but you're okay with it with these
5 background checks.

6 I think, as this system is currently being used
7 with these delays, that it is unconstitutional because it's
8 going beyond calling people's right into question. It
9 literally is calling a right into question, but it's also
10 making people wait prolonged periods of time.

11 I cannot agree with you, Representative Kagan,
12 that this is going to be remedied quickly. If I may
13 explain why I say that.

14 THE CHAIRMAN: Please.

15 MR. WINCHESTER: The United States of America
16 is panicked. Firearms owners nationally are sucking the
17 system dry of ammunition and firearms. You can't find
18 them.

19 What will happen will be we will see a dip
20 briefly because there's the giant black hole sucking the
21 inventory out of the system. The demand is not going away.
22 The products will then work their way back, and the demand
23 will peak, and the load on the system I expect will return.
24 It might not be as bad as it is now.

25 But I have no reason to believe, particularly if

1 we add private sale checks, that there is not going to be
2 an enormous additional load and that CBI, as presently
3 funded or even if they get the extra \$1 million, may have a
4 very bad time catching up.

5 That's somewhat speculative. I don't know. But
6 we've seen this before, where there's been basically a
7 panic and everybody -- and I'm an NRA instructor.
8 Everybody who wants a gun who has been procrastinating on
9 it for years has now rushed to their dealer to buy the gun,
10 the ammunition, whatever, and if they can't get it, that
11 demand is not going to go away. It's just going to be
12 deferred for a while.

13 THE CHAIRMAN: Representative Salazar.

14 REPRESENTATIVE SALAZAR: Thank you, Mr. Chair.

15 And thank you for being here and giving us your
16 testimony.

17 Your statement just now, though, doesn't that
18 contradict your claim that background checks are
19 unconstitutionally burdensome? Because if you are saying
20 that by enacting this law here that it's going to be
21 burdensome on people, but yet you just said that it's going
22 to cause people to go and buy their firearms and going to
23 be this huge spike, then that contradicts what you are
24 saying about -- about the background checks, doesn't it?

25 THE CHAIRMAN: Mr. Winchester.

1 MR. WINCHESTER: Well, I don't think so. What
2 I said was, as I think I recall it, was that there will be
3 a temporary dip in the number of checks, and then it will
4 spike back up. Then we go back into the problem that we
5 have now, which is not hours, as it has been for years, not
6 days, but where it is now over a week. I think that's a
7 very long time for somebody to wait who needs a firearm for
8 self-defense.

9 And, you know, I really want to keep the
10 committee's feet to the fire on this. If this was voting
11 rights, how would you feel about this? If this was the
12 right to counsel, how would you feel about this? Okay,
13 we're going to delay your right to counsel, even when you
14 ask for it, by four hours or five hours while we proceed to
15 do what used to be done before the Supreme Court said there
16 was a right to counsel, as you detain people and sometimes
17 beat them. Okay?

18 When you start chipping away at rights, it can
19 become a slippery slope where you stop. Because, keep in
20 mind, the reason people didn't get counsel and they didn't
21 get their warning, their Fifth Amendment warning, was
22 because the police believed they were criminals and,
23 therefore, to capture and convict the criminals, you didn't
24 want them to have any rights. So until the Supreme Court
25 said that there was that right, there wasn't. And as those

1 of you from the minority group know, it was really bad.

2 I worked in Washington, D.C., under a very
3 famous judge who is a partner of Thurgood Marshall, Judge
4 Brian. So I got to see this, and it was oppressive. So
5 you have to be very careful when you start chipping at
6 rights because somehow they can go away.

7 And I'd like to -- since (inaudible) voting, I'd
8 like to make one more point, if I can.

9 THE CHAIRMAN: You're really pushing the
10 envelope here.

11 MR. WINCHESTER: I am indeed.

12 In another committee, the equivalent --

13 UNIDENTIFIED SPEAKER: Yeah.

14 MR. WINCHESTER: Of a poll tax is being
15 proposed. You now have to pay to exercise your right. I
16 think it is pretty serious problems.

17 That's all I have to say. Thank you.

18 THE CHAIRMAN: Thank you, sir.

19 Are there any further questions for --
20 Representative Murray.

21 REPRESENTATIVE MURRAY: Thank you, Mr. Chair.
22 I appreciate that.

23 Mr. Winchester, thank you so much. You know, I
24 -- I sense some ire there against the CBI. I would say
25 that you need to direct some of that ire to this

1 legislature. We have the power of the purse, and we have
2 not provided the resources to the CBI that they need to
3 process these applications. So let's look at who really is
4 at fault in this. This legislature needs to come forward
5 and provide those resources as soon as possible. Then the
6 problem goes away.

7 And I also really appreciated the fact that you
8 brought up the poll tax, because when you first started
9 speaking, I thought you were going to be talking about the
10 fee. And I'm surprised that it hasn't come up before now,
11 that no one would tolerate having to pay before they vote,
12 and that is exactly what we have here is a fee.

13 And there's been a lot of discussion in the
14 past, you know, the gun shows and all of the other
15 background checks about whether that should come from the
16 general fund or whether it should be a fee that someone
17 pays.

18 To my feeling, if this is a constitutional
19 right, we need to be taking it out of the general fund of
20 the state and not charging people for that. It is not like
21 a motor vehicle driver's license. A driver's license is a
22 privilege. It's not a right.

23 Thank you.

24 THE CHAIRMAN: Other -- Representative Salazar,
25 and then we'll come to Representative Lee.

1 REPRESENTATIVE SALAZAR: Let me -- let me just
2 -- thank you very much, Mr. Chair. I appreciate your
3 comments.

4 Let me just push back a little bit, as a
5 constitutional attorney who teaches us constitutional
6 rights at -- at our local universities.

7 And let's -- let's not try to compare a
8 background check and a \$10 background check with a poll
9 tax. Poll taxes were used quite specifically for a
10 discriminatory purpose, to target a particular race of
11 individuals, and that's not what we have here with
12 background checks.

13 It appears to be a general rule of applicability
14 that appears to all individuals regardless of what their
15 race is. So let's not do that. Let's not jump into the
16 realm of trying to elicit some type of sympathy because of
17 past discrimination that has occurred to a particular group
18 and compare it to what this bill doesn't do, which is to
19 discriminate against a particular racial group.

20 THE CHAIRMAN: Mr. Winchester, if you care to
21 respond --

22 MR. WINCHESTER: Very briefly.

23 THE CHAIRMAN: -- please feel free to.

24 MR. WINCHESTER: I could not disagree with you
25 more. You are correct, it's not directed against a

1 distinct racial group. It is directed against another
2 distinct and discrete group: Firearms owners, who have a
3 civil right.

4 So I -- I don't accept your statement. I think
5 it is very analogous to the civil right problems that we
6 have had in the past where a group of people, who are hated
7 and disliked and despised by, let's say, a minority or a
8 large majority, whatever -- doesn't matter -- whose rights
9 are attacked because of who they are. And that's what my
10 concern is.

11 THE CHAIRMAN: Representative -- Okay.
12 Representative Lee.

13 REPRESENTATIVE LEE: Thank you.

14 My question is actually more to the Chair than
15 to -- to Mr. Winchester.

16 I'd like -- some questions were raised about
17 CBI's addressing the background -- or addressing the
18 backlog of cases, and I'd like to hear from the director of
19 CBI about how they're going to address that problem, how
20 they are going to get rid of the backlog, how long it's
21 going to take and whether we can reduce the amount of time
22 it takes for these background checks to be fulfilled.

23 So I would just request that maybe toward the
24 end of the hearing, we could hear from the CBI director
25 again.

1 THE CHAIRMAN: Representative Lee, I think if
2 the sponsors of the bill are amenable, I would certainly
3 entertain that possibility.

4 REPRESENTATIVE McCANN: We would be amenable.
5 I don't know if Director Sloan is still present but --

6 THE CHAIRMAN: Right. That's an interesting
7 suggestion, and I think it might help to hear what the CBI
8 has to say at the points that the witnesses have raised. I
9 think it's an important question and one we would be not
10 remiss if we didn't follow it up.

11 Representative Court.

12 REPRESENTATIVE COURT: Thank you, Mr. Chair.

13 I just want to point out that the Denver Post
14 had a really excellent editorial on Saturday about the
15 devil in the details on background checks and the backlog.
16 So there was a lot of information in the Denver Post on
17 Saturday about the issue you've raised.

18 But what really provoked me to raise my hand,
19 sir, was your comment comparing racial discrimination to
20 gun owners or gun purchasers. And I will submit to you,
21 sir, that when someone decides to buy a gun, it's a choice,
22 and people who are black have no choice. So I think your
23 analogy is far off the mark.

24 THE CHAIRMAN: We think we have a disagreement.

25 MR. WINCHESTER: I accept -- I accept her

1 disagreement.

2 THE CHAIRMAN: Yep.

3 MR. WINCHESTER: And may I be excused?

4 THE CHAIRMAN: All right. Certainly,
5 Mr. Winchester. Thank you so much. And thank you so much
6 for contributing to our discussion here and helping --
7 helping us decide how best to frame our public policy here
8 in Colorado. Thank you, sir.

9 Our next witness is, if he or she is here,
10 Mr. Ian Jaeger. Mr. Jaeger.

11 Welcome, sir. Mr. Jaeger, just please tell us
12 your name for the record, who you represent, and give us
13 your testimony.

14 MR. JAEGER: Thank you, Mr. Chairman.

15 My name is Ian Jaeger, and thank you for
16 pronouncing it correctly. Most people don't get that right
17 on the first one. I'm representing myself here. I'm a new
18 resident here in Denver. I moved here just a little while
19 ago to attend grad school and basically start a business
20 here.

