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2 STATE OF COLORADO

3 JUDICIAL COMMITTEE MEETING

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5 HOUSE BILL 13-1229

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REPORTER'S TRANSCRIPT

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

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3 THE CHAIRWOMAN: Welcome to the  
4 presentation on 1229.

5 SENATOR CARROLL: Thank you, Madam Chair.  
6 Thank you, Committee.

7 I'm here today to present House Bill 1229  
8 for your consideration. And intense -- intense issue  
9 though it is, I wanted to start with -- I do think  
10 everyone agrees that law-abiding citizens should be able  
11 to own firearms and that guns should be kept out of the  
12 hands of dangerous criminals.

13 As we all know, it is illegal for someone  
14 convicted of certain crimes to own or possess a firearm,  
15 but how do we enforce that? The only way we have to  
16 know whether or not someone is a law-abiding citizen or  
17 dangerous criminal is through a background check.

18 House Bill 1229 simply requires the exact  
19 same background check before the private purchase of a  
20 gun that we already use when a gun is purchased from a  
21 licensed dealer or at a gunshow.

22 I'm hearing this bill because gun violence  
23 has become an epidemic. And while 34 Americans die on  
24 average every day as a result of gun violence, this  
25 issue hit personally home for me when 70 people were

1 shot down in the Aurora Century Movie Theater in my  
2 district this summer, fatally injuring 12 people.

3 It's true a background check may not have  
4 stopped his first killing spree, but at least he  
5 couldn't pass a background check and legally purchase  
6 guns for a second one.

7 We have been performing background checks  
8 for licensed gun sellers since 1993 and for gunshows in  
9 Colorado since 2002. But times have changed. And in  
10 the modern reality as we know, right now approximately  
11 40 percent of all the guns that are being sold are  
12 happening in private transactions. So at one point,  
13 your licensed firearms dealers and your gunshows were  
14 really where most people were making their purchases,  
15 and that of course has made sense.

16 Yet, if we leave 40 percent of the  
17 purchases without any screening mechanism of any kind,  
18 again to draw the line between law-abiding people who  
19 are fully entitled to the purchase and people who, under  
20 current Colorado law, convicted felons, who are not.

21 This matters, this loophole matters when  
22 we do realize that 80 percent of the handguns that are  
23 found at crime scenes were actually purchased through  
24 private sellers. And if you think about it, that makes  
25 sense. If you are a criminal and you know you can't

1 pass a background check, why would you go to a licensed  
2 gun dealer or a gunshow where you know they're going to  
3 run a background check?

4 Now, that said, many do. And we've caught  
5 a good number of people who are ineligible under  
6 Colorado law through that mechanism. Yet, right now, by  
7 leaving this loophole, it is an exception that threatens  
8 to swallow the norm. And if we don't close it, it  
9 really begs leave to the effectiveness of running  
10 background checks in the other 60 percent when it is so  
11 easy to circumvent.

12 Under the current law, 100 percent of  
13 criminals could purchase their guns through private  
14 sellers. Every criminal in the state of Colorado could  
15 simply evade a background check.

16 We have data to tell us that background  
17 checks do work. And I'll be the first to acknowledge  
18 that nothing is perfect. This mechanism has, in fact,  
19 detected in block sales of over 700,000 sales nationally  
20 of guns that would have gone to criminals but for the  
21 background check. In 2012, in Colorado alone, 5,607  
22 applicants were denied because background checks  
23 revealed ineligible criminal purchasers.

24 So why are background checks a good idea?  
25 In states that require a background check for every

1 handgun sale, there are 38 percent fewer women who are  
2 shot to death by intimate partners, according to the  
3 Department of Justice. Data also shows that after  
4 Colorado closed the gunshow loophole, Colorado went from  
5 the 17th largest source of guns found at crime scenes in  
6 other states, down to 32nd by 2009.

7           The rate of suicide with a firearm in  
8 states with background checks on every gun sale is  
9 49 percent lower than on states that don't. And to be  
10 clear, the attempts are equivalent across states, of  
11 49 percent fewer suicide fatalities in the states that  
12 do the universal background.

13           The overwhelming majority of the public,  
14 including NRA members polled, support background checks  
15 and closing loopholes for private sales, according to  
16 three separate polls, the most recent of which was  
17 actually conducted February 21st to 24th.

18           That's not why we do what we do. At the  
19 end of the day, this is a difficult issue to approach,  
20 but the background check is the one and only way we have  
21 as a society to filter between making sure that  
22 law-abiding citizens can enjoy 100 percent of their  
23 rights to purchase the firearms of their choosing, but  
24 make sure that, at the same time, we keep guns out of  
25 the hands of dangerous criminals or convicted felons.

1 I ask for your support on House Bill 1229.  
2 In my view, it is time to modernize Colorado's gun laws  
3 so that no one can purchase a firearm without a  
4 background check. Thank you.

5 THE CHAIRWOMAN: Let me turn that on.

6 Thank you so much, Senator Carroll.

7 So I'll open it up to any of the committee  
8 members who might have a question for the sponsor, also  
9 reminding all of us here that we want to hear as many --  
10 as much of the public on these bills as possible.

11 Is there any questions from committee  
12 members?

13 See none.

14 I think we have a list of -- of your  
15 expert witnesses. So I can first call your first  
16 witness, Ron Sloan.

17 And, Ron, as you're walking up, I'll let  
18 everybody know that what I'll ask is that when you get  
19 up to the mic, that you would introduce yourself and who  
20 you're representing, if anybody. But there are a lot of  
21 individuals that aren't able to be here today that are  
22 listening, so we want to be as clear.

23 And, also, as a communication for all of  
24 us, the norm that we have is that we come through the  
25 chair. And then we identify -- so I can identify who's

1 speaking for our listening audience.

2 Go ahead, Mr. Sloan.

3 MR. SLOAN: Thank you, Madam Chair.

4 My name is Ron Sloan, and I am the  
5 director of the Colorado Bureau of Investigation. And I  
6 am here today representing the Colorado Department of  
7 Public Safety and the Colorado Bureau of Investigation  
8 in support of House Bill 1229.

9 What I thought I might do is briefly go  
10 through the process that is currently in place and has  
11 been in place since Colorado InstaCheck was reinstated,  
12 if you will, in 1999.

13 Currently, all firearms transfers by  
14 licensed firearms dealers that we refer to as FFLs,  
15 those federally -- federal firearms licensees, and at  
16 gunshows require a background check on the transferee,  
17 the individual who will be receiving the firearm in the  
18 transfer. And what that background check is intended to  
19 do is try to determine whether or not that transferee,  
20 the individual receiving the firearm, can legally  
21 possess a firearm by federal law and Colorado law.

22 In calendar year 2012, just to give you an  
23 idea of the volume that we've been experiencing through  
24 Colorado InstaCheck, we processed 343,302 transfer  
25 requests. Of those 343,302, we denied transfer on 7,362

1 of those transfers. That's about 2.1 percent. The  
2 numbers of denials have been running at that rate for  
3 about three years now, at the 2 to 2.5 percent denials.

4 In Colorado, those denials are based upon  
5 firearms prohibitors, factors that would require that  
6 the transfer be denied because there is a prohibitor to  
7 that individual being transferred the firearm to possess  
8 a firearm, to legally possess it. And by my count, I  
9 believe there are 11 different prohibitors that we  
10 utilize.

11 In order to attempt to determine that, we  
12 check seven different databases. Four of those  
13 databases are the same databases that FBI NICS checks.  
14 That's the National Crime Information Center, the FBI  
15 NICS database, the FBI III, Interstate Identification  
16 Index, and immigration databases. And then in Colorado,  
17 we check three more databases. Colorado Division of  
18 Motor Vehicles and, nationally, the Division of Motor  
19 Vehicles to verify ID, the Colorado Crime Information  
20 Center, and the Colorado judicial database, PAS, P-A-S.

21 Those are unique to Colorado. And because  
22 of our checking of those three unique databases, we were  
23 able to identify 1915 of those 7,362 denials that would  
24 not have been caught by FBI NICS checks alone.

25 The types of things that we're able to see

1 in those three databases that the FBI would not see in  
2 FBI NICS are issues such as protection orders that are  
3 not in the National Crime Information Center, felony  
4 juvenile adjudications -- in other words, an individual  
5 has been adjudicated as a juvenile for an offense that  
6 would be considered a felony if that individual were an  
7 adult -- domestic violence convictions not contained in  
8 the National Crime Information Center, fugitives of  
9 justice, individuals who have active warrants for their  
10 arrests, and felony convictions that are not contained  
11 in the National Crime Information Center.

12           House Bill 1229 would require that all  
13 firearms transfers undergo the same background check of  
14 the transferee; and that's the key here. It's the  
15 individual who would be receiving the transfer of the  
16 firearm. That would be accomplished through federally  
17 licensed firearms dealers, through FFLs. And it's an  
18 identical process that we would use within CBI  
19 InstaCheck to do those background checks as those  
20 firearms are taken into the inventory technically of an  
21 FFL. And the FFL would complete the Alcohol, Tobacco  
22 and Firearms Form 4473 for the transaction and the  
23 request for the transfer. And they would send that  
24 information to CBI, either electronically via the Net --  
25 we have a secure Internet connection with the FFLs -- or

1 telephonically to CBI.

2 Truly we believe this would add value by  
3 preventing transfer of firearms to prohibited  
4 individuals who are prohibited by law, by existing law,  
5 to possess a firearm.

6 Important in the bill are the issues that  
7 are -- the components that are built in that would  
8 attempt to assure compliance with private firearms  
9 transfers. And those are the civil -- the civil  
10 liability provisions of the criminal offense of a class  
11 1 misdemeanor for failing to comply with those  
12 provisions, and upon conviction for that class 1  
13 misdemeanor an individual would be prohibited, again, to  
14 possess a firearm for two years, if they were convicted  
15 of not complying with the provisions of this particular  
16 bill, should it become law.

17 Additionally, in House Bill 1229 are the  
18 components of CBI InstaCheck being able to receive  
19 information and data on mental health adjudications in  
20 real-time, electronically, from Colorado Judicial.  
21 Currently, we do receive that information; however,  
22 there is a delay in that information, and it can be  
23 delayed up to six months' time.

24 That information currently is  
25 batch-processed on a CD by Colorado Judicial, is

1 directly sent to FBI NICS, and entered into the FBI NICS  
2 system. And that's entered in on an every-six-month  
3 basis by FBI NICS. So when Colorado InstaCheck checks  
4 that database, you can have as much as a six-month delay  
5 in accessing that information, if someone has been  
6 adjudicated mentally ill and prohibited to possess a  
7 firearm.

8           Also in that provision in House Bill 1229  
9 are the provisions for the restoration of rights for  
10 those individuals who would be adjudicated as mentally  
11 ill and prohibited to possess a firearm. And the  
12 restoration of rights is a very important piece of House  
13 Bill 1229.

14           That's the extent of the technical  
15 testimony that I wanted to provide for all of you. And  
16 I would be happy to answer any questions Madam Chair or  
17 any members of the committee might have.

18           THE CHAIRWOMAN: Thank you, Mr. Sloan. So  
19 I would ask -- thank you, and thank you, Mr. Sloan.

20           So is there any questions from the  
21 committee? Senator Crowder.

22           SENATOR CROWDER: Thank you, Madam Chair.

23           Mr. Sloan, welcome to the capitol today.

24           I was curious, you said out of the 343,000  
25 that were checked, there's roughly 2.1 percent that were

1 caught as being an illegal purchaser of firearm. Do you  
2 have some type of a conviction rate on that? If these  
3 individuals -- if there's 2.1 percent that are caught,  
4 what is your conviction ratio to that 2.1 percent?

5 THE CHAIRWOMAN: Mr. Sloan.

6 MR. SLOAN: Madam Chair.

7 Senator Crowder, the denial of transfer of  
8 a firearm is not a criminal charge. So none of those  
9 individuals would be convicted, per se, for the simple  
10 act of denying the transfer of a firearm.

11 THE CHAIRWOMAN: Thank you. Senator  
12 Harvey.

13 SENATOR HARVEY: Thank you, Madam Chair.

14 I wanted to follow up on that question,  
15 before I got to my real question. Thank you for being  
16 here.

17 Of that 2.1 percent that were denied, how  
18 many -- was that completely denied, or was that on the  
19 initial denial and then they came back and proved  
20 something other than what they got caught on and then  
21 were able to purchase the gun, do you know?

22 THE CHAIRWOMAN: Mr. Sloan.

23 MR. SLOAN: Madam Chair, thank you.

24 Senator Harvey, of the 7,362 that were  
25 denied, 54 percent of those individuals availed

1 themselves to the appeal process that is available for  
2 anyone who is denied the transfer of a firearm. Of that  
3 54 percent -- and I have the numbers here I can go to --  
4 of that 54 percent, 56 percent of that 54 percent -- so  
5 you're getting down to about 30 percent, 31 percent --  
6 actually, their denials were reversed.

7           Now, I need to bring it to your attention  
8 that those 7,362 denials were all lawful denials by  
9 factors that would indicate they are prohibited to  
10 possess. When an individual appeals, pursuant to House  
11 Bill 1411, House Bill 10-1411, the onus is now on CBI to  
12 do the research for the appellate to determine whether  
13 or not that denial should stand or be overturned. And  
14 that is the work that we do in our appeals section of  
15 InstaCheck.

16           THE CHAIRWOMAN: Senator Harvey, continue.

17           SENATOR HARVEY: But what I'm trying to  
18 get to, that 2.1 percent denied is not the number of  
19 individuals who should not have been buying guns; it's  
20 the number of denials. So if you actually got down to  
21 the total number of individuals who actually should have  
22 been denied the purchase of a gun, that was probably  
23 down to about one and a half percent, if I do my numbers  
24 correct. What are your thoughts? Isn't that right?

25           THE CHAIRWOMAN: Mr. Sloan.

1 MR. SLOAN: Madam Chair.

2 Senator Harvey, the numbers would be  
3 pretty close to that. And I bring your attention to the  
4 fact that those denials were lawful denials, but there  
5 are issues that come up with the denial of any firearm  
6 transfer in terms of being able to determine whether or  
7 not there are factors that also exist that would reverse  
8 that denial, whether it's done through Colorado  
9 InstaCheck or whether it's done through FBI NICS, as it  
10 is in other states.

11 SENATOR HARVEY: I understand that.

12 THE CHAIRWOMAN: Senator Harvey  
13 continuing.

14 SENATOR HARVEY: Should I ask my real  
15 question? My biggest concern with this bill is the  
16 definition of a transfer, because we're getting into a  
17 point where I can't leave town and give my wife  
18 permission to use my gun to protect herself if I haven't  
19 done a background check on that, with my reading of the  
20 bill. And I think that's an unnecessary burden to put  
21 on the citizens of Colorado, but I think it's an  
22 unnecessary burden to put on you to have to have a  
23 background check on every transfer of lending of a gun  
24 to somebody when they -- whatever the circumstances may  
25 be. It's not a sale of a gun; it's the transfer of a

1 gun, the way the bill is written. What are your  
2 thoughts about that?

3 THE CHAIRWOMAN: Mr. Sloan.

4 MR. SLOAN: Thank you, Madam Chair.

5 I believe that there are a number of  
6 exceptions that are built into the bill, one of which is  
7 the transfer of a firearm to an immediate family member  
8 as long as they are not prohibited to possess. And  
9 there are a number of other provisions that would be an  
10 exception to having to go through the transfer process.

11 THE CHAIRWOMAN: Senator Harvey.

12 SENATOR HARVEY: You're halfway correct.  
13 That is, if I'm giving the gun to somebody, a family  
14 member, the bill has an exception for that. If I'm just  
15 lending the gun to somebody, there is no exception to  
16 that. So if I'm leaving town, my wife is left  
17 unprotected. I'd have to do a background check on her  
18 to lend her the gun, the way the bill is written, for  
19 her to be able to utilize my gun, or I will have a  
20 misdemeanor charge that could put me in jail for 18  
21 months.

22 Do you believe that's appropriate?

23 THE CHAIRWOMAN: Mr. Sloan, you may answer  
24 that, if you wish.

25 MR. SLOAN: Madam Chair, thank you.

1 I'm not in a position really to interpret  
2 what the exceptions are at this point. And if you were  
3 ever in a position where you had to do the  
4 interpretation of whether or not that was a temporary  
5 transfer of a firearm to an immediate family member,  
6 then you would be put in the position of deciding  
7 whether or not that person was prohibited to possess  
8 that firearm under those circumstances.

9 THE CHAIRWOMAN: Senator Harvey.

10 SENATOR HARVEY: So I'm trying to  
11 understand what you just said. It's up to me to  
12 determine whether it's appropriate to give my wife the  
13 gun or not when I leave town to protect herself. Under  
14 this rule, under this bill, the way it's written, a  
15 transfer is a transfer, but the exception is if I'm  
16 giving it to my wife. So if I'm just loaning it to my  
17 wife when I leave town, that is an illegal transfer.

18 I'm asking the department for whom you are  
19 speaking for, if you think that's an appropriate use of  
20 your time and of the citizen's right to self-protection.

21 THE CHAIRWOMAN: Mr. Sloan.

22 MR. SLOAN: Thank you, Madam Chair.

23 If you transferred it to your wife, and  
24 you felt it didn't comply with the provision that's  
25 currently in the bill, if this becomes law, and you were

1 to take that firearm to an FFL and do the transfer  
2 check, we would do our job and carry it through and do  
3 that, do that transfer background, if you chose to  
4 interpret it that way, that you needed to do that.

5 And as long as your wife was not  
6 prohibited to possess a firearm, we do that just like  
7 any check that we do.

8 THE CHAIRWOMAN: I'm going to give you one  
9 more question, just so we can try to get through.

10 SENATOR HARVEY: I appreciate that.

11 This is the key part for me. I'm asking  
12 the department who is coming here to testify in support  
13 of this bill, if you think that it's appropriate for me  
14 to have to do an FFL on my wife when I leave town so  
15 that she can protect herself. Yes or no?

16 THE CHAIRWOMAN: Mr. Sloan, again, we  
17 don't want to give the impression that you're under  
18 cross-examination, so you're either welcome to answer  
19 that or not. Mr. Sloan.

20 MR. SLOAN: Thank you, Madam Chair.

21 If you choose to call it other than a bona  
22 fide gift to your wife, then she would be required to go  
23 through this transfer, yes, process.

24 SENATOR HARVEY: Yes, you think that's  
25 appropriate?

1 MR. SLOAN: It would be appropriate under  
2 the law, yes.

3 THE CHAIRWOMAN: Try to go through the  
4 chair as well, I remind our committee members.

5 Thank you, Mr. Sloan. Any other  
6 questions?

7 Thank you, I appreciate it.

8 Our next witness is Mr. Mark Kelly. Is  
9 Mr. Mark Kelly . . .

10 MR. KELLY: Hello.

11 THE CHAIRWOMAN: Welcome, Mr. Kelly. Go  
12 ahead and identify yourself for our listening audience  
13 and who you're representing today, and welcome.

14 MR. KELLY: Well, my name is Mark Kelly.  
15 I'm a retired Navy captain, retired astronaut, husband  
16 of Congresswoman Gabrielle Giffords, and also am part of  
17 an organization called Americans for Responsible  
18 Solutions, which is looking for a common-sense gun law  
19 legislation.

20 THE CHAIRWOMAN: Great. Thank you,  
21 welcome, and go ahead and proceed with your testimony.

22 MR. KELLY: Thank you, Madam Chair.

23 Thank you for inviting me here today.  
24 Arizona and Colorado don't just share a border; we share  
25 strong traditions of gun ownership and sportsmanship.

1 With that tradition has always come an abiding  
2 commitment to the responsible exercise of our Second  
3 Amendment rights. That responsibility will be the focus  
4 of my remarks today.

5 As you know, my family has been  
6 immeasurably affected by gun violence. Gabby's gift for  
7 speech is a distant memory. She struggles to walk and  
8 she's partially blind. And a year ago, she left a job  
9 she loved, serving the people of Arizona. But in the  
10 past two years, we have watched Gabby's determination,  
11 spirit, and intellect conquer her disabilities.

12 We don't come to the debate on gun  
13 violence as victims. We offer our voices as Americans.  
14 We're a lot like many of your fellow citizens, following  
15 this debate about gun violence here in Colorado. We're  
16 moderates. Gabby was a Republican long before she was a  
17 Democrat. We're both gun owners, and we take that right  
18 and the responsibilities that come with it very  
19 seriously. And our hearts break every time the TV news  
20 breaks to yet another shooting. After 20 kids and six  
21 of their teachers were gunned down in their classroom at  
22 Sandy Hook, we said, This time must be different;  
23 something needs to be done. We're simply two reasonable  
24 Americans who have said: Enough.

25 On January 8 of 2011, a young man walked

1 up to Gabby at her constituent event in Tucson, leveled  
2 his gun, and shot her through the head. He then turned  
3 down the line and continued firing. In 15 seconds, he  
4 emptied his magazine. It contained 33 bullets and there  
5 were 33 wounds. As the shooter attempted to reload, he  
6 fumbled. A woman named Patricia Maisch, who is here at  
7 the state capitol today, grabbed the next magazine,  
8 others restrained him, and the carnage ended.

9           The killer in the Tucson shooting suffered  
10 from severe mental illness, but even after being deemed  
11 unqualified for service in the Army and expulsion from  
12 Pima County College, he was never reported to mental  
13 health services.

14           On November 30th of 2010, he walked into a  
15 sporting good store, passed a background check, and  
16 walked out with a semiautomatic handgun. He had never  
17 been legally adjudicated as mentally ill. And even if  
18 he had, Arizona at the time had over 121,000 records of  
19 disqualifying mental illness that had not been submitted  
20 into the system.

21           Looking back, we can't say with certainty,  
22 only if we had done, this wouldn't have happened. There  
23 wasn't just one thing that would have prevented the  
24 Tucson shooting from being written into the history  
25 books.

1           You know, Gabby is one of roughly of  
2   100,000 victims of gun violence in America each and  
3   every year. Behind every victim lays a matrix of  
4   failure and inadequacy, in our families, in our  
5   communities, in our values, in our society's approach to  
6   poverty, violence, and mental illness, and, yes, also in  
7   our politics and in our gun laws.

