

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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10                   This transcript was taken from an audio  
11 recording by Elissa Steen, Registered Professional Reporter  
12 and Notary Public.

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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		

## 1 P R O C E E D I N G S

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## 3 P R O C E E D I N G S

4 THE CHAIRMAN: The committee will come to  
5 order.

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

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

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

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

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

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

24 The first thing that I'd like everyone to know  
25 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 PETERSEN: 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 PETERSEN: 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. GRATTET: It's actually Grattet.

11 THE CHAIRMAN: Sorry.

12 MS. GRATTET: It's all right.

13 THE CHAIRMAN: Ms. Grattet, welcome.

14 MS. GRATTET: 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. GRATTET: 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. GRATTEY: 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