21 One of the things that I had ready was a nice
22 little commentary, and I'm going to go completely off scrip
23 because of most of the things that I had ready to say have
24 been pretty much beaten like a dead horse at this point.

25 I did want to raise two points, though. The

1 first one is that when we talk about the unchecked sales,
2 when somebody sells a firearm to somebody that they may or
3 may not know, we don't have to make that sale.

4 A lot of times, if we publish the fact that we
5 have an ad for a gun that I'd like to sell, if somebody
6 comes up to me and says, I would like to buy this weapon,
7 and the person obviously shouldn't have this weapon, I
8 don't have to sell to that person. So this is just adding
9 another layer or regulation to those of us who normally
10 would be following the law.

11 The other part of it is that a lot of these
12 laws -- and I'm talking both about 1224 and 1229 now -- are
13 really targeted against making trades and purchases and
14 things like that that some of us, like grad students, don't
15 have a lot of money, and we like to buy and sell and trade
16 off of the main market. And this would absolutely
17 eliminate most of that because now we are adding extra
18 expenses and things.

19 That's not going to have any effect whatsoever
20 on the illegal side of what we are talking about right now.
21 Where it is going to have an effect is on the people like
22 me, the future leaders, CEOs hopefully, leaders of the
23 bench, and things like that, where now we have extra
24 burdens on us that really are going to start affecting our
25 activities, our hobbies, and the things that we love to do.

1 THE CHAIRMAN: Mr. Jaeger, thank you.

2 Are there any questions for Mr. Jaeger?

3 Thank you for coming forward, sir, and giving
4 us your input. We appreciate it.

5 Alicia Perez. And after Ms. Perez we will be
6 going to James Durden, Jared Wolfe, and Tony Winchester.

7 Welcome, Ms. Perez. Please give us your name,
8 who you represent, and your testimony.

9 MS. PEREZ: I'm Alicia Perez, and I am a mom. I
10 home school four bays, and I am not a public speaker, so
11 I'm sorry.

12 I just have -- I was trying to read through
13 this long bill, and I am not a lawyer, so I had some
14 questions about some of it.

15 It talks about, you know, the exceptions for
16 being at the shooting range and that kind of thing being
17 okay. Sometimes we have friends come over, and we just go
18 out in our back field -- and actually it's not even ours.
19 It's our neighbor's, and we have permission to go there.

20 And, you know, when we're out there, sometimes
21 we switch and trade just to try new things. And it sounds
22 like that could be illegal under this new bill, the way
23 it's worded, if I read it right.

24 THE CHAIRMAN: That's a very good question, and
25 I don't know if Representative McCann would like to answer

1 it. I can certainly give you my understanding.

2 Or, Representative McCann, if you'd like to
3 address the matter.

4 REPRESENTATIVE McCANN: Well, the bill does
5 provide an exception for a temporary transfer while in the
6 home of the transferee as long as the unlicensed transferee
7 is not prohibited and as long as the transferee reasonably
8 believes that the possession of the firearm -- that's a
9 different -- I'm sorry, it's necessary to prevent imminent
10 danger.

11 It also provides for temporary transfer if it
12 occurs at shooting range, at a target shooting competition,
13 while hunting, fishing, or trapping. So if -- if the
14 witness is talking about simply transferring a gun to
15 someone in the home for purposes other than hunting,
16 fishing, or trapping, I think the bill would prohibit that.

17 THE CHAIRMAN: Um, and, Ms. Perez, I think you
18 -- you bring up a very interesting point. This is one of
19 the purposes of these hearings, is to acquaint the
20 committee with possible unintended consequences and
21 unintended probations. Yours may well be one of them.

22 And if this bill should go forward, I think that
23 this particular matter is one that the sponsors of the bill
24 may want to look at, as will be many other matters that
25 have been raised in committee. But it's particularly

1 valuable that you raise these kind of questions, and we
2 thank you for doing it because sometimes these bills can be
3 improved and often are improved as a result of public
4 testimony from folks who say, Do you realize your bill does
5 this? And sometimes we don't, and quite often we can
6 accommodate those concerns.

7 So thank you for that.

8 But you haven't used up your entire two
9 minutes, so please carry on.

10 MS. PEREZ: I do have another concern. Today I
11 heard the words "incremental steps" and "taking steps
12 forward." I was just -- you know, without knowing all
13 kinds of legal stuff, is there a guarantee that this bill
14 wouldn't be the first step in gun registration?

15 UNIDENTIFIED SPEAKER: What did he ask?

16 THE CHAIRMAN: Ms. Perez, this bill is not the
17 first step to gun registration, but whether or not future
18 general assemblies will choose to do A, B, or C, I, of
19 course, have no idea. And -- but I can only tell you that
20 we don't know what future general assemblies will do. This
21 bill does nothing toward requiring registration. And what
22 future general assemblies will do, I really can't say. But
23 Representative Salazar can answer the question.

24 REPRESENTATIVE SALAZAR: I feel like
25 (inaudible) the Magnificat.

1 Let me ask a question. Where -- did you mention
2 you and your friends going out and target practicing? Is
3 that -- is that what you are talking about?

4 MS. PEREZ: Yes.

5 REPRESENTATIVE SALAZAR: Okay. That's all I
6 need to know. Thank you.

7 THE CHAIRMAN: Representative Buckner.

8 REPRESENTATIVE BUCKNER: When you said in your
9 backyard, I assume that you don't live close to my
10 backyard.

11 MS. PEREZ: Yes. We have --

12 REPRESENTATIVE BUCKNER: You are somewhere it's
13 safe to shoot a gun in the backyard?

14 MS. PEREZ: Yes.

15 REPRESENTATIVE BUCKNER: Thank you.

16 THE CHAIRMAN: Are there any questions further?
17 Representative Murray.

18 REPRESENTATIVE MURRAY: Thank you, Mr. Chair.

19 Just to comment: So glad to see a female here
20 testifying. I know there are a lot of women shooters, and,
21 in fact, we're pretty good. And so thank -- thank you for
22 being here, and I would encourage any other women in the
23 audience to please feel free to participate.

24 Thank you.

25 THE CHAIRMAN: Thank you, Representative

1 Murray.

2 And I will remember the fact that you're a good
3 shooter next time I'm deciding whether to let you speak.

4 Thank you very much, Ms. Perez. Thank you for
5 being here.

6 James Durden. Thank you, sir.

7 Please come forward.

8 Mr. Durden, please state your name for the
9 record, tell us who you represent, and give us your
10 testimony.

11 MR. DURDEN: I'm James Durden of Park Hill,
12 Denver. Nice to meet you. I don't agree with you on this
13 one, but, you know, we don't have to be disagreeable,
14 right?

15 I originally -- originally I was for background
16 checks, universal checks, as a responsible gun owner, and
17 even if this dies in committee or goes later, if I transfer
18 my firearms to somebody else, I'm going to go ahead and get
19 a background check anyway if it's just someone that I don't
20 know.

21 I don't think I should be criminalized for
22 selling to someone that I do know very well, family,
23 anywhere else like that. I don't think that should be a
24 part of this -- you know, of the United States as it is.

25 You know, I just think it's kind of far

1 reaching, and I -- and I -- if you can't guarantee that
2 this isn't the first step in legislation -- I mean,
3 registration, then I think it should be stopped in
4 committee and floor and thrown under the table and stomped
5 on a couple times.

6 But the -- you know, I was concerned about the
7 registration comment, with all due respect, Representative
8 McCann.

9 I heard her use the phrase -- when she was
10 mentioning something about licensed persons, it kind of
11 skipped around, and we don't really have licensed persons
12 as of yet in this nation as far as -- unless you are
13 licensed to carry as far as, like, a law enforcement
14 officer, but she was referring to just average citizens
15 being a licensed person.

16 And I -- I don't really want to be a part of a
17 -- of that, you know. I have a carry permit, and I -- you
18 know, I didn't have one in Colorado until after the theater
19 shooting, and I realized that I need to be responsible for
20 my own defense and give myself a chance to -- you know,
21 while help is on the way. Being looked at as a licensed
22 person I think means you can regulate me in many other
23 different ways, and I think I would be opposed to that, and
24 I stand in opposition to this.

25 THE CHAIRMAN: Thank you, Mr. Durden, for

1 coming and testifying here today.

2 Are there any questions for Mr. Durden?

3 Sir, please accept our thanks.

4 MR. DURDEN: Thank you.

5 THE CHAIRMAN: And I will now move -- because
6 we are getting short of time, and we want to get as many
7 witnesses in as possible. I'm chagrined that we won't be
8 able to get to everybody, but we can get to Mr. -- Mr. or
9 Mrs. Wolfe. I think it is Janet (sic) Wolfe, or I can't
10 read the first name. It begins with a J, and last name is
11 Wolfe.

12 Are you Mr. Wolfe?

13 Welcome, sir, and thank you for coming to
14 testify here today.

15 Please tell us your name.

16 MR. WOLFE: My name is Jared Wolfe.

17 THE CHAIRMAN: Jared Wolfe. Thank you for
18 coming, and please proceed with your testimony.

19 MR. WOLFE: First, I want to kind of explain my
20 understanding of the current background check and the one
21 proposed.

22 I believe the current background check is
23 necessary because it allows for a business to regulate
24 where their guns go without discriminating based on
25 personal characteristics; however, the proposed background

1 check kind of takes that away from the individual, and I
2 believe that it's the individual's responsibility to be
3 able to judge a person's character and do it responsibly.
4 Having that said, there are also ways to check a person's
5 background without it being legally mandated.

6 Um, also I wanted to point out that if the
7 proposed background check on private sales is enforced,
8 there is no real way to check on people, whether they are
9 actually checking other people's background. There's
10 nobody watching over your shoulder to make sure you're
11 doing that.