8           We have a simple message: The breadth and  
9   complexity of gun violence is great, but that is not an  
10  excuse for inaction.

11           There's another side to our story as well.  
12  Gabby is a gun owner, and I'm a gun owner. We have our  
13  firearms for the same reasons that millions of Americans  
14  just like us have guns, to defend ourselves, to go  
15  hunting or target shooting. We believe wholly and  
16  completely in the Second Amendment and that it confirms  
17  the power on all Americans the right to own a firearm  
18  for protection, collection, and recreation. We take  
19  that right very seriously, and we would never, ever give  
20  it up, just like Gabby would never relinquish her gun  
21  and I would never relinquish mine.

22           But rights demand responsibility. And  
23  this right does not extend to criminals. And it does  
24  not extend to the mentally ill. When dangerous people  
25  get guns, we are all vulnerable. At the movies, at

1 church, conducting our everyday business, meeting with  
2 the government official, and time after time after time,  
3 at school, on our campuses, and in our children's  
4 classrooms.

5           When dangerous people command the  
6 lethality of 33 or 100 round magazines, we are all the  
7 more vulnerable. Dangerous people with weapons  
8 specifically designed to kill quickly and efficiently  
9 have turned every single corner of our society into  
10 places of carnage and gross human loss.

11           Gabby and I are pro gun ownership. We are  
12 anti-gun violence. And we believe that in this debate,  
13 our leaders should look not towards special interests  
14 and ideology, which would push us further apart, but  
15 towards compromise, which brings us together.

16           80 percent of Coloradans support requiring  
17 all private sales to go through a licensed dealer and be  
18 subject to a background check. 92 percent of Americans  
19 want universal background checks, democrats and  
20 republicans and gun owners and NRA members and everybody  
21 else.

22           We believe whether you call yourself pro  
23 gun or anti-gun violence or both, that we can all work  
24 together to pass sensible laws and save lives.

25           Thank you.

1                   THE CHAIRWOMAN: Thank you, Mr. Kelly.  
2     Appreciate that.

3                   We have a question from a couple committee  
4     members. So Senator Crowder.

5                   SENATOR CROWDER: Thank you for being  
6     here, Mr. Kelly. My condolences. I know it's an  
7     unfortunate situation you've been through.

8                   What I have heard you tell us is that the  
9     gentleman who did the shooting did go through a  
10    background check, but it was the mental -- the mental  
11    illness was what was not adhered to. Don't you think  
12    we'd be a little more apt to go after mental illness if  
13    we would background check?

14                  You indicated several issues about  
15    compromise. And I can tell you I'm not an NRA  
16    cardholder, but I am very, very pro Constitution. And  
17    my stand on this particular deal so far is that it is an  
18    infringement on gun rights, and that's where I stand.

19                  But what I'm asking you is: Would we not  
20    be far better off going after a mental illness type  
21    situation than we would for background checks, because  
22    the background check, as you described it, was followed  
23    by the letter of the law, yet there was a shooting?

24                  THE CHAIRWOMAN: Mr. Kelly.

25                  MR. KELLY: Well, I believe the most

1 common-sense thing we can do, that most Americans  
2 support, is to provide for universal background check.

3 To address your question about  
4 specifically what happened in Arizona, yes, he passed a  
5 background check. He should not have passed a  
6 background check. I mean, he was clearly mentally ill.  
7 The Army knew that he was an admitted heavy drug user.  
8 Those records should have been in the system. If they  
9 weren't -- if they would have been in the system, he  
10 would have failed the background check at the gun store.  
11 But he had another option. I suppose if that happened  
12 that day, he would have went down the street to the  
13 gunshow or bought his gun through a private sale on the  
14 Internet. That should not be an option for criminals.

15 Since 1999, 1.7 million criminals have  
16 failed a background check. Why do we give them the  
17 option to go to a gunshow or the Internet to get their  
18 gun? How many lives would we have saved if over --  
19 since 1999, a criminal couldn't get a gun without  
20 passing a background check? I'm sure it's probably  
21 thousands.

22 So the most common-sense thing we can do  
23 right now is to close the gunshow loophole, to close the  
24 private seller loophole to prevent criminals from  
25 getting a gun.

1           THE CHAIRWOMAN: Again, I'm going to let  
2 people -- we have a couple questions because we were  
3 taking a lot of time, I think, from the public that  
4 they're not going to get. So, Senator Crowder, go  
5 ahead.

6           SENATOR CROWDER: I guess the point I'm  
7 trying to make, when the gentleman bought the gun, he  
8 did pass the background, he was not a criminal. He  
9 didn't turn criminal until after he bought the gun.

10          THE CHAIRWOMAN: Yes, Mr. Kelly.

11          MR. KELLY: When he bought the gun, he was  
12 conspiring to assassinate a member of Congress. He  
13 wasn't a convicted criminal. But, by any measure, by  
14 any common-sense measure, this is somebody who should  
15 not have had a gun. And if the record of his mental  
16 illness and his record from the U.S. Army was included  
17 in the system, he would have never passed that  
18 background check. So that's certainly something that  
19 needs to be fixed.

20                 I mean, in some cases, the background  
21 check needs to be better. But we can't give criminals  
22 and the mentally ill the option of walking down the  
23 street to a gunshow and buying a gun without a  
24 background check. I mean, it doesn't make any sense.  
25 It's like having the two lines at the airport. Here's

1 the one where you have to go through security and here's  
2 the one with no security. Which one is the terrorist  
3 going to choose?

4 THE CHAIRWOMAN: Senator Carroll.

5 SENATOR CARROLL: Thank you, Madam Chair.

6 I also just wanted to point to one of the  
7 important parts of the bill that isn't going to get as  
8 much attention is the fact that it moves us to  
9 real-time, live-time mental health upload and download  
10 of information. So that will move from every six months  
11 to at least simultaneous, but with information in and  
12 out. And it's not a very talked-about provision of the  
13 bill, but to your point on properly detecting the mental  
14 health stuff, that is one of the upgrades in the bill.

15 THE CHAIRWOMAN: Thank you, Senator  
16 Carroll.

17 I'll now move to Senator Harvey.

18 SENATOR HARVEY: Thank you. And thank  
19 you, Mr. Kelly, for being here. You're an American hero  
20 and one of mine. I appreciate your service to the  
21 country and your efforts in the astronaut program. I'm  
22 jealous. But you're also an incredible husband to step  
23 aside from that incredible career to be by your wife's  
24 side, and that is commendable.

25 Throughout your testimony, you talked

1 about private sales, and you said, I think it was,  
2 92 percent -- is that your figure? -- that respondents  
3 in polls said that they supported background checks on  
4 private sales. But that's not what this bill is, as you  
5 heard my previous questions. This bill is specifically  
6 talking about transfers of guns.

7 I'm not sure the public would think  
8 92 percent in favor of saying I can't give my wife my  
9 gun when I leave town to protect herself. Can you  
10 clarify where you come down on the transfer part or the  
11 private sales part?

12 THE CHAIRWOMAN: Mr. Kelly.

13 MR. KELLY: Well, I certainly -- you know,  
14 both Gabby and I are strong supporters of universal  
15 background checks. And before the transfer of ownership  
16 of a gun is made, there should be a background check  
17 with that.

18 I bought a gun in October -- it was  
19 October or November -- a hunting rifle at Wal-Mart. I  
20 went through a five-minute background check. It took  
21 something less than five minutes. I think it's a small  
22 price to pay to keep all of us a little bit safer, is  
23 where everybody is required to do a background check,  
24 like most responsible gun owners do now.

25 With regards to the specifics about the

1 Colorado bill, I'm not an expert on the specifics of the  
2 legislation, so I can't answer that question directly.  
3 But both Gabby and I are strong supporters of making  
4 sure criminals and the mentally ill do not have easy  
5 access to firearms.

6 THE CHAIRWOMAN: Thank you, Mr. Kelly. So  
7 I think we'll go ahead -- thank you for being here, and  
8 I certainly would echo all of what Senator Harvey  
9 said -- I know your name -- and thank you for being here  
10 and certainly send our regards to your wife.

11 MR. KELLY: You're very welcome. Thank  
12 you for the opportunity to testify in front of the  
13 committee. Thank you.

14 THE CHAIRWOMAN: And so I think the  
15 next -- we have a video from Dan Oates, the Aurora  
16 police chief.

17 MR. OATES: Good afternoon. I want to  
18 thank Chairman Giron and all the members of the state  
19 affairs committee for this opportunity to testify by  
20 video and not appear in person.

21 I am testifying today wearing two hats.  
22 First, I represent the City of Aurora and the city  
23 council. We all know that Aurora has had its share of  
24 gun violence recently. Council feels strongly that  
25 House Bill 1229 will make Aurora safer.

1                   Second, I represent the Colorado  
2 Association of Chiefs of Police, the 115 executives who  
3 work every day throughout Colorado to keep people safe  
4 and to reduce gun violence.

5                   The challenge against gun violence in  
6 Aurora and in Colorado and in America is broad and  
7 multifaceted. There is no easy solution. There is no  
8 one bill that does it all. We need to do many smart  
9 things at once. House Bill 1229 won't stop all our  
10 problems, but it will stop some, and it will do so  
11 simply and smartly.

12                   We need to be better at enforcing existing  
13 laws. Everyone says they agree on this, including the  
14 NRA, the gun lobby, and those who are passionate about  
15 the Second Amendment. While we have admitting rules,  
16 state and federal, that say felons can't possess guns,  
17 the same is true with persons convicted of domestic  
18 violence and persons adjudicated under the EO  
19 (phonetic).

20                   These rules mean nothing without  
21 background checks on all gun sales. Today, 40 percent  
22 of gun sales are transfers that occur without a  
23 background check, and this is madness.

24                   Whoever says a convicted felon cannot  
25 possess a gun means nothing if the felon can buy the gun

1 from someone who doesn't know or doesn't want to know  
2 that he is a felon. A rule that says a man that's been  
3 convicted of abusing his partner cannot have a gun means  
4 nothing if the same man can buy a gun from a private  
5 dealer without a background check.

6 Police chiefs are all too fully aware of  
7 the tragedies that have occurred, and will continue to  
8 occur, because members who should not have access to a  
9 gun can get a gun without a background check and kill  
10 their partner in a deranged moment.

11 In 2000, the citizens of Colorado voted by  
12 70 percent to support closing the gunshow loophole. The  
13 passage of Amendment 22 requires that Colorado verify  
14 that a person purchasing a gun at a gunshow is not a  
15 criminal or has not been adjudicated mentally ill. This  
16 is a common-sense measure that those who talk about  
17 law-abiding citizens possessing firearms should not have  
18 a disagreement with. Still, our existing law has a much  
19 bigger loophole than the one closed by Amendment 22.

20 Today it is certainly legal for someone to  
21 sell firearms to another individual with no background  
22 check. We police chiefs know the tragic consequences of  
23 this loophole. Our officers routinely recover weapons  
24 from convicted felons. Why? Because they obtain them  
25 through this loophole. Sometimes our (inaudible) are

1 too late and a horrible and violent crime has already  
2 occurred.

3 According to a recent John Hopkins report,  
4 nearly 80 percent of inmates could have used a handgun  
5 in a crime, had acquired it through a transaction with  
6 an individual who was not a licensed gun dealer.

7 Colorado's current system allows criminals  
8 and dangerously mentally ill persons to legally buy and  
9 possess these weapons through a private sale, with no  
10 background check. Again, this is madness.

11 You have the power in your hands today to  
12 correct this. It's true that this bill will not solve  
13 all the gun crime in Colorado, but this is not a reason  
14 to deny its passage. It will solve some of our  
15 problems. House Bill 1229 will reduce gun crime and  
16 violence in Colorado.

17 For the safety of all Coloradans, I urge  
18 you to pass this bill. Thank you.

19 THE CHAIRWOMAN: Thank you. And so since  
20 we are not able to ask any questions -- that's  
21 (inaudible), Senator Harvey.

22 SENATOR HARVEY: He said everything that I  
23 wanted to say about sales.

24 THE CHAIRWOMAN: Great.

25 So our next witness is David Chipman.

1 Welcome, Mr. Chipman. Go ahead and introduce yourself  
2 and who you represent today.

3 MR. CHIPMAN: My name is David Chipman,  
4 and I served as a special agent with ATF for 25 years.  
5 So I'm going to share my experience through that. I'm  
6 also a consultant with Mayors Against Illegal Guns.

7 This past May, I retired as a special  
8 agent from the Drug and Alcohol, Tobacco, Firearms and  
9 Explosives following 25 years of service. As a SWAT  
10 team member, I apprehended some of the most heavily  
11 armed and violent criminals in America.

12 As a leader of ATF's firearms programs  
13 division, the attorney general tasked me with developing  
14 a comprehensive strategy to prevent gun violence in 15  
15 targeted cities. During my tenure at ATF, I learned  
16 firsthand which policing efforts work and which do not.  
17 I actually enforced the laws on the books.

18 Robert F. Kennedy said that Americans  
19 needed a system of justice to serve as a shield for the  
20 weak and the powerless. I'm here today to confirm what  
21 many of us already know. Our shield is not sufficient.  
22 Background checks work. They will strengthen our  
23 shield. We have seen the positive impact of public  
24 safety, of stronger regulations involving gun sales in  
25 Colorado and across the nation.

1           After the shooting at Columbine,  
2   70 percent of Coloradans voted to require unlicensed  
3   sellers at gunshows to conduct criminal background  
4   checks. In 2000, this state was the 17th largest  
5   exporter of guns later found at crime scenes in other  
6   states. A year after the law was passed, Colorado  
7   ranked 27th.

8           The number of women killed with a firearm  
9   by an intimate partner is 38 percent lower in states  
10  that have closed the private sale loophole for handguns  
11  than in states that do not regulate such sales. The  
12  firearms suicide rates in states that require a  
13  background check before every handgun sale is 49 percent  
14  lower than in states where it is not required.

15          As an ATF agent, I know criminals acquire  
16  many of their guns through unregulated private sales.  
17  Researchers confirm nearly 80 percent of inmates who  
18  used a handgun obtained it through a private transfer.  
19  Through all of these numbers and figures, we can arrive  
20  at an obvious conclusion. Requiring background checks  
21  for gun sales will prevent violent crimes. Lives will  
22  be saved, plain and simple.

23          Following the 9/11 attacks, our government  
24  acted with urgency and committed to ensuring that  
25  terrorists would never victimize our citizens again.

1 The strategy was aggressive and, although not perfect,  
2 it has worked.

3 Our government has failed to respond with  
4 similar urgency to prevent future acts of gun violence.  
5 Thirty-three Americans continue to be murdered with guns  
6 every day in this country. That's over 2400 people  
7 murdered with a firearm since Sandy Hook.

8 We need to act comprehensively. The Brady  
9 Bill requires background checks only at licensed  
10 firearms dealers, while an estimated 40 percent of gun  
11 sales are made by unlicensed persons not required to  
12 conduct a check. The Brady Bill operates like a flawed  
13 airport security system that ensures only 60 percent of  
14 travelers are free of dangerous weapons through  
15 screening, while allowing 40 percent of travelers to  
16 board the plane unchecked.

17 In Colorado, the same holds true.  
18 Coloradans closed the gunshow loophole only to allow the  
19 Internet to continue to thrive as a vast marketplace  
20 where prohibited persons can easily purchase firearms  
21 with no paperwork and no questions asked.

22 Why do we continue to make attempts to  
23 prevent the last attack as opposed to predicting where  
24 we will be attacked next and shore up that  
25 vulnerability? The fact that this state and our

1 government continues to allow the sale of guns without a  
2 background check is reckless, irresponsible, and  
3 downright dangerous.

4 Will criminals continue to thwart this  
5 regulation? Of course. That's what criminals do. Will  
6 law enforcement prevent all crime? Unfortunately, no.  
7 But this new law will help police crack down on gun  
8 traffickers and trace guns recovered in violent crimes  
9 by requiring dealers to maintain the same records  
10 they've kept for license sales for 40 years.

11 This system ensures that there's no  
12 registry of gun owners and at the same time helps law  
13 enforcement solve crimes.

14 After Aurora, I thought: Never again.  
15 But after Sandy Hook, I think this is going to happen  
16 again, and it will until we act. A system that requires  
17 a background check for every gun sale is common sense.  
18 It works, and it's supported by 92 percent of Americans.

19 Let's do our best to stop the next attack  
20 and let's do it today. Thank you for your time.

21 THE CHAIRWOMAN: Thank you, Mr. Chipman.

22 Are there any questions? Question from  
23 Senator Harvey.

24 SENATOR HARVEY: Thank you.

25 If you'll go back a couple pages in your

1 speech there, you mentioned a percentage of suicides and  
2 murders with handguns in states that have background  
3 checks. Do you remember those statistics?

4 MR. CHIPMAN: Sure, I do.

5 SENATOR HARVEY: Are those in states that  
6 have universal background checks on handguns, or just  
7 like in Colorado where you have handgun sales at gun  
8 stores?

9 THE CHAIRWOMAN: Mr. Chipman.

10 MR. CHIPMAN: I think it's a variety of  
11 systems that get background checks beyond what is  
12 traditionally just in the gun stores. So different  
13 aspects of the private commerce is regulated.

14 THE CHAIRWOMAN: Senator Harvey.

15 SENATOR HARVEY: I don't know this  
16 question, so hopefully you can answer it. How many  
17 states have universal background checks on sales?

18 THE CHAIRWOMAN: Mr. Chipman.

19 MR. CHIPMAN: It's less than a dozen. I  
20 don't know specifically. What we do know, though, is  
21 that there's one state, Missouri, who actually had  
22 background checks on handgun sales. And through intense  
23 lobbying, they did away with that process. And  
24 immediately after that law was thrown out and no more  
25 background checks were conducted, gun homicides went up

1 by 25 percent in Missouri.

2 So that's another way to look at how these  
3 background checks impact things and how they don't work  
4 if they're removed.

5 THE CHAIRWOMAN: Thank you.

6 A quick question from Senator Harvey.

7 SENATOR HARVEY: Did they outlaw the  
8 transfer of guns without a background check, or was it  
9 just the sale of guns without the background check?

10 THE CHAIRWOMAN: Mr. Chipman.

11 MR. CHIPMAN: That's a good question that  
12 I do not know.

13 THE CHAIRWOMAN: Thank you.

14 And seeing no other questions, thank you  
15 so much for your testimony.

16 And so Jane Dougherty.

17 Thank you, Mrs. Dougherty. Go ahead and  
18 introduce yourself and who you represent today.

19 MS. DOUGHERTY: My name is Jane Dougherty  
20 and I represent my family.

21 I'm from Littleton, Colorado, and I'm here  
22 to support House Bill 1229 background checks for all gun  
23 sales. We are all sitting here in this room because of  
24 one horrific tragedy, the massacre at Sandy Hook  
25 Elementary. It was the tipping point for our country,

1 the point at which we had finally said: Enough to gun  
2 violence.

3 Sitting here in this room are gun control  
4 supporters as well as those who oppose gun legislation.  
5 We have different viewpoints, opinions, and goals.

6 On December 14th, 20 children and six  
7 women lost their lives at Sandy Hook Elementary School.  
8 One of those women was my sister, Mary Sherlach. The  
9 murder of my sister has had a profound impact on me. I  
10 am now deeply involved in this issue, and I have been  
11 educating myself to the facts.

12 I have heard that the gun rights  
13 extremists feel that a background check is somehow a  
14 burden, that requiring a background check on every gun  
15 sale, including private sales, is too much of a burden  
16 to law-abiding gun owners. In that case, I would like  
17 to speak directly to all law-abiding gun owners. I  
18 would like to tell you what is truly a burden.

19 A burden is hearing about a mass shooting  
20 in Connecticut, working with your family through the  
21 chaos, trying to confirm it is your sister's school. A  
22 burden is getting a call from your niece telling you,  
23 "We lost her," that your sister is gone, and having to  
24 call your own children to tell them that their aunt has  
25 been killed. A burden is everything that comes after

1 this horrific news, explaining a mass shooting to your  
2 10-year-old son, trying to get 15 family members across  
3 the country the week before Christmas, walking into your  
4 sister's house and seeing your devastated brother-in-law  
5 and nieces, then standing in a wake line for four hours,  
6 listening and comforting more than 800 mourners who have  
7 come to pay their respect to your sister, Mary.  
8 Touching the small wood box that holds your sister's  
9 remains and trying to hold yourself up during her  
10 funeral mass.

11 A true burden is waking up every day with  
12 the realization that you will never see your sister  
13 again.

14 A background check is not a burden. It is  
15 a process that will save lives. It will help prevent  
16 guns from getting into the hands of those that will do  
17 harm. It may even save the lives of your family, your  
18 children, your sister.

19 If you are truly a law-abiding gun owner,  
20 you should support background checks for all gun sales.

21 Thank you.

22 THE CHAIRWOMAN: Thank you so much.  
23 Appreciate your being here today and being able to give  
24 that powerful testimony, as difficult as it was, I'm  
25 sure, and continues to be.

1                   So is there any questions from the  
2 committee? Thank you so much.

3                   MS. DOUGHERTY: Thank you.

4                   THE CHAIRWOMAN: So we have some others  
5 that are -- and I think we'll go to a three-minute timer  
6 phase. And Julia is going to go ahead and keep that for  
7 us.

8                   Our first witness on that is Del Phillips.

9                   Welcome, Pastor Phillips. Go ahead and  
10 introduce yourself and who you represent today. Thanks  
11 for being here.

12                  PASTOR PHILLIPS: Thank you very much.

13                  I'm Pastor Del Phillips. I'm pastor of  
14 The House Worship Center here in Denver, Colorado. I  
15 also serve as the vice president of the Greater Metro  
16 Denver Ministerial Alliance. I pastor a congregation  
17 that is multicultural and diverse in its membership. We  
18 have a congregation that's filled with Hispanic members,  
19 African Americans, messianic Jewish members, all  
20 worshipping together in one house.