12 So if there's a law saying that you have to do
13 that and then people aren't doing that, the next step to
14 enforce that law is to have somebody looking over your
15 shoulder, is to have gun registration. There's no other
16 way to enforce that law.

17 THE CHAIRMAN: Um, Mr. Wolfe, thank you for
18 giving us your view.

19 Are there any questions for Mr. Wolfe?

20 Thank you, sir, for coming forwarded. We
21 appreciate it.

22 Toni Winchester, who will be followed by Robin
23 Grattet and then Michael Billingsley, and then David
24 Whiteaker, assuming we have time. But for now, we are with
25 Toni Winchester.

1 Thank you for coming.

2 MS. WINCHESTER: Thank you, Chairman and
3 representatives.

4 My name is Toni Winchester. I've been a
5 shooter for 21 years, and I am currently an NRA instructor.

6 I see the purpose behind this bill, but it
7 really concerns me because I see a lot of definitions in
8 here transferring fire guns -- firearms. What constitutes
9 family? Families are so blended. I may have a
10 guardianship over someone for six months. Is that
11 considered family? Can I transfer a firearm? I feel that
12 there are a lot of regulations being put on the average law
13 abiding citizen who enjoys the sport of shooting because we
14 do not want to break the law.

15 And this is very frightening to me because we
16 see this today. If I take my students out to my property
17 in the mountains and we shoot and I hand them a gun to use
18 on the street and it's in my house and they take it home,
19 what are the implications that can come back on me? So I'm
20 very fearful of this law because it's requiring too much
21 for the individual person who wants to enjoy the sport of
22 shooting.

23 THE CHAIRMAN: Thank you, Ms. Winchester. We
24 appreciate your coming.

25 Representative Pettersen.

1 REPRESENTATIVE PETTERSEN: Thank you, Mr. Chair.

2 On page 5, line 3 through 6, this identifies
3 that it is relative to immediate family. So your kids,
4 your husband, your parents is defined on page 5.

5 MS. WINCHESTER: A second cousin?

6 REPRESENTATIVE PETTERSEN: No, only immediate
7 family.

8 THE CHAIRMAN: No. That is something that's in
9 the bill, and it's, I think, a valid question. But the
10 answer is, no, it is restricted. The exemption is
11 restricted in the bill to bona fide gift made between
12 immediate family members, meaning limited to spouses,
13 parents, children, siblings, grandparents, and
14 grandchildren.

15 Are there any -- Representative Court.

16 REPRESENTATIVE COURT: Thank you, Mr. Chair.

17 So obviously that's been one of the issues that
18 various witnesses have struggled with, and I know the
19 sponsors and members of the committee are struggling with
20 that as well, as far as to whom we make or on whom we make
21 the restrictions.

22 But what I want to ask is: Are you in favor of
23 extending the background check if we can work that piece
24 out?

25 THE CHAIRMAN: Ms. Winchester.

1 MS. WINCHESTER: Generally speaking, no,
2 because I feel that if the background check is done, I am
3 off the hook. Well, if I'm going to sell -- no, I said
4 that incorrectly.

5 I would go through an FFL to sell the gun. He
6 would do the background check, so nothing could come back
7 on me, that it was my gun ten years ago.

8 THE CHAIRMAN: Right, right.

9 Representative Court.

10 REPRESENTATIVE COURT: Thank you, Mr. Chair.

11 Okay. Now I'm confused.

12 MS. WINCHESTER: Okay.

13 REPRESENTATIVE COURT: So the point -- the
14 overarching point of this bill is to close that last
15 loophole of where people can get guns, and to say that in
16 individual purchases and exchanges we want to close that
17 loophole.

18 So -- and your point, I think, is well taken,
19 and we've heard that. So addressing the issue of to whom
20 guns can be given, you know, what that circle is, that
21 needs to be addressed, I think. I think you have a valid
22 point for us to consider.

23 But I didn't understand your -- your answer when
24 I asked what about closing that loophole totally, in
25 general, if we could fix that. You said you weren't, but I

1 couldn't understand why you said that.

2 MS. WINCHESTER: I understand your question. I
3 do hesitate because I feel, because this is an issue about
4 guns, is that we are being overregulated, and the criminals
5 will find those guns in such creative ways. No matter what
6 law we pass, they will find the guns.

7 And my concern is no matter what we do today or
8 in two years or another four years, they are still going to
9 get those guns, and then our rights are going to be taken
10 away.

11 THE CHAIRMAN: Representative Court.

12 REPRESENTATIVE COURT: Thank you, Mr. Chair.

13 Okay. So I want to push back on that, because
14 I don't see how your rights are being taken away if you
15 simply go through a background check and get it. You are
16 currently able to get guns at a gun show or at a gun shop,
17 and you have no right being taken away. You go and make
18 those purchases.

19 So why would closing this last loophole remove a
20 right that isn't removed in those other circumstances?

21 MS. WINCHESTER: Because if --

22 THE CHAIRMAN: Ms. Winchester.

23 MS. WINCHESTER: Thank you, sir.

24 If we close the loophole, criminals will still
25 find ways to get guns, and the criminal check is not -- the

1 criminal check is not going to check the heart of a man or
2 their intent to do something illegal.

3 And if we close that loophole, criminals still
4 have the ability to get firearms, society is still going to
5 be in an uproar, and then I fear that all guns are going to
6 be banned.

7 THE CHAIRMAN: Representative Salazar.

8 REPRESENTATIVE SALAZAR: Thank you, Mr. Chair.

9 So I think you're absolutely right, that
10 criminals will find a way to get guns. That's the nature
11 of a criminal. But by closing this loophole, that gives
12 them one less method of obtaining a gun, meaning that if
13 they know that they have to try to purchase it from someone
14 instead of breaking into a house and stealing it, if they
15 have to purchase it from someone that they don't know, and
16 that person is like, I'm going to run a background check on
17 you, then that criminal might think twice about going to
18 someone to purchase a gun, whereas they could just go and
19 steal it.

20 I mean, there's nothing that's going to stop a
21 criminal from obtaining a gun illegally, but this is
22 closing one of those things, making it a requirement for
23 the purchase or the -- the selling of a weapon, and that
24 closes that option for them.

25 I mean, do you agree with that -- that premiss?

1 THE CHAIRMAN: Ms. Winchester.

2 MS. WINCHESTER: Yes, it does close that one
3 option to them.

4 THE CHAIRMAN: And, Ms. Winchester,
5 Representative Lee has a question for you.

6 REPRESENTATIVE LEE: Thank you, Mr. Chairman.

7 Let me thank you for coming here, because one
8 of the purposes of these hearings is to help us understand,
9 as the Chairman said, unintended consequences, and our goal
10 is not to create difficulties for people legally, lawfully
11 engaged in the types of activities that you are describing.

12 And as you were describing your situation
13 earlier, you were saying taking someone out to your
14 property to engage in shooting at a shooting range, would
15 it be illegal for you to lend them a firearm to use, and I
16 want to know if the exception we have in the bill covers
17 that situation.

18 And it says, "The transfer is a temporary
19 transfer of possession without transfer of ownership or
20 title to ownership, which transfer takes place at a
21 shooting range located in or on premises owned or occupied
22 by a duly incorporated organization organized for
23 conversation purposes or to foster proficiency in
24 firearms."

25 Would that cover the situation you've described?

1 THE CHAIRMAN: Ms. Winchester.

2 MS. WINCHESTER: No. This is my private
3 property, and we go out and shoot and have fun. So we're
4 not an organization; we're not an official shooting range.

5 REPRESENTATIVE LEE: Okay. That's helpful.
6 Thanks very much.

7 THE CHAIRMAN: Thank you, Ms. Winchester, for
8 coming here today.

9 MS. WINCHESTER: Thank you.

10 THE CHAIRMAN: Um, we have a group of six
11 county sheriffs who would like to testify, and I would ask
12 the county sheriffs to come forward and give us your names,
13 please, who you represent, and present your testimony.

14 MR. WIGGINGS: Thank you, Mr. Chairman, and
15 thank you members of the Judiciary Committee.

16 My name is Garrett Wiggings. I'm here for Routt
17 County. I'm also an executive board member for the County
18 Sheriffs of Colorado.

19 With me today I have Sheriff Smith, Sheriff
20 Heap, Sheriff Cook, Sheriff Becker, and Sheriff Hartman.

21 I have spent approximately 25 years in the law
22 enforcement profession, working for municipal police
23 departments, as well as rural sheriffs offices in both
24 Colorado and Florida.

25 I believe it's very important for all of us here

1 today to recognize that not only Colorado but America has a
2 serious problem with violence in society. This issue is a
3 serious problem that is going to take all of us -- and "us"
4 I mean being the people of Colorado and the people of this
5 great nation to correct.

6 Whether you're here as an elected official,
7 department head, community leader, we should not and cannot
8 afford to politicize this issue.

9 As with any investigation, we must gather the
10 facts, process and analyze the evidence, identify those
11 responsible, and take corrective action. This is not time
12 for division between Democrats, Republicans, or
13 Independents, and if ever there was an issue that demanded
14 a unified approach, it is the issue of violence and evil in
15 our society.

16 And in the many years I have served as a law
17 enforcement professional, I have personally investigated
18 and supervised many crimes of violence where a firearm was
19 used in its commission. I, like many officers of the law
20 testifying here today, have direct evidence-based knowledge
21 regarding human initiated acts of violence. I put emphasis
22 on the selection of my wording when I say "human initiated
23 acts of violence" because the common denominator behind
24 every evil act is humans.

25 I want to point out just a few facts here.

1 The first fact is the majority of firearm-related crimes
2 are not -- and let me repeat -- not committed using guns
3 with high-capacity magazines or what some refer to as
4 assault rifles.