21                  I'm here today to share my voice as a  
22 pastor representing a diverse membership that's a part  
23 of our community. I'm here today to represent the  
24 ministerial alliance that represents more than 100  
25 churches all across our metro Denver community. I'm

1 also here simply to represent myself as a citizen of our  
2 community.

3 And I want to be on record in support of  
4 background checks for those private citizens who own  
5 guns here in our community. And I want to make it clear  
6 that I am not against a gun owner's second right, Second  
7 Amendment rights to own a gun.

8 I am actually in favor of making sure that  
9 all of the citizens of our community have a right -- a  
10 right to safety, a right to make sure that, as a nongun  
11 owner or as a gun owner, that I have a safe environment  
12 to take my children to school and a safe environment for  
13 my teenagers to go to a movie theater, that I have a  
14 safe environment for politicians to leave their  
15 community and not to have their life threatened.

16 And I'm concerned that, as a community,  
17 that we are open to the requirements for having  
18 background checks for simpler things such as to get a  
19 credit card to open up a bank account, to be able to  
20 have employment here in our community. We have  
21 employers that will pursue background checks.

22 We don't allow our children to go to  
23 certain places for childcare without having background  
24 checks. And, more importantly, government officials  
25 won't be employed without having background checks. So

1 my greater question is: Why would we not want to make  
2 sure that a person who is carrying a weapon who has the  
3 potential to take the life of another individual would  
4 not have a background check to make sure that they are  
5 fit, to make sure that they are stable, and to ensure  
6 that the safety of other citizens in our community is  
7 protected?

8 So I would encourage our leaders that are  
9 present here today to support this issue for background  
10 checks. You've heard statistics already throughout the  
11 day. I won't renew -- I won't renumerate those  
12 statistics, but I encourage you to simply consider the  
13 necessity of background checks for something that is  
14 this vital.

15 THE CHAIRWOMAN: Thank you so much, and  
16 thank you so much for sticking within our time frame.

17 So any questions from the committee?

18 Seeing none, thank you so much for being  
19 here, and thank you for the work that you do.

20 Our next witness is Karina Vargas.

21 Welcome, Ms. Vargas. Go ahead and  
22 introduce yourself, who you're representing today, and  
23 welcome.

24 MS. VARGAS: My name is Karina Sartidine,  
25 and I am a youth leader with Together Colorado.

1                   December 6th of 2010 was the date that my  
2 life changed completely. Like a regular junior in high  
3 school, we loved hanging out with our friends after  
4 school, but that day was different. Someone so  
5 carelessly took my ability to walk by shooting that gun.  
6 If it wouldn't have been for my friends that took my  
7 life in their hands, I wouldn't be speaking to you guys  
8 today. My 16th year of life was nearly ended. Nothing  
9 would ever be the same. Even sleeping wasn't the same.

10                   Everyone loves that good morning stretch  
11 when all their bones pop. I don't even get that  
12 anymore.

13                   I remember always getting ready in the  
14 morning for school, changing like a million times  
15 because it was so easy and effortless. Now, it's a  
16 workout to even get dressed once. Even when I'm  
17 exhausted from pushing myself in my wheelchair all day,  
18 I still have to lift my body just to get in bed.

19                   After the shooting, I had a fear of going  
20 back because I felt like someone was following me, like  
21 people were going to look and stare and feel bad for me,  
22 and I didn't want nobody's pity.

23                   That day not only changed my physical  
24 life, it literally changed everything. I was left with  
25 nothing. My friends abandoned me. My school dropped

1 me. I was left alone. I was lucky enough to have my  
2 family to help me through this because nobody else was  
3 around.

4           Never would I wish this on anybody because  
5 it's no picnic. Until this day, there's not one second  
6 that goes by that I don't wish that I could walk. I  
7 will never give up until the day that I do, and it's a  
8 journey that I'm ready to overcome.

9           If God can move mountains, then I believe  
10 that he can help me through this. If that guy didn't  
11 have that gun, my goals would be completely different.

12           I lost a couple of years of my teen years  
13 that I will never get back. You take your kids to  
14 school thinking that they will be safe, and then the  
15 unexpected happens.

16           Our families have to live in fear because  
17 you don't know what can happen anymore. If this bill  
18 would have been put in place two years ago, I would be  
19 on my feet today. Those who have lost loved ones would  
20 be at home with them.

21           For those who oppose this bill, don't  
22 think it's a problem because they haven't been victims.  
23 You haven't lost anyone due to this problem. Step in  
24 our shoes and you will see that it's not easy.

25           I'm here today to share my story and bring

1 awareness to what gun violence does to innocent people  
2 in our communities. Thank you.

3 THE CHAIRWOMAN: Thank you so much. I  
4 really appreciate how articulate and your willingness to  
5 be with us here today and what an advocate you are. So  
6 thank you.

7 Are there any questions?

8 Senator Harvey.

9 SENATOR HARVEY: Just one. I didn't get  
10 your name.

11 MS. VARGAS: Karina Sartidine Vargas.

12 SENATOR HARVEY: I'll just put Karina  
13 down.

14 MS. VARGAS: Just put Karina Vargas. It's  
15 easy.

16 SENATOR HARVEY: Thank you.

17 THE CHAIRWOMAN: Thank you so much for  
18 being here.

19 The next witness we have are Theresa and  
20 Doug Hoover -- Dave. Sorry. Theresa and Dave Hoover.

21 Good morning and welcome. I'll go ahead  
22 and have you introduce yourself and who you represent  
23 today, and each of you will get three minutes, and  
24 however you want to proceed.

25 MR. HOOVER: Good.

1                   Good morning. My name is Dave Hoover.  
2           This is my sister Theresa. My nephew, her son, was AJ  
3           Boik, who was killed in the theater last year,  
4           July 20th, 2013.

5                   THE CHAIRWOMAN: '12.

6                   MR. HOOVER: 2012. Sorry.

7                   I've been directly affected by gun  
8           violence and have been the victim of gun violence during  
9           my life. I'm one of five children. My parents have 18  
10          grandchildren. My father is a true American hero who  
11          served one tour in Korea, two tours in Vietnam.

12                  The worst day of our life growing up as  
13          young children was the day we found out that he was shot  
14          down over Vietnam. He couldn't be here today. He spent  
15          eight days at home when we lived in Ohio and was sent  
16          back to Vietnam to finish out his tour. He supports  
17          this bill. He supports all these bills, to be honest  
18          with you. He knows the battlefield. That's a man who  
19          understands the responsibility that comes with the right  
20          of owning a firearm. He and my mother are in Arizona  
21          right now taking care of a long friend -- a long-term  
22          friend.

23                  I'm a police sergeant and have been in law  
24          enforcement for over 29 years. I do not speak for the  
25          department I work for, but I can tell you the vast

1 majority of men and women I work with support this bill.  
2 We want to see change.

3           You're going to hear that we need to  
4 enforce the laws that we currently have on the books.  
5 Let me reassure you this is happening every day in  
6 Colorado. We are, and the laws are being enforced in  
7 this state. These words of wisdom were given to me when  
8 I first started, and I passed them on to those who  
9 worked for me: You can't put them all in jail forever,  
10 and it's only a 72-hour mental health hold.

11           Our society gives people the opportunity  
12 to change. Some take advantage of this, and many do  
13 not.

14           These children that were killed in our  
15 Aurora theater, these children that were killed in Sandy  
16 Hook, these children that were killed in Columbine were  
17 children of republicans; they were children of  
18 democrats. I'm a republican. My family are  
19 republicans.

20           Many of us understand the importance --  
21 and so what? -- to have some reasonableness applied to  
22 our state right now. We've had two major shootings in  
23 our state, Columbine and now the Aurora theater  
24 shooting. It's time for us to make a difference. Many  
25 men and women that I work with and am friends with want

1 to see a difference.

2 And I'm going to take some of my sister's  
3 time, just so you know.

4 We want to see a difference made in the  
5 state, and we want to see our republican representatives  
6 do the right thing. Vote -- these could be your  
7 children next -- vote for universal background check.  
8 If somebody is not willing to take a background check or  
9 go through a background check, then they probably  
10 shouldn't own a gun.

11 Finally, I want to leave you with this:  
12 On July 20th, at 2:37 a.m. -- my wife and I loved AJ --  
13 received a phone call from a historical woman that  
14 didn't know where her son was. I love my sister and she  
15 has had to raise two boys alone. My parents were with  
16 them daily as they grew up.

17 AJ was a renaissance man who was  
18 first-chair viola at Gateway High School. He loved  
19 doing ceramics. He was a catcher on the baseball team,  
20 and wanted to be an art teacher when he graduated from  
21 the Rocky Mountain College of Art and Design.

22 My daughter Amanda was born three months  
23 before AJ. They were very close, more best friends than  
24 cousins.

25 AJ took Amanda, her friends from college,

1 and his girlfriend, Lasamoa, who was the love of his  
2 life at the time -- he said he wanted to marry her --  
3 camping the weekend before he was murdered. I watched  
4 this young man walking towards his '89 Honda, which was  
5 a really bad car, by the way, filled with these  
6 wonderful girls, and I told him, "Take care of them."

7 He stopped, turned around, came back, and  
8 gave me a hug. He said, "I love you, Uncle David." That  
9 was the last time I saw him. I hold on to that every  
10 day.

11 The day he was going to watch a midnight  
12 premier with his girlfriend, he was at our house mowing  
13 our yard to earn money. I got home to the surprise from  
14 my wife, and was more surprised when she told me that  
15 she had paid him \$40 to mow our yard. He also helped  
16 load the recyclables and pull some weeds. She said,  
17 "Stop, he's your nephew. He's taking his girlfriend to  
18 the movie." She bought him, my daughter and friend  
19 pizza. There was one slice left. When AJ was offered,  
20 he said, "That's okay, I'll leave the scraps for Uncle  
21 David. He'll be hungry when he gets home."

22 I'd eaten before getting home and didn't  
23 touch that piece of pizza. I can't bring myself to get  
24 rid of it; it's still in the freezer.

25 AJ was a very special young man. There

1 were very special people that day that were killed in  
2 the theater, 11 of them, and 58 others that were  
3 wounded. They deserve better than this. They deserve  
4 to have some reasonableness. They deserve to have you,  
5 as our elected representatives, do the right thing, not  
6 just for our families -- it's too late -- but possibly  
7 for your families and everybody else's in Colorado.  
8 It's time for us to make a difference.

9 Thank you.

10 THE CHAIRWOMAN: Thank you so much,  
11 Mr. Hoover.

12 Theresa, would you like to say something?

13 MS. HOOVER: It's really difficult for me  
14 to be here today, but I just pray that this does not  
15 happen to anybody else's families. This is something  
16 that you should never -- you should never have to bury  
17 your child. And I just want you to keep that in mind  
18 and realize how important that this one thing -- what a  
19 big difference it can make, a huge difference. You can  
20 save somebody else's life. That's what it comes down  
21 to. Thank you.

22 THE CHAIRWOMAN: Thank you, Theresa.  
23 Thank you, Dave. And, of course, we have no idea, but  
24 our condolences go out to you, what it would be like to  
25 experience what you all are having to experience every

1 day.

2 MR. HOOVER: Thank you.

3 MS. HOOVER: Thank you.

4 THE CHAIRWOMAN: Thank you for being  
5 willing to share your story with us.

6 Our next witness is Dave Moses.

7 So, Mr. Moses, go ahead and introduce  
8 yourself and who you represent today. And thank you for  
9 being here.

10 MR. MOSES: Hello. My name is David  
11 Moses, and I'm representing myself and my family.

12 One of the reasons that I'm testifying  
13 today is that my brother Steven Moses was murdered with  
14 a gun in 1986.

15 My brother was a 23-year-old, talented  
16 artist who was winning his battle against the genetic  
17 disease cystic fibrosis when he was killed. He was not  
18 part of a mass shooting with any notoriety. He was like  
19 most of the 11,000 Americans that are killed every year  
20 in a homicide with gun violence. He was shot once to  
21 the head from behind, on a street in San Francisco, by a  
22 complete stranger in a random act of violence.

23 Though this happened 26 years ago, I think  
24 about my brother every day and still grieve over his  
25 murder. While it is difficult to describe my own pain

1 over my brother's murder and the continued impact on my  
2 life, my children and my sister and her family, the  
3 effect on my mom is truly indescribable. She was, and  
4 is, absolutely destroyed by my brother's murder. And  
5 each time she hears of a murder on the news, and of  
6 course each time there's a mass shooting, it is like  
7 pouring salt in her open wounds that have not healed  
8 over the course of 26-plus years.

9           The common-sense legislation that is  
10 before you likely could have prevented my brother's  
11 murder. My brother's murderer could not have passed a  
12 background check.

13           It boggles my mind that, in Colorado,  
14 where we have enough common sense and enough pain after  
15 the Columbine massacre to close the gunshow loophole,  
16 that we have not long ago closed the gun sale loophole.  
17 It is self-evident to me and I would think all  
18 law-abiding Coloradans that making someone undergo a  
19 background check prior to obtaining a gun is a good and  
20 necessary thing that does not infringe on anyone's  
21 rights.

22           It is incomprehensible to me that private  
23 gun sales, which account for 40 percent of all gun  
24 sales, do not require background checks. The purchasers  
25 in these private sales are still buying a gun that could

1 be used to kill someone like my innocent brother.

2 Closing the private gun sale loophole is  
3 common sense and is the right thing to do.

4 THE CHAIRWOMAN: Thank you so much. And,  
5 certainly, I can imagine 26 years still doesn't heal  
6 that. So thank you for being here today.

7 Is there any questions from the committee?  
8 I see none.

9 Thank you so much.

10 Katie Lyles. Welcome so much and go ahead  
11 and proceed to introduce yourself and who you represent  
12 today. Thank you.

13 MS. LYLES: Thank you. My name is Katie  
14 Lyles, and I'm here to express my support of House Bill  
15 1229. I represent myself.

16 This bill is a step towards the  
17 comprehensive solution we need to help ensure the safety  
18 of our student at schools as well as the safety of the  
19 people of Colorado. I speak as a teacher and also as a  
20 survivor of the school violence that occurred at  
21 Columbine High School.

22 As a sophomore at Columbine when the  
23 shootings happened, and after Columbine, the people of  
24 Colorado chose to close the gunshow loophole, but we  
25 cannot stop there. It's time to take the next step to

1 close this major loophole in our gun laws.

2 On the morning of April 20th, 1999, I  
3 headed to Columbine High School, worried about my tenth  
4 grade math test that I was supposed to take that day and  
5 my upcoming track meet. That math test was never  
6 finished due to the tragic events that unfolded at my  
7 school, leaving 13 dead and countless others wounded,  
8 and all of our innocence shattered.

9 The shooters at my school obtained their  
10 guns illegally through private sales and straw  
11 purchases. Today they could easily go online and buy  
12 these same weapons without a background check. What is  
13 to stop the next person who chooses from doing just  
14 that?

15 Now as a teacher of eight years, I  
16 consider every day that I go to work a privilege to be  
17 with my students. I cherish their joy and enthusiasm  
18 and, most importantly, their innocence. I believe it is  
19 our job as a society to protect these virtues in our  
20 young people. I want them to be worried about math  
21 tests and track meets and about science fairs and  
22 student council elections. That is the normal stuff  
23 that builds character.

24 But we are creating a school culture that  
25 is instead worried about safety and intruders, something

1 that no student should be aware of.

2 This became even more apparent about a  
3 year ago when I was sitting in complete silence in inky  
4 black dark of my classroom storage room. I was  
5 surrounded by 24 second-graders who crouched on the  
6 floor with me. I whispered to my students that they  
7 were doing such a respectful job hiding, and a quiet  
8 hand found mine as Anthony, a seven-year-old boy that  
9 was crammed next to me, searched for comfort from such  
10 an unnatural scenario.

11 We were conducting our monthly emergency  
12 drill. In this case, a lockdown. My heart broke for  
13 Anthony and his classmates, that they would have to  
14 learn these types of drills at such a young age, if at  
15 all. And I thought to myself: This is the result of  
16 the Columbine shootings, and this is my reality, and now  
17 it is theirs, too.

18 This is the reality that we live in, and  
19 it is a sad one, but I dare say not a helpless one. And  
20 that is why we need your help.

21 I ask you today to pass House Bill 1229 to  
22 ensure the safety of our students. We have the power to  
23 work together as a society to create a safer world for  
24 our schools, and that starts today with the passage of  
25 HB 1229. Learn from my experience and do not wait until

1 you have to experience it firsthand to realize that  
2 action needs to happen.

3 This bill still allows the Second  
4 Amendment to thrive while also allowing our young people  
5 to be safe and also thrive. This is a reasonable  
6 restriction.

7 Thank you for your time and  
8 open-mindedness.

9 THE CHAIRWOMAN: Thank you so much, and  
10 right under the time frame here.

11 Is there any questions for Ms. Lyles?

12 Doesn't look like it. Thank you so much  
13 for being here and for your service to your students.

14 MS. LYLES: Thank you.

15 THE CHAIRWOMAN: Amy Miller. Maybe I'm  
16 looking at not the revised one. Maybe there's a  
17 revised.

18 Who do you have? Oh, Marjorie Sloan. I  
19 must have -- Marjorie, I'm so sorry.

20 MS. SLOAN: (Inaudible.)

21 THE CHAIRWOMAN: Well, I apologize. I  
22 certainly don't want to miss you.

23 Mrs. Sloan, go ahead and introduce  
24 yourself and who you represent today.

25 MS. SLOAN: Thank you so much.

1 THE CHAIRWOMAN: My apologies.

2 MS. SLOAN: Madam Chair and the committee,  
3 I am Marjorie Sloan. I'm the mayor of Golden. I'm here  
4 today to represent Golden City Council, which, in  
5 October 2012, unanimously passed a resolution in support  
6 of a background check on all gun sales. I'm also  
7 speaking as a member of the national bipartisan  
8 coalition of Mayors Against Illegal Guns. It too  
9 supports closing the private sales loophole.

10 When discussing this issue, I've often  
11 asked if Golden has a gun violence problem. The answer  
12 is: Gun violence menaces all communities in Colorado,  
13 whether urban, suburban, or rural. The steady stream of  
14 shootings in our country has shocked all of us out of  
15 our trust and the safety in our communities. We have a  
16 problem. And HB 1229 will help solve the problem.

17 As the NRA says, criminals obtain guns  
18 through theft, black market transactions, and straw  
19 purchases. The private sale loophole is part of the  
20 market for trafficking illegal guns.

21 The facts are these: 62 percent of  
22 private gun sale sellers on the Internet agree to sell  
23 firearms to buyers who, frankly, admitted they probably  
24 couldn't pass a background check.

25 80 percent of criminals who use the gun in

1 their crimes obtain one through a private sale.

2 Background checks are the only systematic  
3 way to stop felons, domestic abusers, and the  
4 dangerously mentally ill from buying guns. We can't  
5 prevent every gun crime, but conducting a background  
6 check on all private transactions will sharply reduce  
7 gun violence across the state.

8 Background checks work. Last year in  
9 Colorado alone, background checks stopped 5,832  
10 prohibited purchasers from obtaining a gun. It's  
11 difficult to estimate or even imagine the number of guns  
12 that slipped through the private sales loophole and  
13 found their way into criminal hands.

14 It's time to take action to fix this  
15 loophole. Colorado is a can-do state. At least  
16 83 percent of Coloradans, including a large majority of  
17 NRA gun owners, recognize the value of background checks  
18 on all gun sales. Please listen to them, like the rest  
19 of Colorado, and fix the hole in the fence. Do it and  
20 vote yes on HB 1229.

21 Thank you.

22 THE CHAIRWOMAN: Thank you so much, Mayor  
23 Sloan. I appreciate you being here.

24 Is there any questions from the committee?

25 Thank you.

1 MS. SLOAN: Thank you.

2 THE CHAIRWOMAN: Now we can have Amy  
3 Miller, if she's in the room.

4 Well, Amy might come a little bit later.

5 I'm going to go ahead and go to Tom  
6 Mauser.

7 Mr. Mauser, welcome. Go ahead and  
8 introduce yourself and who you represent today.

9 MR. MAUSER: Thank you, thank you, Madam  
10 Chair.

11 My name is Tom Mauser. I'm the father of  
12 Daniel Mauser, who was one of the victims at Columbine  
13 High School. I'm here today honoring him by wearing the  
14 shoes he was wearing that tragic day. And I'm here  
15 asking for your support of 1229.

16 My son was a member of the debate team at  
17 Columbine. And one night he asked me a question at the  
18 dinner table: Dad, did you know there are loopholes in  
19 the Brady Bill? Two weeks later he was killed with a  
20 gun purchased through one of those loopholes by two  
21 teenagers who knew they wouldn't have to face a  
22 background check or leave a paper trail if they bought  
23 from a private seller. So I dedicated myself to closing  
24 those loopholes.

25 In 2000, I was spokesman for the Amendment

1 22 ballot initiative that closed that gunshow loophole  
2 in Colorado by an overwhelming vote of 70 percent to  
3 30 percent.

4 Now, opponents of Amendment 22 predicted  
5 the demise of private sellers at gunshows and even the  
6 death of the gunshows themselves if Amendment 22 passed.  
7 Well, that didn't happen. And you'll no doubt hear the  
8 same kind of dire predictions here today. Opponents  
9 will say that criminals will always be able to get  
10 firearms. Well, they will if you're going to make it  
11 easy for them with loopholes. So let's not make it  
12 easy. Let's put in a measure of prevention.

13 I'm sure you've all been flooded with an  
14 awful lot of calls and e-mails on this issue, but I ask  
15 you to keep in mind that polls show over 85 percent of  
16 Coloradans support background checks. So I urge you,  
17 listen to the voices of the main streamists, not the  
18 extremists.

19 Finally, the eyes of the nation are upon  
20 Colorado. They're looking to see how we respond to  
21 these tragedies. Will it be with disregard or concern?  
22 With denial or change? With hopelessness or hope?

23 I'm proud of the choice that Colorado  
24 voters made in 2000, and I urge you to make that same  
25 choice and make Colorado proud again. Thank you.

1 THE CHAIRWOMAN: Thank you so much,  
2 Mr. Mauser.

3 I have a question from Senator Crowder.

4 SENATOR CROWDER: Yes, thank you for being  
5 here today. I was just curious: On your 85 percent  
6 mark, what do you base that on?

7 MR. MAUSER: That was a Denver Post poll.

8 SENATOR CROWDER: A Denver Post poll?

9 MR. MAUSER: Yes.

10 THE CHAIRWOMAN: I'm going to go ahead and  
11 have us continue to stay and go through the chair.

12 MR. MAUSER: I'm sorry.

13 THE CHAIRWOMAN: That's fine. We're all  
14 trying to follow our rules up here, too.

15 SENATOR CROWDER: Thank you, Madam Chair.

16 THE CHAIRWOMAN: Thanks.

17 Is there any other questions?

18 Thank you so much.

19 MR. MAUSER: Thank you.

20 SENATOR CROWDER: Nice shoes.

21 THE CHAIRWOMAN: I'll go ahead and ask for  
22 Amy Miller. No.

23 Okay, we're going to go to Ted Pascoe.

24 Thank you, Mr. Pascoe. Welcome. Go ahead  
25 and introduce yourself and who you represent.

1 MR. PASCOE: Thank you very much.

2 My name is Ted Pascoe, and I'm testifying  
3 on behalf of Colorado Ceasefire, which is an  
4 organization that has been fighting for stronger gun  
5 laws for 14 years here in Colorado. We are here to  
6 voice our enthusiastic support for House Bill 1229.

7 The current law requires licensed gun  
8 dealers to subject gun buyers to background checks.  
9 However, if you are not a licensed gun dealer, you can  
10 sell your gun freely without having to bother with the  
11 check. In Colorado, this means that anyone can easily  
12 acquire a gun through armslist.com, for instance,  
13 without having to pass a background check.

14 A study by the National Institute of  
15 Justice found that, due to this loophole in the law,  
16 40 percent of all gun sales are not subject to  
17 background checks.

18 It is through this enormous loophole that  
19 felons and other prohibited purchasers are easily able  
20 to get guns. A national survey of inmates revealed that  
21 80 percent of those who had used a handgun in a crime  
22 acquired it in this fashion.

23 The cavalier way in which we currently  
24 sell guns in this country is tantamount to making  
25 passing through airport security prior to flying

1 optional. Background checks prior to all gun sales will  
2 preserve public safety and provide peace of mind to the  
3 seller, assuring him he's not selling to a criminal.

4 Private gun sellers have a competitive  
5 advantage over licensed dealers because dealers must  
6 subject all buyers to background checks. The private  
7 seller can mark up his prices significantly because the  
8 buyer is not subject to a background check.

9 This legislation will level the playing  
10 field for responsible, licensed gun dealers.

11 To those opponents of this legislation who  
12 would invoke the Second Amendment, let's turn to the  
13 landmark 2008 Heller decision in which the U.S. Supreme  
14 Court found background checks to be reasonable and  
15 constitutional. The majority opinion written by Justice  
16 Scalia reads, quote: Like most rights, the Second  
17 Amendment is not unlimited. The Court's opinion should  
18 not cast doubt on longstanding prohibitions on the  
19 possession of firearms by felons and the mentally ill or  
20 laws imposing conditions and qualifications on the sale  
21 of arms, quote.

22 In a recent poll by Keating Research,  
23 80 percent of Coloradans favor background checks prior  
24 to all gun sales. In another recent poll by The Denver  
25 Post, the response in favor to the same question was

1 83 percent.

2 There's overwhelming public support for  
3 background checks prior to all gun sales.

4 On behalf of Colorado Ceasefire, I ask for  
5 a yes vote on HB 1229. Thank you.

6 THE CHAIRWOMAN: Thank you. Perfect  
7 timing. Appreciate it, Mr. Pascoe.

8 Any questions from the committee?

9 Thank you so much.

10 MR. PASCOE: Thank you.

11 THE CHAIRWOMAN: Don Macalady.

12 MR. MACALADY: Madam Chairman --

13 THE CHAIRWOMAN: Thank you. Welcome,  
14 Mr. Macalady. Go ahead and introduce yourself and who  
15 you represent today.

16 MR. MACALADY: Thank you for the  
17 opportunity to speak to you today.

18 My name is Donald Macalady, and I live in  
19 Golden, Colorado, and I represent an organization called  
20 Hunters Against Gun Violence. My group was established  
21 to put to rest the notion that all gun owners,  
22 specifically hunters, are opposed to reasonable  
23 legislation concerning firearms. We are a growing group  
24 of hunters, including hunters varying in age from 20 to  
25 75. We are in strong support of House Bill 13-229.

1           As a young man, I joined the National  
2 Rifle Association to learn gun safety and to participate  
3 in their educational programs concerning guns. The  
4 hunting rifle that I use to this day is a modified gun  
5 purchased through an NRA program to sell surplus  
6 military weapons. I left the NRA many years ago as it  
7 moved from primarily promoting gun safety to primarily  
8 promoting guns.

9           I have lived and hunted in Colorado for  
10 the past 30 years. All of my children are hunters, and  
11 they all grew up helping to provide meat for our family  
12 through our hunting activities. They are all gun owners  
13 and have a healthy respect for guns and their safe use.

14           My family and the members of our  
15 organization are testimony to the fact that many, if not  
16 most, gun owners are in favor of sensible gun  
17 legislation. As hunters, we understand that gun  
18 ownership means responsibility.

19           We urge all -- we all believe and support  
20 the Second Amendment. It is, in fact, one reason we  
21 urge passage of this bill. It actually protects our  
22 Second Amendment rights to make sure that guns do not  
23 fall into the wrong hands, the hands of those who are  
24 not able or willing to handle the serious responsibility  
25 of gun ownership.

1                   Background checks, of course, are no  
2           panacea for gun violence, but they are a necessary and  
3           desirable step to move us toward a society less plagued  
4           by senseless gun crimes. Many such crimes are committed  
5           by persons who have no right to own or use or  
6           otherwise -- own them or use otherwise legal weapons.  
7           There are, of course, questions about the costs and the  
8           administration of the system HB 13-229 starts.

9                   The legislation itself does not  
10          effectively deal with the questions. And in proclaiming  
11          our support for this bill, we assume that you will  
12          tackle these difficult issues in a manner that does not  
13          represent a large burden for taxpayers of Colorado.

14                  Opponents to universal background checks  
15          cite the difficulties for certain types of transfer of  
16          gun ownership. We are impressed with the fact that HB  
17          13-229 does not ignore these difficulties and attempts  
18          to deal with them in a fair and unobtrusive manner.

19                  Thank you for your attention.

20                  THE CHAIRWOMAN: Thank you.

21                  I'm just so impressed with how everybody  
22          is able to stick with these three minutes. Thank you,  
23          Mr. Macalady.

24                  Is there any questions from the committee?  
25          Senator Crowder.

1                   SENATOR CROWDER: Thank you, Madam Chair.

2                   In your delivery here, you talked a lot  
3 about what you support and, you know, the individuals  
4 who are a criminal element. Could you give me an  
5 opinion on what you think about the vast -- the  
6 99 percent of the American people who are not involved  
7 in a situation where they would do something illegal?  
8 Do you think this would not be an imposition on them, on  
9 their ability as a free people to have to adhere to  
10 this?

11                   Thank you.

12                   THE CHAIRWOMAN: Mr. Macalady.

13                   MR. MACALADY: No, I don't think so. I  
14 think most of us, most hunters, most gun owners, would  
15 be perfectly willing to submit to the minor  
16 inconvenience of a background check in order to promote  
17 gun safety.

18                   THE CHAIRWOMAN: Thank you so much. Thank  
19 you.

20                   I'm going to go to Alan Franklin.

21                   Welcome, Mr. Franklin. Go ahead and  
22 introduce yourself and who you're representing today.

23                   MR. FRANKLIN: Good afternoon, and thank  
24 you for giving me the opportunity.

25                   My name is Alan Franklin, and I am the

1 political director of Progress Now Colorado. We are the  
2 state's largest online progressive advocacy  
3 organization, originally founded in 2003 as the Rocky  
4 Mountain Progressive Network.

5           There are many ways to evaluate my  
6 organization's effectiveness in Colorado politics. One  
7 the committee might find useful is this: Our  
8 preliminary information indicates some 73,000 Progress  
9 Now Colorado members voted in the 2012 elections.

10           I am here today to ask gun lobbyists and  
11 republican legislators to stop misleading and inciting  
12 the public about proposed gun safety legislation. We  
13 could have chosen any of the gun safety bills now up for  
14 debate in the Colorado Senate, but the case of House  
15 Bill 1229 is one of such clear deception on the part of  
16 the gun lobby that the rebuttal to the campaign against  
17 common-sense gun safety legislation must begin here.

18           Closing the background check loophole is  
19 supported by an overwhelming majority of voters. One  
20 CBS New York Times poll in January found that over  
21 90 percent of respondents favor background check for all  
22 gun buyers. The percentage varies in studies, but  
23 without a doubt a substantial number of gun sales in  
24 Colorado today are unregulated transactions where no  
25 background check of the buyer takes place.

1                    Rocky Mountain Gun Owners, the same,  
2                    quote/unquote, nonprofit group organizing protests  
3                    against legislators in this body runs a paid access  
4                    website called the Colorado Gun Market, which makes  
5                    bypassing background checks and buying guns as a  
6                    criminal simple.

7                    This is critical to understand. The group  
8                    leading the fight against this bill is profiting from  
9                    keeping the background check loophole open and may  
10                    itself even be facilitating the sale of guns to  
11                    criminals. The fact is, the public overwhelmingly  
12                    supports closing this loophole. That's why the gun  
13                    lobby has resorted to outright lies, claiming that the  
14                    bill would criminalize and prohibit the private transfer  
15                    of firearms. It's not true.

16                    All this bill requires is that buyers of  
17                    guns, including private transfers, which undeniably  
18                    results in guns being acquired by criminals today,  
19                    complete the same background check required at retail  
20                    stores and gunshows.

21                    The arguments against House Bill 1229 run  
22                    the gamut from misinformed and nonsensical. Closing the  
23                    background check loophole will not require the  
24                    registration of guns any more than the background checks  
25                    the CBI performs today. And the CBI supports this bill.

1                   And while it's true that criminals will  
2 still be criminals, break laws such as this one, that's  
3 no excuse for failing to pass a law that will stop some  
4 criminals who would otherwise be able to buy a gun  
5 today.

6                   The provisions in this bill exempt  
7 immediate family members and other specific  
8 circumstances that are appropriate.

9                   Now, in conclusion, it is not enough for  
10 me to tell members of this committee on behalf of the  
11 thousands of Colorado progressives that I speak for that  
12 we urge a yes vote on 1229.

13                   On behalf of every Coloradoan who is  
14 disgusted by the right wing's unreasonable opposition to  
15 common-sense reform --

16                   THE CHAIRWOMAN: Mr. Franklin.

17                   MR. FRANKLIN: -- and willingness to  
18 misrepresent --

19                   THE CHAIRWOMAN: Mr. Franklin.  
20 Mr. Franklin, your time is up. I'm sorry. Your time is  
21 up.

22                   MR. FRANKLIN: Any questions?

23                   SENATOR CROWDER: Yes, I have one.

24                   THE CHAIRWOMAN: I'll go ahead and ask for  
25 questions.

1                   So, Mr. Crowder, Senator Crowder.

2                   SENATOR CROWDER: Well, thank you, Madam  
3 Chair.

4                   I guess I would start by saying, you know,  
5 it's interesting to hear you talk, but I really don't  
6 agree with that. As a republican myself, I do not  
7 follow the line of the NRA. I do not follow the line of  
8 what you speak of. What I follow is the laws of this  
9 country.

10                  We have a Second Amendment right, and we  
11 also have -- we have a right in this country to  
12 basically believe what we want without being intimidated  
13 by anybody. And as a republican, I assure you that we  
14 are not intimidated by anyone.

15                  But as far as your -- I have received over  
16 5,000 e-mails on this subject alone. And I dispute very  
17 dramatically that the overwhelmingly people do support  
18 this, because what I have done on the 5,000 e-mails I  
19 have received this past week, 2 or 3 percent are in  
20 favor of this. The rest of the state is opposed to it.

21                  So when you say that the republicans are  
22 the right wing inciters of this -- what we're looking  
23 for is actual laws that we as men can live by. We do  
24 not -- we do not fall into the trap of inciting one side  
25 against the other. What we want is reasonable. And I'm

1 talking about reasonable laws that people can live by.

2 But I also believe that we are a free  
3 nation. And, indeed, if we are a free nation, we should  
4 be looking at ways to reduce the amount of restrictions,  
5 not expanding it, you know.

6 And, you know, I appreciate what you do,  
7 and I'm sure you adhere to your beliefs very much, but  
8 these are your beliefs, not the rest of the people of  
9 the state of Colorado.

10 We have to -- I don't want to go on too  
11 long, but we need to realize that there are more than  
12 just one view on this subject matter than the  
13 progressive that you adhere to. But I do somewhat  
14 resent the idea that, as a republican, I'm going with  
15 some kind of right-wing issue, because it's not that way  
16 at all. But I thank you for your time.

17 MR. FRANKLIN: Well, thank you.

18 THE CHAIRWOMAN: Thank you. I'm going to  
19 go ahead and -- because we still have some other people  
20 and we're running out of time and there's still people  
21 -- thank you so much.

22 MR. FRANKLIN: I look forward to  
23 responding to you via e-mail, Senator. Thank you.

24 Will I get the opportunity to respond to  
25 any of these responses?

1                   THE CHAIRWOMAN: You know, not in this  
2 format. I apologize that we don't have that  
3 opportunity. And I --

4                   MR. FRANKLIN: Well, I've got their  
5 e-mail. That's fine. Go ahead.

6                   THE CHAIRWOMAN: Thank you. We're not  
7 going to ask any questions. I'm going to go to the  
8 next --

9                   UNIDENTIFIED SPEAKER: Can I make a  
10 response? I'm not going to ask a question. I just need  
11 to clarify something that was said.

12                  THE CHAIRWOMAN: Well, what I'll do is go  
13 ahead and extend the time, then, because I still have  
14 some more witnesses, if that's comfortable.

15                  UNIDENTIFIED SPEAKER: That's fine.

16                  THE CHAIRWOMAN: Okay, go ahead.

17                  UNIDENTIFIED SPEAKER: I was out of the  
18 room. I apologize. I didn't get to hear your  
19 testimony, but I was told that it was said that these  
20 gun groups are making a profit off of gun sales. And I  
21 just want to clarify for the record that the NRA does  
22 not sell guns and RMGO does not sell guns. They do not  
23 make any profit on the --

24                  MR. FRANKLIN: My comment was in reference  
25 to the Colorado e-market website, which is operated by

1 the RMGO.

2 THE CHAIRWOMAN: Mr. Franklin, I  
3 appreciate that. I'm going to go ahead and excuse you,  
4 and we'll --

5 MR. FRANKLIN: Thank you for your time,  
6 members of the committee.

7 THE CHAIRWOMAN: Thank you so much.

8 So our next person signed up is Amy  
9 Miller. Amy is -- okay, I will call the next witness.

10 Mark Thurn -- or Thrun, I guess.

11 Thank you. Go ahead and introduce  
12 yourself and who you represent today. Thank you.

13 MR. THRUN: Thank you, Madam Chair.

14 My name is Mark Thrun. I'm a public  
15 health physician here in Denver. I serve on the board  
16 of directors of the Colorado Public Health Association,  
17 and I'm here today representing this organization in  
18 support of House Bill 1229.

19 The Colorado Public Health Association,  
20 affiliated with the American Public Health Association,  
21 is comprised of members who serve the state of Colorado  
22 as public health officials or have general interest in  
23 community well-being and health.

24 There are few public health issues that  
25 impact the community, our community, in such a tragic

1 and horrendous manner as the violence of one person  
2 using a firearm against another person.

3 As firearm regulation is a public health  
4 issue, and as this body has proven it can impact the  
5 public's health through the development of wise and fair  
6 laws, such as the one proposed here today, we urge you  
7 to vote in support of this bill.

8 As it has with other matters of public  
9 health from hospital infection data reporting to  
10 establishing speed limits on highways, this body has the  
11 authority, both legally and morally, to promote the  
12 common welfare, to protect the public's health.

13 We urge you to keep guns out of the hands  
14 of those unfit to own them. We urge you to expand  
15 background checks. We urge you to vote for House Bill  
16 1229.

17 THE CHAIRWOMAN: Thank you so much,  
18 Dr. Thrun.

19 Is there any questions from the committee?  
20 Thank you.

21 MR. THRUN: Thank you, Madam Chair.

22 THE CHAIRWOMAN: And I'm wondering if Amy  
23 Miller is in the room at this point. Yes? No.

24 I'm going to go ahead and go to the next  
25 witness, Jack Dais.

1                   Mr. Dais, welcome. Go ahead and introduce  
2 yourself and who you represent today.

3                   MR. DAIS: Chairman Giron, members of the  
4 committee, thank you for the opportunity to be here.

5                   My name is Jack Dais, and I represent the  
6 organization Hunters Against Gun Violence. I'll be  
7 brief and just provide a few remarks.

8                   I've hunted pheasant, quail, and rabbits  
9 for more than 60 years, and deer and elk for more than  
10 50 years. So I do own some guns.

11                  I'm a Colorado resident for 33 years, and  
12 I'm here today because I'm saddened by the large and  
13 increasing gun violence in Colorado and around the  
14 United States.

15                  I have read House Bill 1229 and believe  
16 that I largely understand it. Because I believe that  
17 closing the private sale background check loophole will  
18 help reduce gun violence, I urge the senate to pass the  
19 bill.

20                  The various provisions in Section 1 do not  
21 appear burdensome and seem to make good sense. For an  
22 aging gun owner like me, the bill provides  
23 understandable options for gun transfers through private  
24 sales, gifts to family members, or post-death means.

25                  Thank you for having me.

1 THE CHAIRWOMAN: Thank you so much.

2 Is there any questions? Senator Crowder.

3 SENATOR CROWDER: Thank you, Madam Chair.

4 Thank you for being here today.

5 Do you think that the guns of which you  
6 own now, that the people within your family that you  
7 give those guns to should have a background check for  
8 those guns before you can give them to them?

9 THE CHAIRWOMAN: Mr. Dais.

10 MR. DAIS: No, I don't think that they  
11 should. And let's say I also understand that, as the  
12 bill provides, I can gift these to my kids without that.  
13 But, however, I'd have no objection to their undergoing  
14 a background check.

15 THE CHAIRWOMAN: Thank you.

16 SENATOR CROWDER: One more question.

17 THE CHAIRWOMAN: One quick question,  
18 Senator Crowder.

19 SENATOR CROWDER: If, in fact, you were a  
20 gun collector where you collected guns, which some  
21 people do, do you think that each gun that you bought,  
22 you should have to have a background check as a gun  
23 collector?

24 THE CHAIRWOMAN: Mr. Dais.

25 MR. DAIS: Could I ask, are these guns



1 you were purchasing guns through time, if a person was,  
2 and it had been a year and they collected a new gun, and  
3 things could have happened, this person could have  
4 committed a crime. Do you think they need a background  
5 check?

6 THE CHAIRWOMAN: Mr. Dais.

7 MR. DAIS: I'm not totally sure I  
8 understand the question, but if a year goes by between a  
9 person's gun purchases, and if it's possible that they  
10 could have committed a crime in that -- I hadn't thought  
11 about that, but, yeah, it seems to me to be reasonable,  
12 if a year's time has lapsed, to go through another  
13 background check, it would seem to be reasonable.

14 THE CHAIRWOMAN: Thank you so much for  
15 being here. And we will have one more witness.  
16 Ms. Miller is here. And then that's our last witness  
17 for the people in support.

18 Welcome, Mrs. Miller. Appreciate your  
19 being here.

20 Go ahead, introduce yourself and who you  
21 represent.

22 MS. MILLER: Thank you, Madam Chair,  
23 members of the committee.

24 My name is Amy Miller, and I represent the  
25 Colorado Coalition Against Domestic Violence. We are a

1 statewide nonprofit organization, and we are here to  
2 speak on behalf of the domestic violence organizations  
3 in the state who serve thousands of victims every year.

4 We're in support of House Bill 1229. Let  
5 me tell you a story that illustrates why we support this  
6 bill.

7 On December 18th of last year, just a few  
8 days after the tragedy in Newtown, there was another  
9 mass shooting here in Colorado, in Longmont, Colorado.  
10 It was a domestic violence shooting in which three  
11 victims were murdered, followed by the perpetrator's  
12 suicide. The domestic violence offender, Daniel  
13 Sanchez, had just been released six hours prior from an  
14 overnight stay in jail for holding his ex-girlfriend  
15 hostage for several hours, assaulting her, stealing her  
16 cell phone, and sending threatening text messages to her  
17 new boyfriend.

18 Sanchez was released at 10 p.m. Monday  
19 night. And at 4 a.m., he shot and killed his  
20 ex-girlfriend, Beatriz Cintora-Silva, age 25; and her  
21 sister, age 22; and her brother-in-law, age 29, with a  
22 .45 caliber Glock handgun.

23 He did not possess that firearm before he  
24 was released from jail. He should not have been able to  
25 obtain that firearm, given what he had just been

1 through.

2 Under federal law, individuals who have  
3 been convicted of a qualifying misdemeanor domestic  
4 violence offense or who are subject to a qualifying  
5 domestic violence protection order, like Sanchez was,  
6 can't legally buy or possess firearms. But an estimated  
7 30 to 40 percent of firearms are purchased without a  
8 background check, making thorough enforcement of the law  
9 all but impossible and creating a loophole through which  
10 domestic abusers obtain guns.

11 Here in Colorado, in 2011, the most recent  
12 year for which data is available, at least 13 of the 34  
13 domestic violence deaths in our state occurred in cases  
14 where the domestic violence offender used a firearm  
15 despite being prohibited under the law from purchasing  
16 or possessing firearms.

17 Studies reveal that the presence of  
18 firearms significantly increases the lethality of  
19 domestic violence incidents. According to one such  
20 study, domestic violence assaults involving a firearm  
21 are 23 times more likely to result in death than those  
22 involving other bodily -- other weapons or bodily force.