5 History indicates that the firearm of choice,
6 one in the majority -- in the majority of violent crimes
7 are revolvers, otherwise known as Saturday-night specials
8 or cheap handguns with a capacity to hold less than seven
9 to ten rounds. These proposed bills penalize only
10 law-abiding citizens who possess the type of firearms for
11 lawful reasons.

12 This bill will have very little to no effect in
13 reducing overall crime rates involving firearms. We all
14 know criminals, and anyone intent on committing homicide or
15 other crimes, are going to ignore law regardless of whether
16 it is old or newly legislated. Criminals and delusional
17 people see laws as nothing more but ink on a piece of
18 paper.

19 The next fact I want to point out is I want to
20 mention a few cities, such as Chicago, New York,
21 Washington, D.C. They have the strictest gun laws in our
22 nation, but yet they have the highest rates of gun crime in
23 our nation.

24 The question must be asked, Why is this? If
25 the fact that the cities with the most stringent gun laws

1 in our nation are responsible for the highest gun violence,
2 then why would anyone suggest or believe that having more
3 gun laws would have a positive impact?

4 The third fact is let's examine the most recent
5 gun-related events, and I think these have been talked --
6 mentioned some here today, so I apologize in advance for
7 any reiteration.

8 But most recent events around our nation have
9 occurred -- or most of these atrocities have occurred in
10 gun-free zones. Again, the question must be asked: Why?

11 The fact is that these incidents are continually
12 occurring in gun-free zones proves that criminals and
13 mentally unstable seek out these areas to commit acts of
14 violence as these cowards -- and I call them "cowards"
15 because that's exactly what they are -- know that these are
16 target-rich en -- are a target-rich environment of
17 completely defenseless victims. And I think it was touched
18 on a little bit here today, and I think we need to expound
19 on it a little bit.

20 The fourth is that all of these individual
21 suspects in these most recent atrocities have histories of
22 mental illness. I think we all agree that no one in their
23 right mind could commit the kinds of evil acts that we have
24 witnessed in Aurora, Connecticut, and other places around
25 our nation.

1 These individuals were known to have severe
2 mental illness by family members, schools, physicians, and
3 the public, but yet they were still able to legally
4 purchase firearms without out any delay.

5 THE CHAIRMAN: Sheriff, may I just say how much
6 we appreciate you being here, but we would like to see if
7 the committee has any questions for you at this stage.

8 Thank you very much for coming and -- oh, I've
9 got two questions. I've got --

10 Representative Court, do you have a question?

11 REPRESENTATIVE COURT: I did.

12 THE CHAIRMAN: Representative Court.

13 REPRESENTATIVE COURT: Thank you, Mr. Chair.

14 I want to know, because I represent Denver, if
15 the Denver sheriff is in your group.

16 MR. WIGGINS: Not at this time, no.

17 REPRESENTATIVE COURT: Thank you.

18 THE CHAIRMAN: Thank you, Sheriff. I'm sorry to
19 cut you off, but we are ruthless on the House Judiciary
20 Committee.

21 MR. WIGGINGS: I understand. I -- I had a lot
22 of points here to make, and some of them would have been
23 redundant, so I was trying to expedite.

24 THE CHAIRMAN: I really -- we appreciate you
25 taking the trouble to come and give us the views of -- and

1 you know what goes on out there, so it's particularly
2 valuable and helpful.

3 Thank you so much.

4 MR. WIGGINS: You're welcome.

5 THE CHAIRMAN: Oh. Representative McLachlan.

6 REPRESENTATIVE McLACHLAN: Thank you,
7 Mr. Chairman.

8 Sheriff, would you tell us the counties from
9 which your people represent? I heard Routt County, but I
10 wanted to know the other counties too, please.

11 MR. WIGGINS: Okay. We have Routt County,
12 Larimer County, Elbert County. Help me out here a little
13 bit.

14 UNIDENTIFIED SPEAKER: Fremont.

15 MR. WIGGINS: Fremont and -- Weld and Gilpin.

16 UNIDENTIFIED SPEAKER: Gilpin.

17 REPRESENTATIVE McLACHLAN: Thank you.

18 MR. WIGGINS: Out of the six of us, five of us
19 are county -- are board members of the County Sheriffs of
20 Colorado.

21 THE CHAIRMAN: Thank you. And I must say
22 you've all come a long way, so that's doubly appreciated.
23 We want to make the right decision here, and you are -- you
24 are helping us.

25 Thank you so much.

1 MR. WIGGINS: Thank you.

2 THE CHAIRMAN: We have very little time
3 remaining, but we -- I'm going to take -- I'm going to take
4 one, two, three, four more witnesses. And I wish we could
5 take everybody's testimony, but we're simply running
6 against the clock here.

7 So we'll hear from Robin Grattet, then Michael
8 Billingsley, David Whiteaker, and Robert Wareham.

9 Ms. Grattet, welcome.

10 MS. GRATTE: It's actually Grattet.

11 THE CHAIRMAN: Sorry.

12 MS. GRATTE: It's all right.

13 THE CHAIRMAN: Ms. Grattet, welcome.

14 MS. GRATTE: Thank you, Chairman, and thank
15 you other members.

16 My name is Robin Grattet, and I'm here
17 representing myself and my four children who are standing
18 on the back -- in the back and have been enjoying the
19 proceedings today.

20 THE CHAIRMAN: Thank you.

21 MS. GRATTE: I didn't come prepared to speak
22 today, so I hope that you will forgive me if I -- as I
23 express some disjointed observations. I'm not a gun owner.
24 I'm not a member of any rifle or gun association, so you
25 might think it's a little odd that I'm sitting on this side

1 of the fence.

2 But I'm coming here because, one, I believe it
3 is the citizen's responsibility to stand firm against any
4 government encroachment on any right even if the government
5 purports that that restriction is for our own good. That's
6 one observation I have.

7 But a more important observation is I believe
8 that we are all here with a common goal, and some of us
9 just disagree with our attempts to reach that goal. I
10 believe that our goal is to have a safer society to raise
11 our children in. Our goal is so that we can be safe.

12 When I go into Costco with my children, I don't
13 have to constantly be looking for exits if somebody is
14 going to do something that they shouldn't, and it might not
15 necessarily be someone with a gun.

16 Our goal I don't believe can be reached through
17 the avenue we are trying to take here today. I believe the
18 avenue we are taking today is placing burdens, burdens of
19 proof, on law-abiding citizen. If I want to purchase a
20 gun, I have to prove that I'm not a criminal. And while
21 that may seem expedient, I don't believe it's morale,
22 ethical, or what the fathers of constitution intended.

23 Our major concerns are the problem of violence
24 in our society. We've talked a lot about gun violence
25 today, and that's a myth. As previous testifiers have

1 said, guns do not commit violence, people do. And in order
2 to change that, making more stringent gun laws isn't going
3 to make a difference. We're wasting our time; we're
4 wasting our money; we're wasting the depth of our thinking;
5 we're wasting all of our resources here trying to, as my
6 grandmother would say, shut the barn door after the horse
7 got out.

8 THE CHAIRMAN: Right.

9 MS. GRATTE: The problem that we have here is
10 our society. We have -- oh, my goodness, my notes. We've
11 created a culture that glories in death and violence, the
12 video games, the movies.

13 My husband tried to rent a video the other night
14 from -- I can't remember. It was Hudo or one of those
15 places. We couldn't find anything that wasn't dangerous,
16 that was putting dangerous violent thoughts into the heads
17 of our children.

18 We -- these are the things we need to look at,
19 not at gun control, but we need to look at changing the
20 hearts and preventing our young people from become
21 disenfranchised, teaching everyone the value of life,
22 protecting our mentally ill from causing harm to themselves
23 and to others. And I would really like to see my state of
24 Colorado put our resources toward that.

25 Thank you so much for allowing me the time to

1 speak today.

2 THE CHAIRMAN: Well, thank you for coming and
3 waiting so patiently and giving us the benefit of your
4 input.

5 Are there any questions for Ms. Grattet?

6 Ms. Grattet, thank you.

7 MS. GRATTET: Thank you.

8 And if I may say one more thing, I have to say
9 that I appreciate that as Americans we can all come here
10 and stand on different sides of a fence and work toward a
11 common goal together, and I hope that we are successful in
12 that.

13 Thank you.

14 THE CHAIRMAN: Thank you, Ms. Grattet.

15 Michael Billingsley.

16 Mr. Billingsley.

17 Please state your name, tell us who you
18 represent, and go for it.

19 MR. BILLINGSLEY: Okay. My name is Michael
20 Billingsley. I represent myself, family, and friends. I
21 am an NRA member, an RMGO member, but I am also a citizen
22 of Colorado.

23 Now, I did prepare some things to say to you
24 today, but I feel that many of my points have already been
25 made, and I would like to seed my time to Bob Edminston of

1 the Firearms Coalition of Colorado, who has some more to
2 say.

3 Can I give my time to --

4 THE CHAIRMAN: Oh, to Bob Edminston, yes.

5 Sorry. I was momentarily distracted there, Mr. --

6 MR. BILLINGSLEY: No problem.

7 THE CHAIRMAN: -- Mr. Billingsley.

8 Yes. Please do that.

9 MR. EDMINSTON: Thank you, Mr. Billingsly.

10 Thank you, Mr. Chair and committee.

11 THE CHAIRMAN: Mr. Edminston, welcome.

12 Let the record reflect that Mr. Edminston has
13 given some pieces of writing to Ms. Shipley, which she is
14 distributing to the members of the committee.

15 And while she does that, Mr. Edminston, why
16 don't you tell us your name and tell us who you represent,
17 if anyone other than yourself, and proceed with testimony.

18 MR. EDMINSTON: Thank you, Mr. Chair, and
19 committee.

20 My name is Robert Edminston, and I'm
21 representing the Firearms Coalition of Colorado. We are an
22 NRA affiliated organization. I am a volunteer lobbyist and
23 a NRA member who is speaking in opposition to this bill.
24 I'm am former U.S. Army officer. I have a master's degree
25 in psychology, counseling, and guidance.

1 When an evil or deranged individual commits an
2 act of violence, everybody wants to do something to prevent
3 another incident. We do not believe that this bill will
4 have an effect on violence and that it will make it harder
5 for honest citizens to defend themselves.

6 Please refer to your handout, the 2003 study
7 done by the Centers for Disease Control, could find not
8 significant evidence that any gun control law reduces
9 crime. National Academy of the Sciences study and the U.N.
10 affiliated small arms survey indicate that there's no
11 cause-and-effect relationship between gun ownership and
12 crime.

13 Research by Cleek, Lott, and Mustered and
14 Wright and Rossi indicates that gun ownership in civilian
15 hands detours tears criminals and their significant numbers
16 of defensive gun uses every year documented by Dr. Cleek up
17 to 2.5 million defensive uses per year.

18 Research indicates that this bill is unlikely
19 to do any good. Worst, this bill has what I believe to be
20 a constitutional problem in that it does not apply to
21 prohibited persons.

22 According to the U.S. Supreme Court case U.S.
23 V. Haines, prohibited persons cannot be prosecuted for
24 failing to self-incriminate. Haines was a gun-registration
25 case that I believe would apply to background checks. I'll

1 quote very briefly from the opinion here.

2 "We hold that a proper claim of the
3 constitutional privilege against self-incrimination
4 provides a full defense to prosecutions either for failure
5 to register a firearm or for possession of unregistered
6 firearm."

7 We believe this bill only affects honest
8 citizens and not the prohibited persons against who the
9 bill is supposed to be directed.

10 As a young man, who was a gang member in east
11 Denver, said one time, If are you going to smoke somebody,
12 you don't need any paperwork. We urge a note vote on the
13 bill.

14 Thank you very much.

15 THE CHAIRMAN: Thank you, Mr. Edminston.

16 Are there any questions for Mr. Edminston?

17 Seeing none, thank you, sir, for coming and --

18 MR. EDMINSTON: Thank you very much, Mr. Chair
19 and committee.

20 THE CHAIRMAN: Thank you.

21 David Whiteaker, please come forward.

22 Mr. Whiteaker, welcome to the House Judiciary
23 Committee. Thank you for being here. Please tell us your
24 name for the record and who you represent, and then tell
25 us --

1 MR. WHITEAKER: My name is David Whiteaker. I
2 represent myself as a sovereign citizen of the state of
3 Colorado.

4 THE CHAIRMAN: Thank you, sir. Please proceed.

5 MR. WHITEAKER: Thank you, Chair and committee.

6 I have a two -- two issues with this bill.
7 Number one is I've had firearms since I was about nine
8 years old. I have bought many, sold many, given many away.
9 A lot of those are registered -- or were bought in my name
10 through the proper thing, fill out the proper forms. Some
11 of those I no longer own. What happens if one of those
12 turns up somewhere in a crime because I can't prove that I
13 sold it? That's one of the questions.

14 The other is: You say that this has nothing to
15 do with registration. I don't see how you are going to
16 enforce any of this thing without registration. I don't
17 see that. You may have a mechanism, but I don't understand
18 it.

19 Other -- two other points I would make that are
20 not with this bill, but I would say the gun-free zones are
21 virtually an invitation for some kook to come in. If they
22 want to shoot somebody, where are they going?

23 And the other is: You tell the lady that's
24 protecting her kids against some -- maybe a couple of guys
25 that are high on meth that she can only have six, seven, or

1 eight bullets in her gun. Those guys are known for being
2 almost unstoppable.

3 And with that, I'm done.

4 THE CHAIRMAN: Thank you, Mr. Whiteaker.

5 Are there any questions or Mr. Whiteaker?

6 Sir, thank you for coming.

7 MR. WHITEAKER: Thank you.

8 THE CHAIRMAN: For waiting patiently and giving
9 us your thoughts.

10 And I'm afraid that the last witness that we
11 have time for before -- in fact, we've already overrun, but
12 I did state that we would be hearing from, so I would ask
13 Mr. Robert Wareham to come forward.

14 Mr. Wareham, welcome. Thank you.

15 MR. WAREHAM: Thank you, Mr. Chairman.

16 THE CHAIRMAN: Please state --

17 MR. WAREHAM: My name is Robert Wareham. I'm an
18 attorney here in Colorado. I specialize in domestic
19 relation law.

20 And I thought the testimony this afternoon was
21 very helpful in pointing out that this bill should not be
22 enacted. It was thrown together in a hurry, in a knee-jerk
23 reaction, and it hasn't been clearly thought out.

24 I tend to look at the unintended consequences.
25 We deal with them every day in the trial courts. We look

1 at it, and we go, well, we see you're well intentioned,
2 members of the legislature, but did you anticipate this
3 would be the result?

4 An example that I would bring to mind in this
5 bill is that there are provisions for judicial review.
6 Ladies and gentlemen of the committee, I will tell you that
7 if you file for a divorce in Douglas County today and you
8 don't settle, you will not have a hearing for 18 months.

9 Where is the urgency in this bill? Where have
10 the authors provided for expedient judicial review? If
11 there's going to be judicial review, it's meaningless if it
12 doesn't take place for months or years, and I think
13 everybody here has conceded that we are dealing with a
14 fundamental right here. Justice delayed is justice denied.

15 I met yesterday with a woman who's been the
16 victim of domestic violence and sexual abuse for almost 20
17 years. She showed me her protection order. I reminded her
18 that that's just a piece of paper, that unfortunately we
19 live in a world where we have to be prepared to take
20 responsibility for our own families and for ourselves.

21 To tell that woman that she has to have a delay
22 of even a few days in acquiring a firearm and training to
23 defend herself is to make that woman a victim all over
24 again.

25 Our jobs and our oaths were to uphold the

1 constitution and protect our citizenry. While well
2 intentioned, this statute -- or this bill is misguided.

3 Thank you, Mr. Chairman.

4 THE CHAIRMAN: Thank you, Mr. Wareham.

5 Representative Salazar.

6 REPRESENTATIVE SALAZAR: Thank you, Mr. Chair.

7 Just a question for you, because I was looking
8 at the -- the bill itself, when you said it, about the
9 petition for relief.

10 Having language that says that the hearing would
11 be held at its earliest practical time, do you think that
12 that would address at least that part of your concern?

13 THE CHAIRMAN: Mr. Wareham.

14 MR. WAREHAM: Thank you very much,
15 Representative Salazar.

16 In domestic relations law, we have several
17 saying at the earliest practical time. Unfortunately, with
18 the staffing in the judicial branch these days, that still
19 could be a matter of weeks. We do have some limited ones
20 involving the safety of children where the legislation
21 later has said the Court must hear this within seven days.

22 I think, if you're going to do that, it needs to
23 be done in that fashion. We've joked about the InstaCheck
24 and what nobody foresaw. Nobody would ever define an
25 InstaCheck as taking ten days. And so having general

1 language I think is inappropriate.

2 I think what needs to come back here is really
3 look at this and say we've heard it isn't going to drop
4 the crime rate, it's going to affect law-abiding citizens,
5 and it may actually engage law-abiding citizens.

6 THE CHAIRMAN: Representative Salazar.

7 REPRESENTATIVE SALAZAR: Thank you.

8 And I understand that you have multiple aspects
9 or multiple facets or your argument, but I'm just trying to
10 pin down the -- the issue of the time. As we enter, like,
11 open records act, you do earliest practical time. It's
12 usually within about ten days and -- or would you rather
13 see, instead of earliest practical time, would you rather
14 see an actual time frame established, like within seven
15 days of the petition for relief?

16 THE CHAIRMAN: Mr. Wareham.

17 MR. WAREHAM: Representative Gardner brought it
18 up this morning. When you heard rule of sevens, if it had
19 the rule of sevens, that's certainly a more specific time
20 than as soon as practical. If a petition for review was
21 done within seven days, that's certainly better than open
22 ended.

23 But I appreciate, yes. That's -- specifically I
24 think it should be a specific one, and seven days seems
25 like a good period of time.

1 REPRESENTATIVE SALAZAR: Thank you, sir.

2 THE CHAIRMAN: Representative Petterson.

3 Representative PETERSEN: Thank you, Mr. Chair.

4 This situation that you described was a woman
5 who had been raped and you were worried about her safety?

6 MR. WAREHAM: That's correct.

7 REPRESENTATIVE PETERSEN: Wouldn't you want to
8 make sure that that very woman that the person who raped
9 her didn't have access to gaining a weapon?

10 THE CHAIRMAN: Mr. Wareham.

11 MR. WAREHAM: I do have concerns about him
12 having access to a weapon, but he's going to have access to
13 weapons either way.

14 REPRESENTATIVE PETERSEN: Thank you.

15 Wouldn't we want to make sure we sure reduce
16 that probability?

17 MR. WAREHAM: I don't think that this bill does
18 anything to reduce that probability, with all due respect.
19 It really doesn't. With the number of firearms already out
20 there, I don't think it will have that effect.

21 REPRESENTATIVE PETERSEN: Thank you.

22 THE CHAIRMAN: Representative Pettersen.

23 REPRESENTATIVE PETERSEN: And thank you also
24 for bringing attention to worrying about the backlog and
25 people who are in immediate danger and having to wait for a

1 gun.

2 On page 5, line 3 through -- sorry -- page 5,
3 line 15 through 17, the exemption is that if somebody is in
4 immediate danger, that you can lawfully give them a gun to
5 protect themselves.