23 A similar study found that abused women  
24 are five times more likely to be killed by their abuser  
25 if the abuser owns a firearm. According to Department

1 of Justice statistics, in states that require background  
2 checks for every handgun sale, 38 percent fewer women  
3 are shot to death by their intimate partners.

4 We know existing background checks keep  
5 guns out of the hands of domestic abusers and that lives  
6 will be saved in this state by keeping guns out of the  
7 hands of even more abusers.

8 Please take this opportunity to keep  
9 Colorado's women and children safe. I urge your vote in  
10 favor of House Bill 1229. Thank you.

11 THE CHAIRWOMAN: Thank you so much.

12 We have a question from Senator Harvey.

13 SENATOR HARVEY: Thank you, Mrs. Miller --  
14 Ms. Miller, for being here.

15 Go back to the case that you brought up  
16 that he didn't have a gun prior to committing that  
17 crime. How did he get that gun, do you know?

18 THE CHAIRWOMAN: Mrs. Miller.

19 MS. MILLER: Thank you, Madam Chair,  
20 Senator Harvey.

21 I don't know exactly the details of that,  
22 but he would have been prohibited under even state law  
23 for an arrest -- because we do have a law that addresses  
24 that, even -- would have been prohibited from being able  
25 to lawfully purchase a firearm. So must have obtained

1 it through unlawful means.

2 THE CHAIRWOMAN: Senator Harvey.

3 SENATOR HARVEY: That's my point. He was  
4 already -- it was already against the law for him to  
5 have a gun, and he got a gun. I doubt he got it through  
6 a family member that transferred it to him. And this  
7 bill wouldn't have applied to that. And it's already  
8 against the law to murder somebody. So he broke that  
9 law as well.

10 I understand your -- your rationale, but I  
11 don't agree with your nexus because I don't agree that  
12 had this bill been in place, that it would have stopped  
13 the murders that you talked about.

14 And so I want to make sure we all  
15 understand -- we need to have a nexus between the  
16 legislation that we're passing and the things we're  
17 trying to stop. And that's what makes good public  
18 policy, if you can tie that nexus together.

19 And I don't believe that in that certain  
20 circumstance that that was said -- and that was your  
21 example -- and I want all of us to think rationally  
22 about what we're doing with these kinds of public  
23 policies. Thank you very much.

24 MS. MILLER: Thank you so much.

25 THE CHAIRWOMAN: Thank you, Mrs. Miller.

1 Appreciate it.

2 MS. MILLER: Thank you.

3 THE CHAIRWOMAN: So that is the amount of  
4 time we have. We actually did have some more people  
5 sign up. I apologize that we're not going to be able to  
6 hear from any more of those in support, because of the  
7 time now.

8 SENATOR CROWDER: Madam Chair, may I ask a  
9 question?

10 THE CHAIRWOMAN: Yeah, let me go ahead and  
11 finish my sentence.

12 SENATOR CROWDER: I'm sorry.

13 THE CHAIRWOMAN: That's okay.

14 We're going to move to the people in  
15 opposition, and I do have a list of them as well.

16 Senator Crowder.

17 SENATOR CROWDER: Well, I was just curious  
18 as to the amount of people that are left to testify on  
19 that. Is there a particular number that you have?

20 THE CHAIRWOMAN: No. I went through my  
21 list and there was some more. So what I want to do is  
22 be able to move through here so we can get going.

23 Kris -- our first witness, Krista --  
24 Krista, is that -- we're going to go ahead and get our  
25 first witness.

1                   And just for anybody who's new in the  
2                   room, we're doing 90 minutes to those in support, 90  
3                   minutes in opposition. And I'll kind of get the clue  
4                   when we're going from expert public testimony, which  
5                   does not have a time limit. So when I get that, we'll  
6                   do that, but it's still the same 90 minutes. After that  
7                   we'll go into the timing, as you notice. But if you  
8                   weren't here at the beginning, we did have some people  
9                   that were not limited by time.

10                   Thank you. Okay, great.

11                   So, Krista, you're here with the State  
12                   testifying. You have some support people, but I  
13                   understand they're not going to be testifying.

14                   MS. CERESA: That's correct.

15                   THE CHAIRWOMAN: I appreciate you being  
16                   here, and go ahead and introduce yourself and who you  
17                   represent.

18                   MS. CERESA: My name is Krista Ceresa. I  
19                   grew up and I currently reside in District 29, and I'm  
20                   represented by Senator Morgan Carroll.

21                   I'm here today on behalf of my family as  
22                   well as a large number of people from my community who  
23                   are so familiar with the tragedy I'm going to share with  
24                   you.

25                   And to explain to you, I am so opposed to

1 all gun control legislation presented today. The last  
2 man executed in the state of Colorado was the man who  
3 killed my mom. July 21st, 1986, Gary Davis kidnapped,  
4 raped, and murdered my mother, Ginny May. Gary Davis  
5 had a history of predatory sexual behavior, raping over  
6 15 women, had convictions of grand larceny, burglary,  
7 menacing, was jailed on sexual assault in Colorado only  
8 four years prior to my mother's murder. A man who  
9 should have never been released from prison was released  
10 early in 1985.

11 My mother met Gary Davis and his wife,  
12 Becky, at church. He stalked my mother until killing  
13 her one year later. He was a criminal. It was against  
14 the law for him to have a gun. He had no respect for my  
15 mother, my family, and he certainly had no respect for  
16 the law.

17 If I had it to do over again -- this is  
18 often the phrase we throw around -- on reflecting on how  
19 we could have done things differently, whether it  
20 relates to our career or maybe raising our children, I  
21 was speaking with my dad and he said to me: If I had it  
22 to do over again, I would have made sure your mother had  
23 a gun, that she could have had a chance to protect  
24 herself and you kids.

25 In this case, we are talking about saving

1 someone's life and keeping the family intact. I know he  
2 struggles daily with the fact that he wasn't able to  
3 protect her on that day. The reality is these sick  
4 individuals, they prey on those who are considered least  
5 likely to be able to protect themselves, women and  
6 children in places we falsely label as safe zones,  
7 gun-free zones.

8           If my mother had been armed with a gun, my  
9 story might be much different. She was approached by  
10 two assailants that day. She was outnumbered. If any  
11 of you are parents, maybe you can imagine what might  
12 have went through her mind as the lives of her two young  
13 children would now be forever changed because of the  
14 premeditated acts of these sick individuals.

15           I'm a mother myself now. And I think back  
16 daily on that terrible moment when I saw Gary Davis  
17 physically force my mom from our front yard, as I was  
18 held restrained by his wife on the front steps of our  
19 country home. I'll never forget the last time that I  
20 saw my mother.

21           Excuse me.

22           My efforts must be focused now on my  
23 children and what I can do to ensure that their last  
24 memories of their mother are never the same as what I  
25 have of mine.

1                   As a concealed carry permit holder, I  
2                   exercise my right to carry daily. As carrying a firearm  
3                   might seem unnecessary to some, those who know my story  
4                   understand the heartbreaking reality that evil can  
5                   approach without warning.

6                   It is because of the Second Amendment that  
7                   I do not have to worry about what others think is  
8                   necessary or unnecessary as it relates to the protection  
9                   of my family and myself. I'm thankful for that right,  
10                  and I choose to exercise that right quietly and  
11                  carefully when I'm at church or visiting my cousin,  
12                  Becky, for lunch at the college campus that she works  
13                  at. She, too, is a mother and legally exercises her  
14                  right to carry.

15                  We know better than anyone that the moment  
16                  we are unprepared might be a moment we live or may not  
17                  live to regret. I've seen firsthand how quickly a  
18                  situation like this can occur.

19                  As many of our law enforcement officers  
20                  are outstanding public servants, there simply may not be  
21                  enough time. I understand more than most that my  
22                  protection is ultimately my responsibility.

23                  So I ask you to consider the consequences  
24                  of imposing more regulations upon law-abiding citizens.  
25                  Please remember who those laws will really restrict, how

1 by deluding these rights, you will only make people like  
2 myself, a daughter, a wife, and a mother, an easier  
3 target.

4           These regulations will not affect those  
5 whose intent is to ultimately break the law by obtaining  
6 a gun. Statistics have shown that many of these people  
7 committing these heinous crimes had illegally obtained a  
8 gun in the first place. And stricter gun control will  
9 not stop another sick-minded Gary Davis from killing  
10 someone else's mother.

11           In fact, if you pass these legislation --  
12 regulations, it is more likely that you will ensure that  
13 it will happen again. I promise there are other Gary  
14 Davises out there today looking for their next victim.

15           My stance, along with my entire family, is  
16 to oppose these measures for gun control, and we will  
17 oppose any lawmaker who authors the votes, authors or  
18 votes in favor of any legislation that infringes upon  
19 the Second Amendment.

20           The government was never intended to  
21 regulate my needs as it relates to protecting myself. I  
22 follow the law, and have every right to protect our  
23 family from danger with the highest measure of security  
24 we see fit.

25           I'm standing before you today having just

1 shared a story I've never spoken publicly about. This  
2 is because I've never felt more passionately for a cause  
3 as I do about this. And I understand firsthand the  
4 consequences this legislation presents. These  
5 restrictions will not only make my world less safe,  
6 leaving law-abiding citizens outgunned by criminals who  
7 have no respect for the law.

8 I'm speaking out today because you have to  
9 be out of your mind to believe that someone with a plan  
10 to kill will not get their hands on a gun, that any  
11 measure to put restrictions on the Second Amendment will  
12 keep firearms of any capacity out of the hands of  
13 criminals, nor will it influence where they will choose  
14 to use them. And I certainly know that these measures  
15 will not take away the malicious intent of those with  
16 evil in their hearts.

17 Thank you for hearing me today. I pray  
18 that God guides you as you cast your very powerful vote  
19 on this very dangerous legislation.

20 THE CHAIRWOMAN: Thank you so much, and  
21 thank you for your willingness to come here today and  
22 share your story and your life.

23 A couple questions from Senator Harvey.

24 SENATOR HARVEY: Thank you, Madam Chair.

25 Not so much a question but just a comment.

1 Thank you for being here. Thank you all for being here.

2 Can you introduce your husband really  
3 quick, and your cousin.

4 MS. CERESA: This is my husband, Mark  
5 Ceresa. This is my cousin Becky Kleeman (phonetic).

6 SENATOR HARVEY: Thank you.

7 THE CHAIRWOMAN: Senator Harvey, continue.

8 SENATOR HARVEY: Madam Chair, if I could,  
9 I wanted to add a little bit more to Krista's story.

10 The murderer actually went to Becky's  
11 house first, which is next door, and a ranch hand was at  
12 the house. So the murderer and his wife left and went  
13 next door to Krista's house. Krista was four years old  
14 when this happened. And Mr. Davis was the last person  
15 we've ever put to death on death row in Colorado.  
16 Krista and her family have never spoken publicly about  
17 this event outside of the courtroom. So this was a  
18 huge, huge thing for her to be here, to have her  
19 comments made today. And for her dad and her brother,  
20 this was a huge thing for them as well.

21 So I just wanted to thank you for your  
22 courage to come here today and represent your family and  
23 the citizens of Colorado. God bless you.

24 THE CHAIRWOMAN: Thank you for being here.

25 Senator Crowder.

1                   SENATOR CROWDER: Two questions, if I  
2                   could.  
3                   Would you say that there is an evil in the  
4                   world?  
5                   MS. CERESA: Absolutely.  
6                   SENATOR CROWDER: Thank you.  
7                   THE CHAIRWOMAN: Senator Crowder.  
8                   SENATOR CROWDER: Would you also say that  
9                   any erosion of our Second Amendment rights, even with  
10                  the intent -- the well intention of -- of helping  
11                  people, that that erosion of the Second Amendment rights  
12                  could also cause a great deal more harm than good?  
13                  MS. CERESA: I know that it would.  
14                  THE CHAIRWOMAN: Krista. I'm just  
15                  recognizing you would come through --  
16                  MS. CERESA: Sorry.  
17                  SENATOR CROWDER: Thank you very much.  
18                  THE CHAIRWOMAN: Thank you so much.  
19                  Any other questions?  
20                  Seeing none, thank you. I really  
21                  appreciate your willingness to share your story.  
22                  MS. CERESA: Thank you for having me, too.  
23                  THE CHAIRWOMAN: The next witness we have  
24                  listed is going to be moved, Dan Kopel is going to be  
25                  moved later, when he gets here. He's a little late. He

1 has an event.

2 So I'm going to go next to Sheriff John  
3 Cooke.

4 Welcome, Sheriff Cooke. Go ahead and  
5 introduce yourself and who you're representing today.

6 MR. COOKE: Okay. Thank you so much. I'd  
7 like to thank the committee.

8 My name is Sheriff John Cooke, and I'm  
9 representing myself and my constituents from Weld  
10 County.

11 But, first off, I'd like to say that I  
12 stand by the County Sheriffs Of Colorado's position  
13 paper. This position paper states, in part, that the  
14 County Sheriffs Of Colorado are adamantly opposed to any  
15 restrictions on a person's right to privately sell  
16 firearms to another person because of a technicality  
17 regarding the opposition -- or the operation of the  
18 CSOC's legislative committee.

19 The legislative committee is staying  
20 neutral on this bill, but not the overwhelming number of  
21 sheriffs in this state. In our recent conference in  
22 January, where approximately 57 elected sheriffs  
23 attended, there was no disagreement regarding our  
24 opposition to the universal background checks.

25 As chief law enforcement officer of the

1 county, I'm telling you this law is unenforceable. This  
2 bill is a case of elected officials feeling the need to  
3 do something, anything, whether or not the law is  
4 enforceable.

5 The chiefs' association testified that  
6 they are in favor of this bill, but I have yet to hear  
7 one chief explain how they plan on enforcing it, if it  
8 becomes law.

9 To quote again from the CSOC position  
10 paper: Local law enforcement does not have the  
11 resources to stop private sales of firearms, nor to  
12 investigate such transactions.

13 This bill is unenforceable because  
14 criminals do not get background checks. One criminal  
15 doesn't say to another criminal: Hey, before I sell you  
16 this stolen gun, we need to go get a background.

17 No doubt you heard from CBI about how many  
18 gun sales they have prevented because of background  
19 checks. Let's be honest, does anyone really believe  
20 that just because a criminal was denied a gun through a  
21 background check that he or she will stop there? The  
22 true criminal who is intent on getting a gun will find  
23 any other means necessary to get one.

24 In a U.S. Department Justice report  
25 conducted in 1997 in which they surveyed state and

1 federal inmates convicted of crimes involving guns, they  
2 found that 40 percent of inmates obtained guns through  
3 illegal sources such as theft, burglary, drug dealer's  
4 offense or the black market. 40 percent bought or  
5 borrowed the gun from friends or family, and 14 percent  
6 obtained the gun legally before becoming felons.

7 This bill would not have prevented any of  
8 these criminals from obtaining a gun.

9 The numbers that CBI gave you would lead  
10 people to believe that the ones denied access to buying  
11 guns are hardened criminals, but this is simply not the  
12 case.

13 About two years ago, a 75-year-old man  
14 came in my office wanting to know what to do because he  
15 was denied the purchase of a firearm from a gun store.  
16 He told me that in 1956, he was 17 or 18 years old, got  
17 drunk and ran over someone. He pled guilty to a felony,  
18 to have the case over with. Since that time, he had  
19 absolutely no other contact with law enforcement  
20 throughout his life. He bought many firearms and hunted  
21 and had recreational sports, and he still owned quite a  
22 few to that day.

23 Yes, it would have been illegal to sell a  
24 gun to this gentleman because of his felony conviction  
25 in 1956, but he's not exactly the picture one has of the

1 hardened criminal attempting to get a gun for illegal  
2 purposes. And I suspect that the background checks only  
3 stopping these types of people from ever buying a  
4 firearm and not the true criminal who will obtain a gun  
5 through any means possible.

6           This bill is also unenforceable because  
7 there's absolutely no way for you or me to prevent two  
8 people from my county driving a few miles north,  
9 conducting a private transaction at the truck stop right  
10 across the Wyoming border, and then returning home.

11           This law is simply unenforceable and would  
12 do little, if anything, for public safety; and I  
13 encourage the committee to vote no.

14           THE CHAIRWOMAN: Thank you so much,  
15 Sheriff.

16           Is there any questions from the committee?

17           Senator Harvey.

18           Does anyone else have a question while  
19 Senator Harvey finishes his chewing?

20           SENATOR HARVEY: Thank you, Sheriff Cooke,  
21 for being here and to all the other sheriffs for being  
22 here. God bless you for taking the time to come hear  
23 this bill.

24           My concern is not so much the background  
25 checks for transfers of guns, though that's huge because

1       it's not only the sale of guns, but the transfer of  
2       guns. But it's really how this bill will be impacting  
3       law-abiding citizens who are driving down the streets  
4       who may have a gun in their car, and you see that they  
5       have a gun in their car, especially out in Weld County,  
6       where there are a lot of guys driving around with guns  
7       on their gun racks -- how will you be able to know  
8       whether that gun is a legal firearm that has been  
9       purchased with a background check, and how will you be  
10      able to determine if it was done with a background  
11      check, and what will you do if you can't determine it?

12                   THE CHAIRWOMAN: Sheriff.

13                   MR. COOKE: Oh, I'm sorry.

14                   First off, there's no way we'd know if one  
15      of my deputies pulled over a person in that situation,  
16      he would not know whether that gun was bought through a  
17      background check or not. So, therefore, since there's  
18      nothing we can do, we'd write them a ticket or give them  
19      a warning and let them go on because there's nothing we  
20      could enforce on that.

21                   THE CHAIRWOMAN: Senator Harvey.

22                   SENATOR HARVEY: Well, might you  
23      confiscate it because they cannot prove to you it was  
24      purchased with a background check? And, therefore, if  
25      they can't prove that, that gun is an illegally owned

1 gun and you are required to confiscate it, until they  
2 can prove that. And how long will it take you, then, to  
3 prove it?

4 We are going down a road where the  
5 citizens will want to have a database to prove that they  
6 had that gun purchased with a background check so that  
7 you won't harass them. No offense.

8 MR. COOKE: None taken.

9 THE CHAIRWOMAN: Sheriff Cooke, if you'd  
10 like to respond.

11 MR. COOKE: Yes, ma'am. Thank you.

12 This is one of the reasons why County  
13 Sheriffs Of Colorado, again, is adamantly opposed to  
14 this, most of the sheriffs, because we believe it is a  
15 first step towards gun registration.

16 Now, as far as confiscating the gun, I  
17 didn't see that part in the bill. It might be there,  
18 and I don't know. But I would hope that none of my  
19 deputies would do that. It would be very detrimental to  
20 their career if they did.

21 THE CHAIRWOMAN: I'll go ahead in just a  
22 minute, Senator Crowder, just for Senator Harvey -- and  
23 I'll look for it in the bill, but it does say that it  
24 would be upon law enforcement to have to prove that, in  
25 fact, that was not -- that firearm was not purchased

1 through -- with a background check. So they would have  
2 to prove that before they could confiscate that, just  
3 for clarification.

4 Senator Crowder.

5 SENATOR CROWDER: Thank you, Madam Chair.

6 That kind of relates to my question.

7 THE CHAIRWOMAN: Go ahead, Senator  
8 Crowder.

9 SENATOR CROWDER: I've never had a  
10 background check because, at my age --

11 THE CHAIRWOMAN: Oh, couldn't get a  
12 background check right now.

13 (Laughter.)

14 SENATOR CROWDER: Well, that was my  
15 question.

16 If, in fact, I'm in an automobile accident  
17 which is my fault, possibly, and I have a weapon and I  
18 cannot prove to you that this is through a background  
19 check, without future gun registration, I don't know how  
20 we could enforce the issue to begin with.

21 THE CHAIRWOMAN: The way that I understand  
22 it, Senator Crowder, is that they'd have to prove that  
23 you did not get one.

24 SENATOR CROWDER: Madam Chair, but my  
25 question is, why should I have to prove ownership of

1 something -- unless it's registered, there should not be  
2 an issue.

3 THE CHAIRWOMAN: We're out of the case  
4 with the ownership, but I don't think it's very good for  
5 us to --

6 SENATOR CROWDER: I do have a question.

7 THE CHAIRWOMAN: Okay, Senator Crowder.

8 SENATOR CROWDER: We've seen a video here  
9 recently -- if you don't want to answer this, that's  
10 fine, because I know you were not here -- we've seen a  
11 video of a city policeman out of Aurora implying that he  
12 was in favor of this. And I'm aware that the sheriff  
13 departments throughout the state are opposed to it.

14 Can you give me a brief reasoning that one  
15 law enforcement agency as opposed to another law  
16 enforcement would have a differing view on that?

17 THE CHAIRWOMAN: Sheriff Cooke.

18 SENATOR CROWDER: And I realize you didn't  
19 see it, so you don't have to answer it if you don't want  
20 to.

21 MR. COOKE: No, I don't mind.

22 THE CHAIRWOMAN: Sheriff Cooke, you can go  
23 ahead now.

24 MR. COOKE: Thank you.

25 We're elected. And so just like you are,

1 we are out on the campaign trail and we are in tune, I  
2 think, more so with our constituents and our public. We  
3 speak for ourselves.

4 The police chiefs work for a mayor or city  
5 council or a city manager. So, therefore, they have to  
6 represent some of those views as opposed to their own.  
7 This is not supported by all police chiefs or police  
8 officers throughout the state.

9 I know the chief up in Greeley is  
10 adamantly opposed to these bills, as are most of the  
11 chiefs up in Weld County and throughout the state.  
12 There's quite a few. It seems to be mostly a Denver  
13 metro centric, the chiefs that are in support of this.

14 At the cell (phonetic) debate that I  
15 attended recently, two line-level Denver police officers  
16 walked up to me and said: Hey, we want to thank you  
17 guys, thank the sheriffs, for your position paper. We  
18 wholeheartedly support it. (Inaudible) and keep that  
19 kind of quiet. But that's unofficial.

20 So we know there are a lot of line-level  
21 police officers and chiefs throughout the state that do  
22 not support these bills.