6 I think that maybe clarity on what immediate
7 danger means would be important, but there is that
8 exemption there.

9 MR. WAREHAM: Well, unfortunately --

10 THE CHAIRMAN: Mr. Wareham.

11 MR. WAREHAM: I'm sorry.

12 THE CHAIRMAN: It's all right.

13 MR. WAREHAM: Unfortunately some of these
14 immediate exemptions come up after someone's had to pay my
15 firm \$10,000 to put forth an affirmative defense in a court
16 of law, and that can be unduly burdensome and have a
17 chilling effect on someone as well.

18 It's great to put this language in there, but
19 when you're faced with having to hire an attorney or a law
20 firm and pay them \$10,000 or \$15,000 to prove you were
21 right, then it does become a burden on a constitutional
22 right.

23 REPRESENTATIVE PETTERSEN: Great. Thank you
24 very much.

25 MR. WAREHAM: Thank you very much.

1 THE CHAIRMAN: Thank you, Mr. Wareham.

2 And Representative McLachlan.

3 REPRESENTATIVE McLACHLAN: Thank you,

4 Mr. Chairman.

5 Mr. Wareham, you're focusing on the due process
6 protections which are contained within the statute. And
7 again, I realize in a domestic relations law you don't deal
8 with constitutional issues on a daily basis.

9 But let me ask you this question: Assuming for
10 the sake of discussion that we could craft a constitutional
11 statute here, that it could be done, or assuming that it
12 could not be done, wouldn't the courts of Colorado be
13 available for immediate injunctive relief in the event that
14 the statute was unconstitutional, and couldn't the courts
15 of Colorado grant relief that would stay the execution of
16 this statute if it was unconstitutional, without -- without
17 reference to the due process protections in the statute?

18 THE CHAIRMAN: Well, Mr. Wareham.

19 MR. WAREHAM: I brought up the -- the
20 objections that I thought I was uniquely qualified, and
21 I've been here all day listening to the testimony. So I
22 was trying not to be duplicative.

23 That's not the only problem I see with it. But
24 again, when we get into going and getting injunctive relief
25 from the courts, now all of a sudden, we've dropped

1 exercising rights into the class of people who can afford
2 to pay attorneys to do these things.

3 In an ideal world, yes, we could call up, and
4 I'd say, you know, I'm not busy today. I'll be happy to
5 take your case pro bono, but that's not the reality.
6 Taking a case to court like that and getting injunctive
7 relief after the fact is -- is a proposition of a thousand,
8 if not tens of thousands of dollars and takes time. It
9 really does take time.

10 And -- and while I appreciate having a hearing
11 within seven days, one of the problems of having a hearing
12 within seven days is it kind of turns this into MASH
13 surgeons in the courtroom because we literally don't have
14 the opportunity to prepare our cases as well as we would
15 like, and it becomes kind of meatball surgery. But we do
16 it, and we do it every day to the best of our ability.

17 But I think that creates another problem with
18 the injunctive relief and just the necessity of hiring
19 legal counsel to exercise what is a fundamental right.

20 THE CHAIRMAN: Thank you, Mr. Wareham. Thank
21 you so much --

22 MR. WAREHAM: Thank you.

23 THE CHAIRMAN: -- for coming here and giving us
24 your views and input.

25 The witness testimony phase is now closed.

1 And I would like to thank all those who have
2 testified here today, because what you've done is you've
3 taken time out of a busy schedule. You've come in some
4 cases from a long way away, and you've done it simply to
5 help make sure that we craft the best possible public
6 policy for Colorado, and there's almost no higher public
7 service than that. Jury service, testifying in these
8 committees, these are the things that we depend on citizens
9 to do to keep us representing you properly, and it's very
10 much appreciated.

11 Now, there have been some witnesses who signed
12 up to testify in opposition to -- to House Bill -- I don't
13 know what the number is.

14 UNIDENTIFIED SPEAKER: 1229.

15 THE CHAIRMAN: -- 1229 that did not have the
16 opportunity to do so. And I wish to give you the
17 opportunity to register your opposition, if you'd like to.
18 So I would like to ask all of those who came to testify
19 against House Bill 1229 to register your opposition by
20 standing now, and accept my apologies for not having been
21 able to get to everybody.

22 And I note for the record a large number of
23 people who sadly were not able to testify, but it should be
24 noted for the record a large number of people who would
25 have testified in opposition to this bill had they had the

1 opportunity.

2 And I want to thank you as well for coming here,
3 and your opposition is duly noted. Thank you very much for
4 that.

5 We will take a very brief recess, literally five
6 minutes, and we will proceed to the amendment phase of
7 House Bill 1229. This committee will stand in recess.

8 (A recess was taken at this time.)

9 THE CHAIRMAN: We are at the amendment phase of
10 House Bill 1229, by Representatives Fields and McCann. And
11 I would ask if there are any amendments that are to be
12 offered. Oh.

13 (Inaudible.)

14 THE CHAIRMAN: Huh?

15 REPRESENTATIVE FIELDS: If he's here to offer
16 his amendment.

17 THE CHAIRMAN: I'm going to be pretty indulgent
18 of late arrivals, Representative Fields, given my own
19 record in --

20 REPRESENTATIVE FIELDS: Thank you,
21 Mr. Chair.

22 THE CHAIRMAN: Given my own record in that
23 department.

24 Representative Gardner, welcome.

25 REPRESENTATIVE GARDNER: For -- for amendments,

1 Mr. Chair?

2 THE CHAIRMAN: We're here for amendments,

3 Mr. -- Representative Gardner, yes.

4 REPRESENTATIVE GARDNER: Okay. Thank you,

5 Mr. Chair.

6 Mr. Chair, I would move L.001.

7 REPRESENTATIVE WRIGHT: Second.

8 THE CHAIRMAN: The amendment L.001 has been
9 moved by Representative Gardner and seconded by
10 Representative Wright.

11 Represent Gardner, tell us about Amendment
12 L.001.

13 REPRESENTATIVE GARDNER: Thank you,

14 Mr. Chair.

15 Mr. Chair, L.001 is a very straightforward
16 amendment. I had a concern brought to me by some licensed
17 -- a particular licensed gun dealer, and perhaps more than
18 one, that was concerned that because the legislation talks
19 extensively about the requirement for the performance of a
20 background check, that would be an expectation or an
21 implied requirement that any licensed gun dealer in
22 Colorado would be required to run these background checks
23 for the particular fee when, in fact, there are many
24 dealers that may not wish to sort of be in that business,
25 if you will, and would not want to do so.

1 So the amendment basically says nothing in the
2 section shall be construed to require a licensed gun dealer
3 to obtain a background check upon their request of a
4 prospective firearm transfer. So they could simply choose
5 not to do it.

6 And I think one of things that militates in
7 favor of this is simply the fact that there may be those
8 that they know or suspect are not -- are not permitted to
9 do the transfer, and they would prefer not to deal with
10 them, and they just want to protect their right not to deal
11 with someone if they wish to pursue that course.

12 THE CHAIRMAN: Representative Gardner, thank
13 you. Are there any comments by members of the committee on
14 the subject of L.001?

15 Representative Fields.

16 REPRESENTATIVE FIELDS: Mr. Chair, I oppose
17 this amendment. This is an unfriendly amendment. It would
18 create an unstandarded practice in our state. So I think it
19 would gut the bill, so I urge a no vote on this amendment,
20 L.001.

21 THE CHAIRMAN: Representative Gardner.

22 REPRESENTATIVE GARDNER: Yes, thank you.

23 That is unfortunate that it's an unfriendly
24 amendment because it seems to me that it puts the licensed
25 gun dealer in a particular situation where they may have to

1 deal with people or there is an implication they may have
2 to deal with those that they may very well suspect are not
3 permitted to transfer firearms or that it might be an undue
4 burden on their particular business. Maybe they're really
5 not sort of in the business of doing private transfers.

6 I suspect, if this bill passes, there will be a
7 large number of dealers who do the private transfer
8 background check and would be willing to do so. But we
9 ought to guarantee the right of someone not to do so and
10 so.

11 I would urge an aye vote on this amendment.

12 THE CHAIRMAN: And I would urge a no vote on
13 this amendment, members.

14 I think it -- it's -- if we are going to pass
15 this bill, and I don't know that we are, but if we do pass
16 this bill and we require people to obtain these background
17 checks from licensed dealers, then we certainly don't want
18 to undermine the entire effort which -- which the bill
19 envisages will be necessary for people to undertake.

20 That would be very burdensome on firearm owners
21 if -- if they started to be unable to comply with the law
22 and unable to get their transfers registered. So that
23 would be very damaging to the entire effort, if indeed it
24 is enacted into law that these transfers -- these
25 background checks are required. We must make sure that we

1 don't require somebody to do something that really -- and
2 find it more difficult to do rather than easier to do.

3 So I'm going to -- Representative Gardner.

4 REPRESENTATIVE GARDNER: Yes, thank you.

5 Then -- then am I to understand -- and I wonder
6 if this is the sponsor's intent of the bill -- that the
7 intent and the implication is that a licensed gun dealer,
8 someone who is a federal firearms licensed dealer, would,
9 in fact, under this bill by implication be required to
10 perform these backgrounds checks even if they did not wish
11 to do so.

12 Is that the sponsor's position?

13 THE CHAIRMAN: Representative Fields.

14 REPRESENTATIVE FIELDS: Mr. Chair.

15 It's just like any other laws. You can't
16 decide not to follow a law. I mean, we have laws that you
17 can't commit murder. You can't opt in and out. So I would
18 like to make sure we have consistent practice. So if this
19 does become law and we're asking private sellers to go to a
20 licensed dealer for a background check, then they need to
21 be able to go to a place of business to get that done.

22 I think it puts a burden on the seller not
23 knowing, you know, if this person is going to do it or not.
24 So I think that we need to have a common standard and
25 practice to avoid any confusion. So, yes, it would be a

1 requirement.

2 THE CHAIRMAN: Representative Gardner, I don't
3 know whether it would be a requirement because this is
4 going to be subject to rule making, which will go through
5 the normal rule making procedures, if this bill becomes
6 law, and that will all be subject to public comment. And
7 in the normal rulemaking process, nothing is going to be
8 done hastily.

9 And I can't imagine -- I can't imagine that we
10 -- the general tenants of law are clear in the bill, and I
11 must say that I can't predict exactly the definitions of
12 the rules.

13 I don't think it's a good idea, though, to start
14 putting big constraints in the rules, and that's why I'm
15 urging a no on the amendment.

16 Yes, Representative Gardner.

17 REPRESENTATIVE GARDNER: Yes, thank you.

18 You know, I'm, frankly, astounded. When the
19 particular proponent brought the amendment to me, I
20 actually sort of scoffed, and I said that that could hardly
21 be necessary, and the response from this particular
22 stakeholder was, Well, you know, I don't think so, but I'm
23 a little concerned about it. And now, after we've argued
24 the amendment, I'm firmly, absolutely convinced that this
25 amendment is necessary because there is language and

1 discussion here that makes it sound like we're going to
2 impose a duty upon FFLs to perform these private background
3 checks and do so for \$10, and that strikes me as an
4 interference with constitutional rights as well.

5 And so I appreciate the discussion on this, and
6 I'm glad I've brought the amendment and urge an aye vote on
7 it.

8 THE CHAIRMAN: All right. Is there any further
9 discussion of L-00 -- L.001?

10 All right. Ms. Shipley, will you please take
11 the roll.

12 MS. SHIPLEY: Representatives, Buckner?

13 REPRESENTATIVE BUCKNER: No.

14 MS. SHIPLEY: Court?

15 REPRESENTATIVE COURT: No.

16 MS. SHIPLEY: Gardner?

17 REPRESENTATIVE GARDNER: Yes.

18 MS. SHIPLEY: Lawrence?

19 REPRESENTATIVE LAWRENCE: Yes.

20 MS. SHIPLEY: McLachlan?

21 REPRESENTATIVE McLACHLAN: No.

22 MS. SHIPLEY: Murray?

23 REPRESENTATIVE MURRAY: Yes.

24 MS. SHIPLEY: Pettersen.

25 REPRESENTATIVE PETERSEN: No.

1 MS. SHIPLEY: Salazar.

2 REPRESENTATIVE SALAZAR: No.

3 MS. SHIPLEY: Wright?

4 REPRESENTATIVE WRIGHT: Yes.

5 MS. SHIPLEY: Lee?

6 REPRESENTATIVE LEE: No.

7 MS. SHIPLEY: Mr. Chair?

8 THE CHAIRMAN: No.

9 And that amendment fails by a vote of --

10 UNIDENTIFIED SPEAKER: Three to eight.

11 THE CHAIRMAN: -- three to eight.

12 Are there any further amendments to House Bill

13 1229?

14 Are there any further --

15 (Inaudible.)

16 THE CHAIRMAN: Let the record reflect that

17 amendment failed by a vote of four to seven, not by a vote

18 of three to eight as previously announced. The amendment

19 failed by a vote of four to seven.

20 There are no further amendments before the

21 committee, so I would invite the sponsors, if you would

22 like, to conduct a wrap up.

23 Would you like to do that?

24 Representative Fields.

25 REPRESENTATIVE FIELDS: Thank you, Mr. Chair,

1 and committee members. Thank you so very much for your
2 patience this afternoon.

3 Today we are here addressing solutions. You've
4 heard the NRA say some things like this bill doesn't
5 address the real problem. And so what I would like to do
6 is to recite the facts that I mentioned earlier in my
7 opening remarks.

8 And it just goes to show that when we closed the
9 gun show loophole in Colorado, we were the 17th largest
10 source of guns that were later found at the scene in other
11 states.

12 A year later after closing the gun show
13 loophole, we ranked 27th, and then, in 2009 we ranked 32nd.
14 By 2009 we ranked 32nd. So this just goes to show that
15 closing that loophole does make a difference.

16 I believe that background checks can save lives,
17 because what we're trying to do is we're trying to keep
18 guns out of the hands of dangerous people, those who have
19 been known to be domestic violence abusers, those who may
20 be mentally ill, or those who are felons.

21 Now, if you are a felon, it's just well known
22 that you can go on the Internet and you can buy a gun, all
23 kinds of guns. This is just one way to keep our community
24 safe by closing the loophole.

25 We heard some testimony in reference to how this

1 bill will help those who are -- are a part of domestic
2 violence murders. We've heard some cases recently in the
3 state of Colorado. If we can close that loophole denying
4 access to someone getting a gun so they can later go in and
5 commit murder because of an intimate relationship that they
6 have with someone by using a gun, then that is a good
7 thing. So closing the background check does save lives.

8 We also have some statistics here that talks
9 about fewer crimes. We would have fewer crimes in the
10 state of Colorado. We can just close that loophole.

11 So today I'm asking that you vote yes on House
12 Bill 1229 so that we can update our laws as it relates to
13 private sales. It's a loophole. We should close it, and
14 we should keep our community safe.

15 Thank you.

16 THE CHAIRMAN: Representative McCann.

17 REPRESENTATIVE McCANN: Thank you very much.

18 And thank you, members of the committee, for
19 your patience today.

20 I would simply say that we are not imposing a
21 new requirement for the purchase of a gun. We are simply
22 extending the current requirements to all purchases of
23 guns. We are saying wherever you buy a gun in the state of
24 Colorado, you must be free from those disqualifying
25 factors. So we're simply making sure that everyone who

1 purchases a gun has to comply with what we already require
2 in our law for purchases of guns.

3 So with that, I would ask for an aye vote on the
4 bill. Thank you.

5 THE CHAIRMAN: Thank you.

6 And before we take a vote on House Bill 1229, is
7 there any member who wishes to make any comment?

8 Seeing none, Representative Court.

9 REPRESENTATIVE COURT: Thank you, Mr. Chair.

10 I -- I just want to acknowledge that a lot of
11 people have said that this is isn't going to keep gun
12 violence from happening. Yep, that's right. It's not
13 going to. Just like every stop sign doesn't stop people
14 from having traffic accidents, just like saying that murder
15 is wrong doesn't stop murder, but if this bill stops one
16 criminal from getting a gun and killing somebody who
17 shouldn't be killed, because who should be, then this bill
18 is a good bill.

19 We, in a civil society, pass laws to make
20 statements about our values, and I don't think anybody in
21 this room disagrees that we do not want criminals having
22 guns and killing innocent people.

23 So as I said, if this bill can keep one criminal
24 from getting a gun and killing one innocent person, it's
25 worth it to me. So I will be a yes vote.

1 Thank you.

2 THE CHAIRMAN: Thank you.

3 Representative Salazar.

4 REPRESENTATIVE SALAZAR: Thank you, Mr. Chair.

5 And thank you, Representative McCann and

6 Representative Fields, for bringing this bill.

7 I think I made a statement a little while ago
8 that -- to one of the witnesses, and I asked the question
9 of, you know, if by closing this loophole we could stop one
10 criminal from gaining access to a weapon, because we know
11 they can gain access in multiple ways, but with this one
12 right here, would that be acceptable, and that witness
13 agreed with that proposition in itself.

14 I don't think that this is an unduly burdensome
15 law on the constitutional right of individuals. Instead it
16 is targeted to making sure that criminals have one less
17 place where they can go to get a weapon.

18 I'm from the San Luis Valley, and I grew up in
19 Thornton, and I've had guns given to me by family members,
20 and I anticipate that I'll be giving guns to family members
21 in the future, maybe my daughters, maybe my grandsons, or
22 grandchildren, or maybe some cousins.

23 It's not so much that this bill shouldn't be
24 brought, because it should be, it's about the exceptions
25 and it's about language of the exceptions that seem to need

1 some working on. I think that we've heard the young ladies
2 back there talking about target practicing on their own
3 property. That's not covered here, and I think that that's
4 something that should be covered.

5 But I think that this bill is so important and
6 must be brought, that it be heard too, and that there's
7 going to be a way to work on this language so that many of
8 the things, many of the concerns that we've heard here
9 today will be address. And I'm looking forward to working
10 with Representative McCann and Representative Fields and
11 addressing those issues as I vote yes on this bill.

12 THE CHAIRMAN: Thank you.

13 And Representative Wright and then
14 Representative Lee.

15 REPRESENTATIVE WRIGHT: Thank you, Mr. Chair.

16 As a law enforcement official, I'm speaking
17 from personal experience. In the performance of my duties,
18 I've had loaded guns pointed at me. And I can tell you
19 also from that same personal experience and having made
20 untold arrests in crimes involving firearms, that I am
21 certain that while well intentioned, this bill will do
22 nothing to make the citizens of the state of Colorado
23 safer.

24 And worst yet, while not making them safer, it's
25 going to cost us somewhere to the tune of \$3.2 million in

1 the next two years, creating more bureaucracy, and it will
2 fundamentally restrict the civil rights of the citizens of
3 this state.

4 I am a wholehearted no vote on this bill.

5 THE CHAIRMAN: Representative Lee.

6 REPRESENTATIVE LEE: Thank you, Mr. Chairman.

7 And I'd like to thank Representatives McCann and
8 Fields for bringing this bill to us.

9 We all came to this legislative session with a
10 responsibility significantly to try to promote public
11 safety and to try to ensure that our family, our wives, our
12 children, our friends are kept safe, and this bill was
13 brought with that responsibility in mind.