23 THE CHAIRWOMAN: Senator Jones.

24 SENATOR JONES: Thank you, Madam Chair.

25 Just for point of clarification, you

1 weren't here to see the video, but my recollection was  
2 that the police chief was representing the Aurora City  
3 Council. So those elected officials, at least, feel  
4 that way, and I guess it's a divided opinion on this  
5 thing.

6 THE CHAIRWOMAN: Thank you.

7 Any other questions?

8 Thank you so much, and thank you all the  
9 sheriffs, including my own, that are here today.

10 MR. COOKE: I would like to thank the  
11 committee. Thank you.

12 (Applause.)

13 THE CHAIRWOMAN: There's our sergeants.

14 Go ahead --

15 SENATOR HARVEY: No applause.

16 THE CHAIRWOMAN: -- Senator Harvey.

17 SENATOR HARVEY: People who are in the  
18 audience, please do not applaud. Please do not clap.  
19 This is a public hearing. And we are to treat the chair  
20 with respect. When she gables the gable, that means  
21 stop talking or clapping. Do not clap. Treat the chair  
22 with respect, please.

23 THE CHAIRWOMAN: Thank you, Senator  
24 Harvey. Those are our rules. And I'm sure most of you  
25 weren't aware of that.

1 Senator Jones.

2 SENATOR JONES: Senator Harvey reminded me  
3 that the police chief was also representing the Police  
4 Chiefs Of Colorado. Thank you. I thank; we thank.

5 THE CHAIRWOMAN: Thank you so much.

6 And so I'm going to go -- Tom Grounder.  
7 And Buddy Myers might also join him at the table.

8 Thank you. Go ahead. Welcome. Go ahead  
9 and introduce yourself and who you're representing  
10 today.

11 MR. GROUNDER: My name is Tom Grounder.  
12 I'm out of Colorado Springs. I am an NRA certified  
13 instructor. I own my own business. I do full-time  
14 training in all the NRA aspects, plus concealed carry  
15 training -- concealed carry training for those wishing  
16 to seek their permit.

17 As a retired Army and former law  
18 enforcement officer and a strong patriot of this  
19 country, I take deep exception to the bill that directly  
20 impacts gun rights of law-abiding citizens. The  
21 opposition to the firearms and the desire that is  
22 ultimately -- to be ultimately eliminated from those in  
23 the hands that are well within their rights to own them  
24 is driven by a personal loss and grief that is the basis  
25 of this bill.

1           As a result, they're using positions to  
2           push a personal agenda to institute new laws that would  
3           entice the vast majority of all law-abiding, legal gun  
4           owners to become criminals. The passing of this bill  
5           would force actions by those who would normally not  
6           break the law to do so.

7           In terms of criminal actions, the desire  
8           to obtain firearms will drive a market much like illegal  
9           drug trafficking of today. It will be tougher to get,  
10          but the payoff would be worth it.

11          As far as the time certified -- as a  
12          full-time certified firearms trainer, it is my passion  
13          to instill a strong sense of safety and responsibility  
14          to those to learn about and wish to introduce firearms  
15          in their lives and their homes, along with those seeking  
16          to advance their training.

17          Since the election of our current  
18          presidential administration, and in light of past  
19          events, along with the push towards more restrictive gun  
20          control regulations, the nation has seen an  
21          unprecedented surge in the purchase of firearms. As a  
22          trainer, I can confirm that, in Colorado, the  
23          applications for concealed carry permits has reached  
24          levels unheard of before.

25          There is no gun owner I know that doesn't

1 feel the pain and the loss of the innocent lives in the  
2 recent tragedies. Regardless, it is the law-abiding  
3 citizens that are buying up the handguns, rifles,  
4 shotguns, and subsequently ammunition.

5           Why is this not addressed? Do you not  
6 understand, or do you simply choose to ignore the  
7 actions of the governed people?

8           The nation and the state is telling you  
9 what is wrong with the drive to place more restrictive  
10 and misguided firearms regulations on the shoulders of  
11 law-abiding citizens. It will do nothing to curve the  
12 violence against citizens by those that are determined  
13 to inflict it.

14           As with all of the Constitution, the  
15 Second Amendment is not, and should not, be a negotiable  
16 subject. It is a huge source of frustration to me when  
17 those in the elected office use the Constitution  
18 verbatim when it suits their purposes, yet push their  
19 own personal interpretations of it when it does not, or  
20 simply disregard it.

21           Our way of life here was created for us by  
22 our founding fathers. It is unlike any nation on the  
23 planet. It is a free nation.

24           Does that mean it's perfect? Certainly  
25 not, but a free society is sometimes messy. But free it

1 is and free it must remain.

2 The tragedies of Sandy Hook and Aurora  
3 will never be prevented in the future by laws or  
4 regulations such as these. What is certain is that  
5 those determined to do harm will do so. Holding  
6 manufacturers and firearms (inaudible) responsible for  
7 their actions doesn't do a thing.

8 Adding these restrictions on to transfers,  
9 as Senator Harvey has tried to allude to many times,  
10 seems to be just passed over. The term "transfer" is  
11 crucial here. There is no difference in these actions.

12 Please do not ignore or negate your  
13 responsibility to the elected office which you defend --  
14 to defend the Constitution. This is your duty. In this  
15 decision, do what is right and defend the founding  
16 principles of this nation, the Constitution. I believe  
17 if we do so, we're going to be on a slippery slope.

18 We are trading liberty and freedoms for a  
19 perception of a temporary safety and security. If we  
20 allow this, we were warned by Benjamin Franklin that we  
21 deserve none of it.

22 Thank you for your time.

23 THE CHAIRMAN: Thank you, Mr. Grounder.

24 Any questions for Mr. Grounder?

25 Seeing none, thanks very much for being

1 here.

2 MR. GROUNDER: Thank you, sir.

3 THE CHAIRMAN: Doug Hamilton.

4 MR. HAMILTON: Good morning.

5 THE CHAIRMAN: Good morning.

6 MR. HAMILTON: My name is Doug Hamilton.

7 I am the owner-operator of the Family Shooting Center at  
8 Cherry Creek State Park. We do a lot of training and  
9 such out there.

10 I have to say up front here, I think my  
11 testimony is going to pale compared to what I've already  
12 heard here today. So I will be brief in this bill.

13 I should say this: No one wants guns in  
14 the hands of the bad guys. I think we all are on common  
15 ground there.

16 I believe the problem with these bills  
17 that are introduced, specifically this one on the  
18 additional criminal background check in the private  
19 sector as opposed to an FFL, it's unenforceable. Your  
20 county sheriffs have already described that to you.

21 In my world, in how guns are transferred,  
22 I will say this: The law-abiding citizen -- there's  
23 already law on the books that says a person, at best,  
24 not transfer a gun to somebody that they do not know is  
25 legally allowed to have a firearm. It puts the onus on

1 the seller. Should something happen post-sale, that  
2 person selling the gun, if they did not do due  
3 diligence, is going to be in a lot of trouble. The  
4 people I know very carefully, therefore, identify whom  
5 they sell a gun to.

6 Now, what it all means is that the bad  
7 guys are going to continue to get the guns irrespective  
8 of what this law does.

9 If the law is unenforceable, why put it on  
10 the books? It makes no sense.

11 Two things I'd like to say real quick:  
12 Sandy Hook was mentioned a couple times. I want to  
13 point out that the perpetrator in that murder, that  
14 massacre, didn't go through a background check. Why?  
15 Because he killed the owner of the guns, then took them  
16 to the school to do his deed. A background check was  
17 not required.

18 Another item: The Virginia Tech massacre,  
19 I believe 2004, April 16, the perp there legally  
20 purchased two handguns. Later, I believe about two  
21 months is when he did his deed. Now, he went through  
22 the background check.

23 What happened there is the mental health  
24 system in Virginia failed. Somewhere in the system, the  
25 fact that he had a history of mental illness and

1 treatment from the age of three was missed by the  
2 system. We don't know a lot; I don't know a lot about  
3 the situation, but what I have read about it stems from  
4 primarily not being able to obtain the privacy records.  
5 A background check was done. Their database to which  
6 they do a check was incomplete.

7           That's what happened at Sandy Hook -- or  
8 at Virginia Tech. Virginia has changed their rules a  
9 bit. But you should consider, you should consider what  
10 is happening in our society with the privacy laws, where  
11 the general public does not know -- does not have the  
12 information regarding these menaces to society, the  
13 people who have proven themselves to be anti-society who  
14 are willing to do the damage to our citizens. Those  
15 people should be identified.

16           Let's make a law that does some good.  
17 Let's make a law that will help the situation. And what  
18 are we trying to do? We're going to keep our populous  
19 safe, keep guns out of the hands of the criminals. And  
20 I think you can do that. But there are other laws you  
21 can implement which can enhance the safety of the  
22 public. This one is not one of them.

23           I guess -- let me end my comments there.  
24 If there are any questions, I'd be glad to answer.

25           THE CHAIRWOMAN: Thank you so much.

1                   Is there any questions from the community  
2 for our witness?

3                   I see none.

4                   Thank you so much.

5                   MR. HAMILTON: Thank you.

6                   THE CHAIRWOMAN: So our next witness is  
7 Gene Pearcey.

8                   Welcome, Mr. Pearcey.

9                   MR. PEARCEY: Thank you.

10                  THE CHAIRWOMAN: Go ahead and join us at  
11 the table. Go ahead and introduce yourself and who you  
12 represent today, and then proceed with your testimony.

13                  MR. PEARCEY: Okay. My name is Gene  
14 Pearcey. I'm from Durango, Colorado. I have a company  
15 that distributes earth-sheltered house building systems  
16 all over the United States and a shooting company. I'm  
17 here to voice opposition to this bill.

18                  I have a shooting school, like I said.  
19 I'm a 25-time combined world and national champion.  
20 I've taught all over the United States and several  
21 foreign countries. People come from all over the world,  
22 actually, to train with me. I teach sports shooting and  
23 some cop training, concealed carry, general firearms  
24 training. I'm a regular on the Outdoor Channel as a  
25 firearms expert and an FFL dealer.

1 I am considering moving my companies out  
2 of Colorado -- excuse me -- because of all these  
3 anti-gun laws, and I've been there 30 years.

4 I've got some things I would just like to  
5 present to you, if I could.

6 THE CHAIRWOMAN: Please.

7 MR. PEARCEY: This bill simply will not  
8 work. 75 percent of crimes are committed by repeat  
9 offenders. They're not going to be affected by this  
10 law. Only 2 percent of firearms used in violent crimes  
11 are obtained from nonrecorded sales. That would be  
12 gunshows, private sales, whatever. So, again, it's not  
13 going to have much effect.

14 Cities such as Chicago and New York City  
15 have very tough gun laws on the books. In fact,  
16 probably tougher than some of this stuff. They have  
17 close to 500 murders a year each. It has no effect.  
18 None. Zero.

19 There's no study which suggests that full  
20 background checks will prevent a single crime. More  
21 ineffective anti-gun laws will drive many, many people  
22 from Colorado.

23 I just got back from a national shooting  
24 contest in Phoenix, Arizona, a thousand people,  
25 (inaudible) a person. Every single person I talked to

1 is not coming here to hunt, to fish, to visit Durango.  
2 Nothing. They are totally offended by this mass of laws  
3 that you guys are considering. I think you will totally  
4 underestimate the effect it will have on towns,  
5 especially like Durango. Hunting is a big season for  
6 us. But we're also not talking about people who are  
7 just hunting. They're just terribly offended.

8 Part of the reason for these bills is  
9 combat perceived crime wave with assault weapons. There  
10 actually is no crime wave with assault weapons.

11 In all of 2011, there were three rifle  
12 murders, period. Not assault weapons, but three rifle  
13 murders. In 2010, there were none. That's a normal  
14 year.

15 In 2012, we had a terrible tragedy that  
16 could have been prevented by one person with a firearm.  
17 He was in a gun-free zone, of course.

18 In all cases, the mass murders that I know  
19 of, this bill wouldn't have affected the perpetrator  
20 from getting guns at all. I can't think of a one. I've  
21 read a lot of cases, and I'm sure you have too, but  
22 there's not a single case where a background check, more  
23 background checks would have prevented this.

24 This bill is very, very tough on  
25 low-income people. You've got the cost for the firearm.

1 This bill allows for a \$10 transfer fee from a dealer.  
2 I'm a dealer. I'm not doing it for 10 bucks. It's  
3 going to cost 30 to 50 bucks.

4 The State, with bill, I think, 228, is  
5 considering charging for the background check. So  
6 that's going to add to it, if that passes. That is  
7 going to cost, they say, a fee that's determined by  
8 direct and indirect costs. Indirect costs can be  
9 anything. That can be a part of the new governor's  
10 airplane; it can be anything.

11 It's not unreasonable to think that you  
12 couldn't add \$100 to the cost of a firearm in the  
13 future. It could be whatever you guys want it to be.  
14 And that would, of course, prevent people from buying  
15 firearms, which I think is the purpose to start with.  
16 But you could have \$200 a firearm; you could have  
17 whatever you want it to be. And that's not a good  
18 thing.

19 The bill unenforceable without full gun  
20 registration, which has been against the law, by federal  
21 law, since 1986. I don't see how in the world you can  
22 enforce it.

23 In 2010, 14 million background checks  
24 resulted in 13 convictions, 13. And so if you add a  
25 bunch more background checks, what's it going to do?

1 It's going to do nothing.

2 It's already a crime to sell, loan, or  
3 give a firearm to anyone you know is going to use it in  
4 a crime. That's where many felons get their firearms  
5 anyway.

6 This bill does not affect the total number  
7 of murders, as firearms are not used in all murders. In  
8 2011, in Colorado, you had 147 murders. Firearms were  
9 used in 73 cases. Hands, fists, knives, clubs, 74. So,  
10 at the very best, you're only working on half the  
11 murders to start with.

12 Then with full background checks will be  
13 in effect, it will be just another hurdle for honest  
14 citizens because most crimes are by felons who already  
15 committed crimes who don't abide by the law. The only  
16 people affected by this bill don't commit violent  
17 crimes. That's people like me. People like you.

18 The only sure way to reduce crime, if  
19 that's all you were interested in, is to lock up the  
20 people who do the crime and keep them in jail. They do  
21 most of the crime anyway, and nothing you do is going to  
22 prevent them from doing that. It's just proven facts.

23 The intent of this bill, of course, is  
24 just more gun control. And that's the only  
25 justification for it that I can see, and many other

1 people.

2 THE CHAIRWOMAN: Thank you.

3 We have a question from Senator Harvey.

4 SENATOR HARVEY: Thank you for being here.

5 I appreciated all your statistics. I want you to give  
6 them to me before you leave, too.

7 The previous witness said that you can buy  
8 guns online without doing a background check in  
9 Colorado, and I don't believe that's the case.

10 MR. PEARCEY: That's a lie.

11 THE CHAIRWOMAN: We're going to go ahead  
12 and go through the --

13 SENATOR HARVEY: Go through her.

14 THE CHAIRWOMAN: Complete your question.

15 SENATOR HARVEY: That completes my first  
16 question.

17 THE CHAIRWOMAN: Okay, go ahead.

18 MR. PEARCEY: That would be a lie. I'm a  
19 federal firearms dealer. I do sell a lot of guns. We  
20 sell mostly cowboy guns or cowboy action shooters, but  
21 we do sell some modern guns.

22 If you're in Nevada, if you're in Denver,  
23 if you're anywhere and you buy a gun from me, you can  
24 pay me, but I have to ship that gun to a local dealer in  
25 your area who has to transfer it per your state law.

1 It's totally illegal for an FFL dealer to do that. And  
2 granted, yes, you can by that law, but if he gets the  
3 gun, you don't pass the background check, you don't get  
4 the gun. Too bad.

5 But that's an absolute lie, and it's also  
6 a common misconception. It's not true.

7 THE CHAIRWOMAN: Thank you.

8 Any other questions?

9 Thanks so much.

10 MR. PEARCEY: Thank you. Appreciate it.

11 THE CHAIRWOMAN: So one of our witnesses,  
12 Mr. Kopel, is here. I'm going to ask him to come up.  
13 Go ahead.

14 I'm just going to remind all of us here --  
15 and I did fail short of my duties, I wasn't listening to  
16 one of the witnesses we had before -- but we really  
17 don't want to prescribe motives of either any committee  
18 members or our sponsors. We just want to remind us all,  
19 if you come in and testify. Thank you.

20 Mr. Kopel, go ahead and introduce yourself  
21 and who you represent today.

22 MR. KOPEL: Thank you, Senator Giron.

23 I'm David Kopel, and I'm an adjunct  
24 professor of advanced constitutional law at Denver  
25 University, Sturm College of Law, research director of

1 the Independence Institute -- just a few blocks from  
2 here -- that is, always professors from DU as well as  
3 Independence Institute scholars speak on their own  
4 behalf and not for any organization.

5 A report -- a study by the National  
6 Institute of Justice that was conducted in December --  
7 and the National Institute of Justice is the research  
8 arm of the United States Department of Justice -- and  
9 they did a report on a variety of gun control proposals  
10 that were in the air. The NIJ report was kept secret,  
11 but has been leaked and is now available to the public.

12 The NIJ report, regarding universal  
13 background checks, said they are unenforceable unless  
14 you have universal gun registration; that as a practical  
15 matter, if Senator Harvey sells me a gun, how is anybody  
16 ever going to find out or know or anybody gets in  
17 trouble for doing that, even if we evaded the background  
18 check -- of course, he's such a law-abiding guy, that  
19 would never happen, but in this hypothetical -- unless  
20 there's a government database of all firearms.

21 As I'm sure all of you know, registration  
22 is very fiercely opposed by gun owners because it has  
23 historically, in New York City and in other countries,  
24 been used for gun confiscation.

25 Canada attempted to impose universal gun

1 registration in the 1990s. It ended up costing  
2 literally a hundred times more than it was supposed to  
3 and was finally repealed in 2012 by the parliament  
4 there.

5           What Captain Kelly and others have  
6 testified about is a much more limited concept than what  
7 this bill is. Let's say this is the amount of firearm  
8 sales that take place in Colorado. And there's some  
9 fraction of them that are not from firearms retailers.  
10 Now, this 40 percent figure that's thrown out, that's  
11 not really true, but let's say we know for sure it's  
12 more than 1 percent. There's some tangible amount of  
13 firearm sales that are in this smaller category of  
14 nonretail sales. And that's what this bill has public  
15 support for in addressing. When you ask people about  
16 universal background checks, they're talking about  
17 addressing whatever this is, this 1 in 40 percent  
18 amount.

19           The problem is, this bill, which is what  
20 you're going to be voting on, not answering a poll  
21 question about the concept, is about this: It's about  
22 firearm transfers.

23           I have never sold a gun in my life, and I  
24 hope I never will because I like all my guns and I want  
25 to keep them. But I have engaged in probably hundreds

1 of firearms transfers, as this bill defines them. The  
2 definition of transfer is so broad, and it's written --  
3 it's a copy of a federal bill written by Michael  
4 Bloomberg's lobby. It's so hugely overbroad compared to  
5 what the issue of actual sales is.

6 The Colorado Supreme Court, in Lakewood  
7 versus Pillow, unanimously, under Colorado's  
8 constitutional right to arms, in 1971, threw out a  
9 Lakewood ordinance that restricted gun transportation.  
10 And the Court said unanimously: But, of course,  
11 Lakewood can enact laws, safety laws, about the  
12 transportation of guns. But what you have done here is  
13 so overbroad compared to the legitimate problem that  
14 could be addressed.

15 This is a law that says I can give my wife  
16 a gun for Christmas -- so it's not part of the War on  
17 Christmas -- but it says when I'm out of town and she  
18 wants to use my gun, she's got to go through a  
19 background check. In fact, she can't go through a  
20 background check because I'm out of town and we both  
21 have to show up at the firearms dealer. And then when I  
22 come back to town, we've got to go through the  
23 background check again so she can hand the gun back to  
24 me.

25 It's a bill that says that I, as an NRA

1 certified firearms instructor, when I'm -- sorry.

2 (Laughter.)

3 MR. KOPEL: Karl Rove just won't leave me  
4 alone.

5 (Laughter.)

6 MR. KOPEL: It's when I say -- when I  
7 teach a firearms safety class, not at a shooting  
8 range -- because I typically don't -- you go to the  
9 range later, as the last part for the live fire  
10 practice -- when I'm teaching in a classroom, following  
11 the NRA protocol for handgun safety instruction, which  
12 we're going to -- Senator Trauchou's bill will help get  
13 us back to that for licensed carry -- but when I hand  
14 somebody -- I'm supposed to bring in firearms unloaded  
15 for the students to handle.

16 The rule is absolutely no ammunition in  
17 the room, not even my own. And we have dummy practice  
18 ammunition, orange inert things with which the students  
19 practice loading and unloading the guns, pressing the  
20 trigger, things like that. And over the course of that,  
21 you may have four or five different guns that get handed  
22 around.

23 Every one of those is a transfer and is  
24 supposed to go, under this bill, supposed to go to a  
25 federal firearms licensee, do the background check that

1 takes between three minutes and nine days, depending on  
2 what time of year it is, and pay this \$20 thing. It  
3 makes teaching quite impracticable.

4 The provision for giving somebody a gun in  
5 an emergency is written so that it only applies when you  
6 could shoot somebody. And, of course, by then, it's too  
7 late. So if I have a neighbor who wants to borrow a gun  
8 one night because there have been a lot of burglaries in  
9 the neighborhood -- and this is on page 5, line 15 -- if  
10 the neighbor wants to borrow -- asks to borrow my gun  
11 because she's a single woman with some small children  
12 and there's been a lot of burglaries in the  
13 neighborhood, can she borrow one of my guns for a couple  
14 nights, until she can go to the store on Monday and  
15 maybe buy one of her own?

16 A, I can't lend it to her unless I go over  
17 to her house, which seems kind of crazy that she has to  
18 come to my house, but, B, more importantly, I can't  
19 transfer it to her unless she is in imminent fear of  
20 death or serious bodily injury.

21 Now, that's the point at which she could  
22 shoot somebody. So if you've got somebody stalking her  
23 and making harassing phone calls, that doesn't mean that  
24 if she sees them in a shopping center, she gets to shoot  
25 them right away, but it does give her good cause for

1       wanting to have that firearm in her home temporarily in  
2       an emergency. And that's prohibited.

3                 It's likewise, by the way, it's also --  
4       this D.C./New York crafted bill doesn't even take into  
5       account that there's other circumstances in which the  
6       use of a firearm for self-defense is lawful in Colorado  
7       in the home, the so-called Make My Day law allows  
8       defensive gun use in the home in situations other than  
9       imminent death or serious bodily injury. It's against  
10      any violent intruder in the home under Colorado law. So  
11      even someone who could lawfully use the gun right in  
12      that instant still can't get it under this law.

13                This phrase you see in line 15 which  
14      appears in a variety of places, "unlicensed transferee,"  
15      makes no sense in Colorado law. We have licenses to  
16      carry guns, but this isn't about carry; this is about  
17      possession. Unlicensed transferee would only make sense  
18      if we had a law that you had to have a license to own a  
19      gun in the first place in Colorado.

20                So I looked for where this came from, and  
21      it's from the House -- the U.S. House of Representatives  
22      bill that is the Michael Bloomberg flagship bill. The  
23      language was cut and pasted into here, and it was a  
24      transplantation that doesn't really work. It doesn't  
25      fit from one to the other. It made sense in the context

1 as it was used in the other bill. It doesn't here.

2 The core problem is that it's not just  
3 about sales. It's about the transfers in general. I've  
4 outlined just a couple of the problems. There are many,  
5 many, many more.

6 A thing that you could do that would  
7 significantly improve it is in E, line 19. The transfer  
8 is a temporary transfer of possession without transfer  
9 of ownership or title to ownership -- and then just cut  
10 it there and remove the rest of E. Then you make the  
11 bill just about all -- about temporary transfers, rather  
12 than the way this E is written is temporary transfers in  
13 a -- when you're actually at a target shooting range or  
14 you're actually in the field while engaged in hunting.

15 That would certainly solve a great deal of  
16 the problems with the bill, but what I would really  
17 suggest is that, don't vote on this bill today. Take a  
18 day or two -- and we'll move as fast as you want -- to  
19 sit down with myself, with the sheriffs, with other  
20 legal experts who know and understand Colorado firearms  
21 law, and we can work with you to produce a bill that  
22 accomplishes everything the sponsors have promoted as  
23 the good part of this bill, which is sales between  
24 people who don't know each other and not going through a  
25 licensed firearms dealer.

1                   Now, at the end of the day, there may  
2     be -- excuse me -- philosophical disagreements about  
3     that bill, but that will be a bill that accomplishes  
4     what it intends to accomplish. Because if it goes  
5     through the way it is, what you're doing is, because  
6     this definition of transfers is so broad, that you will,  
7     in effect, criminalize virtually the entire gun-owning  
8     population.

9                   It means that when I sit down with my son  
10    at the dining room table and say, "Here's my gun.  
11    Here's how to use it. It's unloaded, but I'd like you  
12    to handle it and use it" -- that's supposed to be a  
13    transfer here, too. There are so many things -- the  
14    normal ways that people own their guns is to have  
15    temporary transfers, or your friend comes over and says,  
16    "Oh, you got a new gun. Can I take a look at it?"

17                  "Sure." And I hand it to my friend and he  
18    looks at it for five minutes and hands it back. That's  
19    a transfer here, too.

20                  And you're turning all these people into  
21    criminals and saying: Well, the DAs would be too smart  
22    to enforce that. Hopefully, yes, but one -- those of us  
23    who remember Don Milky from the olden days might know  
24    you can't always count on DAs always having good  
25    judgment about what to prosecute. And this is a bill

1 that's being -- written to be obeyed. We want people to  
2 obey the laws in Colorado.

3 You don't want to create in Colorado a  
4 culture of saying: Oh, well, what are the gun laws? I  
5 just moved here from Oklahoma. What are the gun laws?

6 Oh, well, there's this gun law that says  
7 that you can't even carry a gun in public. That gun law  
8 really counts. You better get a carry permit.

9 This gun law says this is when you can  
10 transfer a gun. Oh, yeah, that's ridiculous, they  
11 didn't know what they were talking about when they  
12 passed it. That's way overbroad. Nobody enforces that  
13 one.

14 Let's have all the laws be fair,  
15 well-written ones that can be enforced. And I ask you  
16 to do this in the spirit of my father, as a state  
17 representative in the '70s, before I'd convinced him  
18 that the Second Amendment of the right to arms were  
19 important civil rights, when he would have voted for any  
20 gun -- and did -- gun control bill on a conceptual  
21 basis, but would also insist that any law that he voted  
22 for, especially any criminal law, had to be fairly  
23 written, properly drafted, and something that the people  
24 of Colorado could, in a fair and legitimate way, be  
25 expected to obey.

1 Thank you.

2 THE CHAIRWOMAN: My microphone was off.

3 Thank you so much.

4 Is there any questions from the committee?

5 Senator Crowder. You're so inquisitive  
6 today.

7 SENATOR CROWDER: You mentioned several  
8 times the Bloomberg effect on this bill here. Is that  
9 written into any New York law that you're aware of, or  
10 any law in any state for that matter.

11 THE CHAIRWOMAN: Mr. Kopel.

12 MR. KOPEL: Oh, well, yeah. For example,  
13 this New Jersey thing about like when your friend comes  
14 over, and can he hold your gun? That's illegal in  
15 New Jersey, for example.

16 SENATOR CROWDER: Thank you.

17 THE CHAIRWOMAN: Any other questions?

18 Senator Harvey.

19 SENATOR HARVEY: Thank you, Madam Chair.

20 Not a question, but, David, I appreciate  
21 your comments on the transfer part because we had -- I  
22 don't know -- eight, nine, ten witnesses come in and  
23 testify for the bill. Every one of them spoke to the  
24 private sale of firearms. And whenever I brought up the  
25 question of the transfer to a person that I asked it to,

1 they said: I have not read the bill, but we're against  
2 the private sale.

3 So I'm glad that you were able to speak to  
4 those specific issues about the transfer and what a  
5 conundrum that might be. So thank you.

6 MR. KOPEL: Thank you.

7 THE CHAIRWOMAN: Any other questions?

8 See none. Thank you so much.

9 MR. KOPEL: Thank you very much, Madam  
10 Chair.

11 THE CHAIRWOMAN: You have a nice lunch.

12 SENATOR CROWDER: Madam Chair, why is it  
13 that I have to call him Mr. Kopel and Mr. Harvey can  
14 call him Dave?

15 THE CHAIRWOMAN: You know what? I bet you  
16 could call him whatever you'd like.

17 UNIDENTIFIED SPEAKER: That's right.

18 THE CHAIRWOMAN: I didn't mean to open it  
19 that way, but he affirmed that you could call him  
20 anything you want.

21 Oh, got to find my list here.

22 So now we're back to Adam Thompson. Is  
23 Adam Thompson in the room? Adam Thompson is who I have  
24 signed up according to this list.

25 (Inaudible discussion.)

1                   THE CHAIRWOMAN: Oh, great. Thank you,  
2 Mr. Thompson. I appreciate you rushing in here. Go  
3 ahead and take your breath.

4                   MR. THOMPSON: Thank you.

5                   THE CHAIRWOMAN: And proceed when you're  
6 ready. Go ahead and introduce yourself and who you  
7 represent today.

8                   MR. THOMPSON: All right. My name is Adam  
9 Thompson. I believe I had a packet that came around to  
10 all of you. I represent Lindsay Cole, Julie Vargo,  
11 Lewis Johnson, Larry Smart, and Mark Doucette  
12 (phonetic), as well as myself and my fiancée. We are  
13 all Columbine survivors.

14                   Basically I'm here today to speak about  
15 using sound judgment of actual information when deciding  
16 the proper courses of action to deal with violence  
17 instead of using emotions to make those decisions. This  
18 bill, as well as all the other bills that you're hearing  
19 today that are being presented, have the intent of  
20 providing safety, but after reviewing them, they don't  
21 actually do that. They do the opposite.

22                   On April 20th, 1999, I was 17 years old  
23 and a junior in high school. On that day, fellow  
24 classmates committed one of the worse shootings -- school  
25 shootings that this country has seen.

1           I am a Columbine survivor. And on that  
2 day, I lost friends, classmates, and my innocence as a  
3 child. On that day, there was legislation that failed  
4 to do what it was intended to do, to keep me and my  
5 fellow classmates safe. It did not matter that there  
6 was a magazine capacity limit. It did not matter that  
7 it was a gun-free zone. It did not matter that they  
8 received their firearms illegally.

9           One of the shooters carried a 10 round --  
10 or thirteen ten-round magazines. In order to do this,  
11 he modified his clothing so that he would be able to  
12 carry all of them. The point is that the magazine  
13 capacity didn't matter.

14           The perpetrators committing these acts  
15 aren't listening to the laws. Instead, this law would  
16 only limit me in being able to defend myself, my  
17 fiancée, or my roommate. If this gets passed, it puts  
18 me and my roommate and my fiancée at risk for  
19 transferring a firearm in order to provide safety for  
20 ourselves. If I'm away on business and my fiancée takes  
21 up arms to defend herself against an intruder, I would  
22 be held liable, so would she, for the illegal transfer.

23           My next-door neighbor is a lawyer. She  
24 has told me repeatedly that, in her profession, she has  
25 received death threats and has gotten police involved

1 and we've had police on our street. However, we've  
2 also -- when the police are not there, we've had plenty  
3 of people come by in looking for her, which she has told  
4 me what to look for and who they are. I let her know  
5 that I do own firearms and that I would be willing to  
6 train her and provide them to her for her safety for  
7 temporary use, until she was able to get her own.

8 Under this law, it would be illegal to do  
9 so. She would be, and I would be, held responsible for  
10 allowing her to protect herself with my firearm.

11 I've struggled for 12 years dealing with  
12 survivor guilt and that I was put in a position where I  
13 was defenseless. And so were the people who were around  
14 me who were supposed to be there to keep me safe. I  
15 never want to be defenseless again, and I never want any  
16 of my friends, family, loved ones, or neighbors to be  
17 defenseless again.

18 I have also learned that our police and  
19 our emergency personnel are not truly the first  
20 responders. The public is actually involved. The  
21 people there are the first responders.

22 Those first actions that they take are  
23 what save people's lives. Waiting for a background  
24 check to come back would put my fiancée, again, in  
25 harm's way, or my roommate in harm's way.

1           I have taken it upon myself to educate and  
2     get educated on firearms, and to take classes on them.  
3     Obviously, I've let you know that I've become a firearms  
4     owner, and I believe deeply in the Constitution.

5           This bill that's before you, once again,  
6     would not have stopped Columbine from happening. It  
7     would not have stopped Sandy Hook from happening.

8           Unfortunately, I am using -- I am seeing  
9     people use emotions to put law in a legislation forward  
10    instead of using facts and sound judgment on what the  
11    root cause of the situation is.

12          The root cause is not the guns or the lack  
13    of the background check. The root cause is a failure of  
14    responsibility as a society to teach what human life is  
15    all about. I'm sorry.

16          SENATOR CROWDER: That's all right, buddy.

17          MR. THOMPSON: Unfortunately, you can't  
18    legislate responsibility upon the people. The people  
19    have to take responsibility themselves and learn. Our  
20    parents, our teachers need to start teaching again what  
21    it is to be a responsible citizen, how to respect life  
22    instead of just looking at it as something that comes  
23    and goes.

24          UNIDENTIFIED SPEAKER: (Inaudible.)

25          MR. THOMPSON: That's okay.

1 Well, thank you very much.

2 I'm getting a little flustered here, so I  
3 apologize.

4 THE CHAIRWOMAN: No, you're doing just  
5 fine.

6 MR. THOMPSON: I'll go ahead and close  
7 this.

8 Basically, all this legislation, to me,  
9 is, if it gets passed, is to ask me to be a potential  
10 victim once again. It asks my roommate to be a  
11 potential victim. It asks my fiancée to be a potential  
12 victim again, by not allowing them to take up arms that  
13 are available to them at the time, if there was someone  
14 who came in.

15 I'm against this bill, as well as all  
16 other pieces of legislation today that are limiting my  
17 right to self-defense, my neighbor's right to  
18 self-defense, and my roommate's and my fiancée's right  
19 to self-defense, as well as the people that I'm  
20 representing here today that have written testimony that  
21 I've handed to you. Please read that and learn from  
22 what they have written to say.

23 UNIDENTIFIED SPEAKER: (Inaudible.)

24 MR. THOMPSON: Yes, I gave one to them,  
25 and I'll give you one as well.

1                   So please don't ask me or any other  
2 survivor to be a potential victim again.

3                   Thank you for allowing me to be heard.

4                   THE CHAIRWOMAN: Adam, thank you so much  
5 for being here and sharing your story and bringing a  
6 story of others.

7                   Is there any question from the committee?

8                   I see none. Thank you.

9                   Mr. Dudley Brown.

10                  Welcome, Mr. Brown. Go ahead and  
11 introduce yourself and who you represent today.

12                  MR. BROWN: Thank you, Madam Chairman and  
13 members of the committee. My name is Dudley Brown.

14                  I think for most of you who know me --  
15 Senator Harvey and I went to college together. And I've  
16 actually been skiing with Senator Jones. So, yes -- and  
17 that's a funny connection, isn't it?

18                  (Laughter.)

19                  MR. BROWN: Yes. I know, it's all done,  
20 Senator.

21                  I represent Rocky Mountain Gun Owners.  
22 We're the largest gun (inaudible) group based here in  
23 Colorado. And we are the (inaudible) gun owners here in  
24 this state. This is my 21st year being -- representing  
25 gun owners at the state capitol here. And prior to

1 that, I actually worked for many legislators here.

2 I want to address 1229. I heard  
3 Mr. Kopel's and some of the other good testimony about  
4 the very specifics, but I do want to challenge the  
5 members of this committee -- I know this is impolitic to  
6 suggest this -- but to read our state constitution.  
7 Read Article II, Section 13, and tell me if you think  
8 that that prohibition in there, if we required these  
9 members of the press to file and ask government  
10 permission prior to airing their stories tonight, every  
11 time they aired a story, would you call that a violation  
12 of their First Amendment rights?

13 I think you would. I think I would. I  
14 know they would, and they file against that all the  
15 time. Yet, our state constitution is even more  
16 stringent. So the right of no person to keep and bear  
17 arms, defense of home, person and property shall be  
18 called in question.

19 But what do you call checking someone's  
20 background prior to actually letting them practice what  
21 is a constitutional right? It's a clear violation of  
22 Article II, Section 13. And we believe, for that reason  
23 alone, that this bill does not stand.

24 There are obviously many implementation  
25 problems with the bill. And we could go into details,

1 but I think much of that testimony has already been  
2 covered, and there will certainly be more.

3 But I've got to tell you that years ago  
4 when I was single, I used to go to a lot of gunshows.  
5 And I remember watching legislators, not just  
6 republicans, but democrats, come into the gunshows,  
7 prior to the 2000 ballot initiative, to purchase  
8 firearms there, privately. Lobbyists from this  
9 building, not necessarily of the conservative bent. And  
10 I was friends with them; I'd known them for many years.  
11 And I always chuckled with them and said: Why are you  
12 here? And they said, Oh, because I want to buy a gun.  
13 I just don't want government to know I have it.

14 So that kind of fear of government knowing  
15 that you have a firearm is ingrained in many people, not  
16 just of the right or the left. I think that many people  
17 are concerned about government knowing that you have a  
18 firearm. And the only way you know is through this  
19 system that Brady has implemented.

20 Now, if you look at the Brady campaign's  
21 actual grades by state and say, What are their violence  
22 rates in those states and what's their rating? -- this  
23 is a correlation of that data. It shows on one axis the  
24 violent crime rates in each state and on the other axis  
25 how they give them a grade. There's no correlation.

1 There's absolutely no testimony here to any correlation  
2 that the more stringent their gun laws or the more  
3 stringent their Brady checks are, the less likely  
4 they'll have violence in their state. In fact, if  
5 anything, you might be able to come up with a negative  
6 correlation.

7 So for that reason alone, I don't believe  
8 that we can expand this, essentially stopping private  
9 sales in Colorado. If this bill passes, that is what it  
10 will do, is stop private sales.

11 Our organization sponsors a website only  
12 in response to the 2000 ballot initiative. And when the  
13 newspaper stopped taking private sale ads and we -- it's  
14 a marketplace for people to meet, and there are  
15 literally hundreds of transactions a week going on  
16 there. And to our knowledge, there's never been a crime  
17 committed by any of -- by anyone involved in those  
18 transactions. And we're careful to police it to make  
19 sure that those sales are legal inasmuch as we can.

20 It's a meeting place, but we don't believe  
21 actually that government has the right to stop us.  
22 Otherwise, we might as well just call it a privilege. I  
23 don't think anybody of any bent in this room probably,  
24 not many, anyway, would call it -- would call it a  
25 privilege. It's a right.

1                   And that's why you hear horns honking and  
2 people upset, because they really think it's tearing a  
3 right that they have right now.

4                   With that, I'm happy to take any  
5 questions.

6                   THE CHAIRWOMAN: Thank you, Mr. Brown.  
7 Is there any questions from the committee?

8 I think Senator Harvey has a question.

9                   SENATOR HARVEY: Thank you, Madam Chair.

10                  MR. BROWN: Uh-oh.

11                  SENATOR HARVEY: Mr. Brown, there was a  
12 previous Columbine student, survivor, who is now a  
13 teacher who testified in favor of this bill who said  
14 that you could buy online. Could you clarify what your  
15 site does?

16                  And, also, there was another person who  
17 said that you generate revenue personally from that, and  
18 that's why you are against these bills, specifically  
19 because you generate revenue from your gun site. Can  
20 you explain exactly what your gun site does?

21                  THE CHAIRWOMAN: Mr. Brown.

22                  MR. BROWN: Madam Chairman.

23                  Well, I was downstairs most of that time,  
24 so I didn't hear most of that testimony.

25                  Colorado Gun Market is owned by Rocky

1 Mountain Gun Owners, and it's a nonprofit. It's a  
2 service given to members. So if you're a member of our  
3 organization, (inaudible), but people who buy there are  
4 not necessarily members. It's basically like a meeting  
5 place.

6 So, no, I don't generate any personal  
7 revenue from it. Happy to have that debate with some  
8 people.

9 But, nevertheless, the question about  
10 transferring firearms online -- and I know there's a  
11 lot -- been a lot of discussion in the media about this;  
12 I've tried to clarify it in the interviews I've given,  
13 but let me make this clear: The 1968 gun control act  
14 absolutely stopped mail sales. In America, it was very  
15 common to sell via a catalog. In fact, J.C. Penney's  
16 and many of what we would normally call the original  
17 retailers in our country sold firearms, and in fact  
18 machine guns prior to 1934, via mail. And that stopped  
19 in 1968, when it was made illegal to transfer a firearm.

20 So, therefore, if today I wanted to sell a  
21 firearm to someone in the state of Colorado, and the  
22 person, the buyer of that firearm -- let's say we met up  
23 via a newspaper ad in, let's say, Thrifty Nickel --  
24 that's still legal -- or someplace like that, or the  
25 website Colorado Gun Market, or even Armslist is

1 nationwide, but if we went and agreed to buy at a  
2 certain price, and we e-mail back and forth, we could  
3 meet privately somewhere, but we couldn't exchange or  
4 transfer that firearm via mail. We can't mail the  
5 firearm via -- and transfer the firearm. You can mail a  
6 firearm to yourself. Let's say you moved and you didn't  
7 want it in your car when you moved, but you cannot  
8 transfer.

9           So -- in fact, it's even difficult  
10 sometimes to mail firearm. Many places don't actually  
11 do that. FedEx does on a limited fashion. But it's a  
12 federal offense to transfer a firearm via mail. And it  
13 is a federal offense to transfer a firearm to someone  
14 from another state privately. You cannot do that.  
15 You've got to go through a dealer.

16           So if it's a private sale, and you want to  
17 sell to your cousin in Nebraska, technically that's  
18 illegal. And there are some -- there are some questions  
19 there about family heirlooms and transferring from your  
20 grandpa to your son across state lines, too.

21           That fully answers the question, Senator.

22           THE CHAIRWOMAN: Is there any other  
23 questions of Mr. Brown?

24           I see none. Thank you so much for being  
25 here.

1                   The next person I have signed up is Daniel  
2     Carey.

3                   Thank you, Mr. Carey. Go ahead and  
4     introduce yourself and who you represent, and then  
5     proceed with your testimony.

6                   MR. CAREY: Madam Chairman, thank you very  
7     much.

8                   My name is Daniel Carey. I'm a registered  
9     lobbyist here from the National Rifle Association. I'm  
10    here in opposition of House Bill 1229.

11                  A lot of the stuff that I wanted to talk  
12    about has been touched upon, especially by Mr. Kopel's  
13    testimony. I think he did an excellent job of  
14    explaining the transfer aspect of it.

15                  I think what I wanted to touch upon and  
16    what I handed out to you, one of the two handouts, was  
17    the letter he mentioned, the Department of Justice --  
18    and I gave that to you as well -- is what I want to  
19    reference here as it relates to California. I know  
20    Mr. Kopel mentioned that the legislation we're  
21    discussing here today was done on a federal level, or at  
22    least introduced on a federal level.

23                  I think that we took, in comparison, what  
24    has been done on a state level, which is California and  
25    Rhode Island, two of the only states that have initiated

1 a statewide so-called universal background check, and we  
2 took the criminal records as far as violent crime  
3 related to murder and death and firearms from 1960 to  
4 2011, and compared those from California to Colorado,  
5 and then to the national average.

6 And if you look at the handout that I gave  
7 to you there, it shows the state of California without  
8 any real positive impact as it relates to having  
9 universal background checks. Did nothing. There's no  
10 attributable benefit to having this in California.

11 When you look at a comparison of  
12 California, Colorado, and the national average as it  
13 relates to the crime and murder rates from 1960 to 2011,  
14 it shows that we did continue to decline in these murder  
15 rates, but nothing was attributable to these universal  
16 background checks as they've been instituted.