14 Doing so, though, we are not unmindful of our
15 oath to uphold the Second Amendment. We have that
16 responsibility, and we take it seriously. As we have
17 discussed, though, the Supreme Court has told us that no
18 rights under our constitution or statutes are absolute
19 except maybe the right to life and liberty and the persist
20 of happiness that were granted in our declaration of
21 independence.

22 The balancing that we have to do to protect our
23 amendment rights while promoting our public safety rights
24 is the challenging task that we have as representatives.

25 What we need to do is to prevent people who

1 want to do us violence from obtaining weapons, and that, I
2 am persuaded, is what this bill is all about. This bill
3 will screen out convicted felons. It will screen out drug
4 addicts. It will screen out people who are dangerously
5 mental ill -- mentally ill and prevent them from obtaining
6 weapons, and that's what this bill is designed to do.

7 As David Chipman, from the Alcohol, Tobacco,
8 and Firearms division told us, it will be a shield to
9 improve the protection against violence.

10 As our bill sponsors have told us, most weapons
11 that are obtained for criminal use are obtained through
12 private sales. So we need to ensure the safety of our
13 citizens by ensuring that private sales are subject to the
14 same restrictions and limitations that gun shows sales are
15 subjected to.

16 I'm also persuaded by John Jackson, representing
17 the chiefs of police, and telling that they -- these law
18 enforcement officers -- are in unanimous support of this.
19 So I will be a yes vote.

20 Thank you.

21 THE CHAIRMAN: Representative Gardner and then
22 Representative Buckner.

23 REPRESENTATIVE GARDNER: Thank you. Thank you,
24 Mr. Chair.

25 Representatives Fields and McCann, no doubt

1 this bill is well intentioned. I know you both to be good
2 legislators, good representatives, and people who care
3 deeply about your community. I hope you grant those of us
4 who vote no on the bill the same.

5 Many asertations are made in my six years, and
6 now my seventh year, about what differences are going to be
7 made about a piece of legislation, and I think often
8 sponsors think that things will -- legislation will
9 accomplish things that, at the end of the day, they may
10 not.

11 My friend Representative Lee said something to
12 the effect of most criminals obtain their gun by private
13 sales. I think if they are criminals, I think they will
14 continue to obtain their guns by private sales. On the
15 street corner probably in exchange for drugs, and they're
16 probably not going to go to an FFL and have a background
17 check run because they probably will have a prior felony.
18 They will just obtain their weapon the way they always
19 have.

20 But we will impose a requirement that I find
21 out, at the end of the day, that dealers who may not want
22 to do this, will be required to do. We will criminalize
23 activities where honest citizens transfer a firearm to
24 another honest and law-abiding citizen for legitimate
25 purposes of self protection.

1 And at the end of the day, the things that some
2 of our witnesses talked about earlier, the horrific
3 incidents, are not going to be prevented. And so we will
4 have infringed a constitutional, will not have gained a
5 whole lot in public safety in my view.

6 I know you disagree with that, and I respect
7 that, but I think we'll not have the gains in public
8 safety. And we'll be back here -- well, I won't be back
9 here. Maybe not you either, but someone will be back here,
10 some set of legislators, no doubt, sometime in the future
11 to enact some further restriction upon the Second Amendment
12 rights of citizens somehow to -- on the premiss that it's
13 going to gain something in public safety when it will not,
14 in my view.

15 And so I will be a no. I appreciate your
16 bringing this in the sense of I appreciate the efforts of
17 -- good faith efforts of all legislators, but I believe
18 this is a piece of legislation, while well meaning, that it
19 will not accomplish anything by way of public safety that
20 is intended to accomplish.

21 Thank you.

22 THE CHAIRMAN: Representative Buckner.

23 REPRESENTATIVE BUCKNER: Thank you, Mr. Chair.

24 Representative McCann and Representative
25 Fields, I appreciate you bringing a bill and your efforts.

1 I'm going to vote yes on your bill because I
2 think it contributes to public safety that we are all
3 charged with trying to put in place. And so with that in
4 mind and knowing that we don't have a perfect way to solve
5 all of these problems, I think we have to keep contributing
6 to the public safety and keep that as a goal for us.

7 So I will be voting yes. And I appreciate you
8 bringing the bill on behalf of citizens of Colorado.

9 THE CHAIRMAN: Representative McLachlan.

10 REPRESENTATIVE McLACHLAN: Thank you,
11 Mr. Chairman.

12 As a United States Marine, I take the Second
13 Amendment rights extremely seriously. I appreciate the
14 testimony of all the gun owners and the people of the state
15 of Colorado, and I want you to know that I fully respect
16 your gun rights.

17 I also will -- and I go on the record here
18 today. I will never support registration of guns. I have
19 severe constitutional problems and political and
20 philosophical problems with banning certain types of
21 weapons, but I believe this bill is the reasonable purpose
22 which promotes the public safety and welfare.

23 I realize it is an owner's responsibility put on
24 the licensed owner; however, I believe that it will promote
25 the public safety, and it is not the beginning of the

1 slippery slope. As long as I'm in this house, this is not
2 the beginning of the slippery slope. This is simply a bill
3 designed to promote the public safety and ensure that the
4 people of the state of Colorado have a safer state than we
5 have today.

6 And I thank McCann -- Representative McCann and
7 Representative Fields for bringing this to our attention,
8 and I will vote for this bill.

9 THE CHAIRMAN: I think that the opponents of
10 this bill have said it won't do any good, it won't make any
11 difference. If you do background checks on 60 percent of
12 those that are good people trying to buy firearms and they
13 extend it to private sales, it won't make any difference at
14 all. The criminals will still get their guns, you will
15 have passed a law imposing a burden on legitimate gun
16 buyers to absolutely no purpose.

17 I don't share that view. I think that's unduly
18 pessimistic. I think this will do some good. I think it
19 will reduce the availability of firearms to some people who
20 we all agree should not have access to them. It will not
21 be a dead letter; it will not be a waste of time; it will
22 not be a burden imposed on the law-abiding public for
23 absolutely no reason.

24 And so the question then becomes: Is it a
25 burden that we, as citizens, are willing and should be

1 willing to bear this requirement that we get a check done
2 on the person to whom we sell a firearm? I think it's a
3 burden that -- is a burden. There's no question about it.
4 But I think it's a burden that we ought, as a society, to
5 take on.

6 I think just as we take on other burdens that
7 are -- that are an imposition, in order to increase our
8 collective public safety, this is burden that we should
9 take on. It's worth the effort. It's worth the effort,
10 and I'm going to be a yes vote for that reason.

11 Ms. Shipley, please take the roll.

12 Oh, we need a motion.

13 Representative Court.

14 REPRESENTATIVE COURT: I move House Bill 1229 to
15 the full house with a favorable recommendation.

16 UNIDENTIFIED SPEAKER: Second.

17 REPRESENTATIVE COURT: It doesn't say
18 (inaudible).

19 Oh, it goes to approps. Sorry.

20 I -- I revise my motion. I move House Bill 1229
21 to the committee on appropriations with a recommendation.

22 THE CHAIRMAN: House Bill 12 --

23 REPRESENTATIVE BUCKNER: Second.

24 THE CHAIRMAN: Seconded by Representative
25 Buckner.

1 The question before the committee is whether
2 House Bill 1229 shall pass to the committee of
3 appropriates.

4 Ms. Shipley, would you please take the roll.

5 MS. SHIPLEY: Representatives, Buckner?

6 REPRESENTATIVE BUCKNER: Yes.

7 MS. SHIPLEY: Court?

8 REPRESENTATIVE COURT: Yes.

9 MS. SHIPLEY: Gardner?

10 REPRESENTATIVE GARDNER: No.

11 MS. SHIPLEY: Lawrence?

12 REPRESENTATIVE LAWRENCE: No.

13 MS. SHIPLEY: McLachlan?

14 REPRESENTATIVE McLACHLAN: Yes.

15 MS. SHIPLEY: Murray?

16 REPRESENTATIVE MURRAY: No.

17 MS. SHIPLEY: Pettersen?

18 REPRESENTATIVE PETTERSEN: Yes.

19 MS. SHIPLEY: Salazar?

20 REPRESENTATIVE SALAZAR: Yes.

21 MS. SHIPLEY: Wright?

22 REPRESENTATIVE WRIGHT: No.

23 MS. SHIPLEY: Lee?

24 REPRESENTATIVE LEE: Yes.

25 MS. SHIPLEY: Mr. Chair?

1 THE CHAIRMAN: Yes.

2 And that vote -- that bill passes by a vote of
3 seven to four.

4 Thank you, and this committee will be in brief
5 recess.

6 Oh, yes. Is there another motion?

7 No, no, we don't need another motion.

8 (Inaudible.)

9 THE CHAIRMAN: No. We don't need another
10 motion.

11 This committee will stand in recess.

12 MS. FIELDS: Thank you. I appreciate your
13 support.

14 THE CHAIRMAN: Thank you.

15 (Whereupon, the recording was concluded.)

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CERTIFICATE

STATE OF COLORADO)
CITY AND COUNTY OF DENVER) ss.

I, Elissa Steen, Registered Professional Reporter and Notary Public in and for the State of Colorado, do hereby certify that this transcript was taken in shorthand by me from an audio recording and was reduced to typewritten form by computer-aided transcription; that the speakers in this transcript were identified by me to the best of my ability and according to the introductions made and written materials provided; that the foregoing is a true transcript of the proceedings had; that I am not attorney, nor counsel, nor in any way connected with any attorney or counsel for any of the parties to said action or otherwise interested in its event.

IN WITNESS WHEREOF, I have hereunto affixed my hand and notarial seal this 24th day of June, 2013.

Registered Professional Reporter
and
Notary Public