17 We also have to take into consideration,  
18 if you look at these numbers, that at the same time  
19 while Colorado was declining in its violent crime rates  
20 and while the nation was declining in its violent crime  
21 rates, these so-called universal background checks  
22 didn't exist. So what can we attribute that to? It's  
23 not this type of legislation that we have here.

24 The other thing that I wanted to touch  
25 upon is the process by which -- that these background

1 checks are going to have to go through. And that's  
2 through the Colorado Bureau of Investigation InstaCheck  
3 program. As has been seen in the papers, and as we've  
4 discussed in other testimony here, it's been highly  
5 problematic. I mean, folks have had to wait upwards of  
6 10 days to exercise their Second Amendment rights, when,  
7 on a federal level, they're only asked to wait three  
8 days.

9                   So would you say that their rights have  
10 been violated? I would say yes.

11                   So now we're going to take a group of  
12 individuals who are not in this transfer process in  
13 through the CBI InstaCheck, and now throw them into a  
14 system that can't currently keep up with the amount of  
15 background checks that we're doing to date.

16                   So how is this going to make the system  
17 any better? How are we benefiting law-abiding citizens  
18 in exercising their Second Amendment rights? By  
19 throwing them into the system, I feel it's only going to  
20 be more burdensome.

21                   I think the thing I touched upon in my  
22 previous testimony when this bill was up before the  
23 House that again I'd like to touch upon today, because I  
24 think it is so pertinent, is that when you place an  
25 unjust burden on a law-abiding citizen to exercise their

1 right, a constitutional right, whether it be the First  
2 Amendment or the Second Amendment, the Third or the  
3 Fourth, if you place that undue burden on them in  
4 exercising that right, it then becomes unconstitutional.

5 And I truly feel, and we truly feel as an  
6 organization, that this type of legislation is  
7 unconstitutional due to that and is not going to be a  
8 benefit to anyone other than the criminals because  
9 criminals are not, by their nature, going to go through  
10 the law-abiding steps to get a background check.  
11 They're criminals by nature.

12 So with that I would like to stand for any  
13 questions the committee may have.

14 THE CHAIRWOMAN: Thank you so much.

15 Are there any questions for our witness?

16 I see none. You got off easy.

17 MR. CAREY: That was easy. Thank you very  
18 much. I appreciate it.

19 THE CHAIRWOMAN: Thanks so much.

20 Terry Maketa. Welcome, Mr. Maketa.

21 Go ahead and introduce yourself, who you  
22 represent, and then proceed with your testimony.

23 MR. MAKETA: Thank you, Madam Chair.

24 I'm Terry Maketa, sheriff of El Paso  
25 County. And I am here speaking on behalf of all of

1 Colorado's law-abiding citizens as well as a member of  
2 law enforcement, a member of the sheriffs of Colorado.  
3 And I also bring a unique perspective that I am the only  
4 law enforcement official, local law enforcement  
5 official, that serves on the FBI CJIS working board.  
6 Not only that, I have been elected and serving on the  
7 director of the FBI's advisory policy board. So I bring  
8 a little bit different perspective than maybe what you  
9 heard from Director Sloan and others who have provided  
10 testimony.

11           The first thing that I would like to say  
12 is when this bill, I think, was first conceptualized,  
13 and maybe not even introduced, but proposed, I started  
14 getting citizens calling, asking what my stance was.  
15 And my initial response was: We already have a  
16 background. I haven't seen the bill, but if it's a  
17 background check system that targets criminals and  
18 prohibits their access or interferes, I don't have a  
19 problem with it.

20           Now I made that statement publicly several  
21 times, both radio, TV, in print, and that was under the  
22 assumption that what we had in place, it could not be  
23 much more dramatic than that.

24           To be honest, I was quite surprised when I  
25 did finally get a copy of the bill and read the bill and

1 saw some of the provisions and expectations that I think  
2 creates a false belief in those people that are  
3 supporting this. And I think we've heard great  
4 testimony on both sides of this issue this morning, but  
5 the one or two elements that I see that run throughout,  
6 those that are in support of it, is a misunderstanding  
7 of what this does. And I think any law that creates the  
8 potential for law-abiding citizens intending to follow  
9 the law creates -- or criminalizes them is the biggest  
10 tragedy of all of this.

11           And when we start talking about my father  
12 holding on to firearms to pass on to his grandchildren,  
13 that potentially being a crime if he doesn't conduct a  
14 background check, number one, because he wouldn't be  
15 familiar with the laws in Colorado -- he's an Alaska  
16 resident, with property in Colorado -- number two, my  
17 21-year-old son not knowing every aspect other than he  
18 believes, in order to buy a firearm, you have to  
19 conduct -- or have a background check done. But the  
20 passing from one family member to the other, or the  
21 scenario where my father, who owns a house in my  
22 neighborhood, spends half his time in Colorado, half in  
23 Alaska, leaves a firearm in his house, but while he's  
24 gone, says, "Terry, will you keep my firearm in your  
25 safe? I don't want to leave it in the house." And now

1 he may be subjected to criminal activity.

2 Then my son comes to me and says, "Dad,  
3 I'm going to the range. Can I fire Grandpop's handgun?"

4 "Sure, go ahead and take that." Now he is  
5 facing potential criminal charges.

6 The intent of laws shouldn't be to  
7 criminalize law-abiding citizens. It should be to  
8 protect citizens and hold those who willfully violate  
9 our laws accountable for their actions.

10 Some of the provisions that cause me the  
11 greatest concern was the expectation or the claim that  
12 there will be audits to ensure information is going from  
13 our various judicial districts into the Colorado  
14 InstaCheck, as well as the national InstaCheck, system.  
15 The fact is the information that is supplied now is not  
16 reliable and it's not valid.

17 The insinuation in this bill that dictates  
18 what the NICS system -- NICS being the National  
19 InstaCheck System -- will accept and not accept or how  
20 it will deal with appeals is really invalid. We all  
21 know state government cannot mandate federal government  
22 to anything.

23 I sit on, as I mentioned, and am the past  
24 vice chairman of the western working group for the FBI  
25 Criminal Justice Information System. Essentially what

1 that means is that I am the local law enforcement rep of  
2 all of the western United States for policies and  
3 proposals that are made with regard to all Criminal  
4 Justice Information Systems at the FBI level.

5 From that board, we're actually elected to  
6 serve on the directors' advisory policy process board.  
7 I have served on that board for approximately four  
8 years, on the working group for approximately seven  
9 years.

10 There is a process by which changes are  
11 made to all the FBI information -- Criminal Justice  
12 Information Systems. A state merely saying, "You're  
13 going to accept this information, you're going to handle  
14 this this way," doesn't work. The system is designed to  
15 fit the needs of all 50 states and U.S. territories, not  
16 because one state decides that they want this done this  
17 way.

18 Now, in the past couple years, it's  
19 actually been proposed that the Colorado InstaCheck  
20 system be taken off-line because it's a duplication of  
21 effort and we should simply rely -- and I know there has  
22 been proposed legislation, especially during difficult  
23 budget years.

24 The testimony to keep the Colorado  
25 InstaCheck system in place is because we can't rely on

1 the NICS system because it does not have timely  
2 information as it pertains to restraining orders,  
3 whether they be permanent or temporary, or the status of  
4 mentally ill. And I can tell you in the last four or  
5 five years, the CJIS group at the Federal Bureau of  
6 Investigations has struggled with what information to  
7 accept and what not to accept because it can't be vetted  
8 and validated, especially when you're talking about  
9 mentally ill. There's a very high reluctance on that,  
10 as well as there's a reluctance and an extreme caution  
11 used when deciding what information that can even be  
12 validated or vetted through a process and be relied on.

13           It's something that we constantly struggle  
14 with, so that an innocent citizen doesn't get mislabeled  
15 and prevented from exercising the purchase of property  
16 in a lawful fashion, or a misidentification, especially  
17 in a time where identity theft is common. And the  
18 Internet has made that very simple.

19           I think we all agree we want to do what we  
20 can to save lives. We all agree we want to keep  
21 firearms out of the hands of those that intend to cause  
22 harm to others. And I think we all agree that we should  
23 not criminalize law-abiding citizens that do not realize  
24 they may be in violation of the law by passing family  
25 heirlooms or gifts from one family member to the next,

1 or asking one family member to hold something because  
2 they're out of town, or another family member to borrow  
3 a firearm so they can maybe go out and target shoot and  
4 then determine if it's a firearm they want to own.

5 Our Colorado InstaCheck system has already  
6 shown evidence of it being overloaded. We haven't even  
7 begun including private sales in there, and already,  
8 just up to two and a half weeks ago, the Colorado  
9 InstaCheck system was backlogged 18 days. I looked on a  
10 computer at the CBI website and saw it for myself.  
11 Backlogged 18 days with just the parameters that it's  
12 currently searching.

13 The concealed handgun background checks  
14 exceeded 90 days for 101 of my residents in El Paso  
15 County just on Friday.

16 What makes us think that CBI -- and I have  
17 tremendous confidence -- I consider them my friends,  
18 both Director Sloan and his staff -- but what makes us  
19 think they can handle this increased volume with the  
20 accuracy that's going to make a difference in saving  
21 lives? The fact is, the data tells us it won't make a  
22 difference.

23 1.4 million firearms were stolen from  
24 citizens between 2005 and 2010. That's an average of  
25 240,000 firearms a year. If we carry that through from

1 2011, '12, and on into '13, we're looking at 2 million  
2 firearms illegally circulating in this country.

3           This background check makes people  
4 believe, or this bill makes people or leads them to  
5 believe that they will be safer and these firearms will  
6 be stopped and bad guys won't get them anymore. It  
7 gives the false perception of safety. And the fact is  
8 it will not. There will still be 2 million firearms  
9 circulating in this country illegally. And those  
10 individuals that are operating outside the rules set by  
11 society, they won't be inconvenienced by this because  
12 they will just buy it underground. I think the worst  
13 thing we can do as elected officials, as leaders in our  
14 community, is pass laws that give a false sense of  
15 safety.

16           I think that in and of itself is a  
17 tragedy. I think that's why we have so many sheriffs  
18 standing here today feeling so passionate about this.  
19 If we knew that the data supported that this bill would  
20 make our community safer, would prevent a Columbine,  
21 would prevent an Aurora theater shooting, we would be  
22 onboard. But the fact is, we, like you, answer to our  
23 constituents. And there's not one of us who can look us  
24 in the eye and say, "This bill will make you safer."

25           It will create an inconvenience. And I

1     feel -- I fear most that innocent people are going to be  
2     labeled criminals because they're inadvertently going to  
3     transfer a weapon, with good intent, to family members  
4     and friends, and they're going to have to learn what our  
5     legal system is all about.

6                     I think if we want to do something right,  
7     if we do share a passion to protect our citizens --  
8     Sheriff Justin Smith from up in Larimer County had a  
9     great idea: Why don't we quit talking about running  
10    people through systems to see if they match up to a  
11    criminal record. Why don't we in Colorado take a  
12    leadership role in this country and create a database  
13    that lists the people we know should not have firearms.  
14    Let's put that out to the public. Let's get public  
15    (inaudible) and its community policing and partnering  
16    with the public, that the crime that we've seen in the  
17    last 15 years is partnering with them. Let's create a  
18    database at CBI that we load in the people we know  
19    cannot have one. It would be very timely.

20                    The search on that database would be much  
21    quicker and less cumbersome than a search searching all  
22    of the criminal databases and the other civil databases  
23    maintained by Colorado and the national -- and the FBI  
24    Criminal Justice Information System.

25                    Citizens could access it via the Internet

1 and check and see: Can that neighbor have a firearm?  
2 Can my brother have a firearm? Can this guy who called  
3 me and heard I had one and that I want to sell, let's  
4 see if he's on that list.

5 That would not impede on the rights of  
6 individuals to purchase firearms, especially those  
7 law-abiding citizens. It would target the criminals who  
8 seem to protect and keep them in darkness. I mean, it's  
9 not open to the public who cannot have a weapon. It's  
10 only open to the criminal justice entities in the state  
11 or by a specific request.

12 I would ask this committee and this  
13 legislature to join those in law enforcement that truly  
14 want to make our community safer and let's come up with  
15 legislation that targets those people that are most  
16 probable to commit this crime, and not criminalize those  
17 that never have an intent to commit a crime, and let's  
18 do something that is measurable and will have  
19 evidence -- base data to show that it has made a  
20 difference.

21 Thank you and I'll entertain any questions  
22 with your permission.

23 THE CHAIRWOMAN: Thank you. We do have  
24 some time for questions, but I want to let the committee  
25 members know the 90 minutes has expired for those in

1 opposition, but we have time for questions.

2 Senator Crowder.

3 SENATOR CROWDER: Thank you for coming  
4 here, Sheriff. I have just a quick question.

5 As a law enforcement official, were you or  
6 any of your associates consulted on this particular  
7 bill, by any chance, prior to the writing of it?

8 MR. MAKETA: I --

9 THE CHAIRWOMAN: Sheriff Maketa.

10 MR. MAKETA: I'm sorry.

11 THE CHAIRWOMAN: That's okay.

12 MR. MAKETA: To answer the question, I was  
13 not consulted in any way. I'd have to ask my fellow  
14 sheriffs. I don't believe they were. And I feel that,  
15 if we were, the version that is being heard today would  
16 not be in existence.

17 SENATOR CROWDER: Thank you.

18 THE CHAIRWOMAN: Is there any other  
19 questions?

20 Seeing none, thanks.

21 MR. MAKETA: Madam Chair, I do have one  
22 comment. This question was asked much earlier by  
23 Senator Crowder, and I have the answer to it, if I may.

24 The question is surrounding how many  
25 prosecutions occurred from those denials of purchases

1 with your first speaker, which I believe was Director  
2 Sloan. Out of the couple hundred thousand that has been  
3 turned down by the NICS, the National InstaCheck System,  
4 they vetted through and selected 76,000 that were  
5 forwarded to the Bureau of Alcohol, Tobacco and  
6 Firearms. Out of that 76,000, 13 cases received a plea  
7 of guilty or a verdict of guilty.

8 I hope that answered your question.

9 SENATOR CROWDER: Madam Chair.

10 THE CHAIRWOMAN: Senator Crowder.

11 SENATOR CROWDER: It does. You know, the  
12 individual that answered it, there was just denials.  
13 But the thing about it, if you have a law, there should  
14 be criminal intent, there should be a fine, and there  
15 should be a conviction. That's why I asked the  
16 question. Thank you very much for your information.

17 THE CHAIRWOMAN: Thank you.

18 The time is up, and I just want to thank  
19 again all the sheriffs and my own sheriff there for  
20 being here, and thanks for your service, but no  
21 clapping. That doesn't mean we didn't think it deserved  
22 applause. We're just trying to run our meeting.

23 Senator Harvey has something to say before  
24 everyone takes off.

25 SENATOR HARVEY: I just wanted to ask a

1 quick question. Does that mean that all of the other  
2 ones were negatives, or these were just the ones that  
3 were positive that we know about?

4 MR. MAKETA: I'm sorry, I'm not sure I  
5 understood the question.

6 THE CHAIRWOMAN: Senator Harvey.

7 SENATOR HARVEY: You said there were only  
8 13 convictions of those that were drawn. Does that mean  
9 all the other ones were not criminal offenses, so they  
10 couldn't be prosecuted, or these were just the ones that  
11 we did prosecute?

12 THE CHAIRWOMAN: Sheriff Maketa.

13 MR. MAKETA: I'm not sure how many they  
14 prosecuted. I pulled this data off the Federal -- the  
15 Bureau of Justice statistics, with regard to the success  
16 of the NICS system. And the cases that the FBI comes  
17 across, they don't take those. They refer them over to  
18 the Bureau of Alcohol, Tobacco and Firearms. Out of the  
19 76,000, it only resulted in 13 cases. They didn't  
20 provide any additional information. But I'm actually  
21 leaving today at 7:30 from DIA to fly to my next  
22 meeting, and I will see if I can't get you that answer  
23 because I'll be meeting with those folks then.

24 THE CHAIRWOMAN: Thanks so much. Thanks  
25 again, everybody.

1 (Inaudible discussion.)

2 THE CHAIRWOMAN: What I think might be a  
3 great idea, because I'm sure that there are people who  
4 have traveled here that didn't get to testify either in  
5 opposition or support, but since those, I think, are in  
6 the room -- because we're on those in opposing -- if  
7 you -- I guess I'm offering a little piece, that if  
8 you'd like to stand in opposition to Senate Bill 1229,  
9 that you didn't get to testify, you're welcome to do  
10 that. So go ahead. It gives us a sense, an idea.

11 Thank you so much. Thanks for being here.

12 I went with my colleagues, and they gave  
13 me the list and they used the time in that way. Our  
14 sponsor used the time to actually bring it down to three  
15 minutes. So I apologize, that's what was given to me by  
16 those who are in opposition.

17 (Inaudible discussion.)

18 THE CHAIRWOMAN: Yes, we'll go ahead and  
19 do that, and Julia will take that.

20 Thank you so much and thank you for all  
21 your patience and your understanding of our process  
22 here.

23 So I am going to go ahead and close public  
24 testimony and turn it over to our --

25 (Inaudible discussion.)

1                   THE CHAIRWOMAN:  Sir, I'm sorry -- that's  
2   not what we do here.  I don't know if there's a -- we  
3   don't do (inaudible) from the audience there.  I'm  
4   sorry.

5                   (Inaudible discussion.)

6                   THE CHAIRWOMAN:  You sure can.  Again, I  
7   know this is a new process to so many people, and we're  
8   glad to have people from all over the state come up here  
9   and testify, but there is a process and an order to make  
10  sure that we actually can get business and procedures  
11  done here.  So thank you, and again I apologize.  That  
12  was the way that I think those who were in opposition  
13  wanted to utilize their time.  So that was a choice  
14  there.

15                   So as I did, I went ahead and closed  
16  public testimony.  I will go ahead and turn it back over  
17  to our sponsor.  I don't know if you have any  
18  amendments.

19                   SENATOR CARROLL:  Thank you, Madam Chair  
20  and the committee.

21                   I do have some amendments.  I don't know  
22  if you want to do those prior to wrap-up.  I do think  
23  some of the amendments are going to be responsive to  
24  some of the points that have been raised up here today.  
25  So your choice as to whether you want to do wrap-up or

1 amendments first.

2 THE CHAIRWOMAN: I think we'll go ahead  
3 and do amendments, but I may want to wait -- I might  
4 take a senatorial five until we have Senator Harvey come  
5 back.

6 SENATOR CARROLL: And then we'll need --

7 THE CHAIRWOMAN: Yeah, and then we're  
8 going to need Senator Hudak to be able to begin here to  
9 vote, too. So why don't we do that. Senatorial five.

10 (A recess was taken.)

11 THE CHAIRWOMAN: I'm going to go ahead and  
12 call us back to order. And I just wanted to make a  
13 quick announcement.

14 As you might have noticed, in the  
15 testimony that we had previously, people did talk in  
16 general, and I allowed, I think through my authority,  
17 for people to speak to maybe some other bills that were  
18 before the Senate. And so if you were -- if you're  
19 signed up to testify on another bill and you want to  
20 talk about 1229, feel free to do that.

21 We really do apologize. I think all of us  
22 up here want to hear as much as we can from especially  
23 those who drove from a distance to be here. So we're  
24 trying to make those accommodations.

25 And then I think I also might announce now

1 Senator Heath, who is carrying the next two bills that  
2 we will be hearing. There is a lot of testimony on the  
3 bill that we were scheduled to hear third. So I'm going  
4 to look at those numbers. I'm not very good with  
5 numbers.

6 (Inaudible discussion.)

7 THE CHAIRWOMAN: So we'll probably hear  
8 1226 first, thinking that they'll have more people for  
9 that testimony -- no, we have an objection to that.

10 UNIDENTIFIED SPEAKER: I have people  
11 coming back at 6:30 or so on a request I asked --

12 THE CHAIRWOMAN: Right. We were just  
13 thinking of the storm, and maybe that changed. Okay. I  
14 did, I think I was the one who said that to you. So we  
15 will -- we won't make adjustments for the weather.

16 So, again, to remind you, if you didn't  
17 get an opportunity to testify on 1229, you will have an  
18 opportunity in the other two bills, if you would like to  
19 take that opportunity. So I'm going to turn it back  
20 over to Senator Carroll, but you may be wanting me to do  
21 my deal.

22 SENATOR CARROLL: Thank you, Madam Chair.

23 Now we're moving into the amendment phase,  
24 and I think starting with the amendment that you're  
25 offering, if you wouldn't mind, maybe we begin there, if

1 you would go ahead and move it and explain that one.

2 THE CHAIRWOMAN: Great. Thank you. So I  
3 do move L.028. And it has been distributed. And I  
4 guess I want to say -- everybody has a copy; is that  
5 right? L.028.

6 I keep hearing something.

7 I first want to thank Senator Carroll for,  
8 one, for carrying this bill; and then, two, prepared to  
9 listen to some concerns that I had in talking to my  
10 constituents, and certainly listening to the testimony  
11 here today. And I really believe that some of the  
12 issues that were talked about were issues that I brought  
13 as I came today. And I can believe this is a friendly  
14 amendment. Senator Carroll can say that later. But I'm  
15 going to go ahead and explain the amendment to the  
16 committee.

17 So on the first part of the amendment, on  
18 page 4, line 2, after "transferor," I've inserted -- had  
19 "transferee" inserted. And this requires that the  
20 federally licensed firearm dealer, or the FFL, upon  
21 completion of the background check, to give a copy of  
22 the results both to the party of the transaction and not  
23 just to the transferor or the seller. So that's that  
24 first part.

25 And then the second part, on page 5, line

1 3 through 6, we have talked a lot, I think, today about  
2 being able to transfer that to family members. And so  
3 there's a piece in here where, based on the constituents  
4 that I've talked to, that we wanted to expand that. So  
5 the language that I'm having inserted is that the  
6 transfer -- that it's a bona fide gift, that they really  
7 are giving that gift between immediate family members.  
8 I'm just expanding the family members not only to  
9 include spouses, parents, children, siblings,  
10 grandparents, and grandchildren, but also recommending  
11 that we include nieces, nephews, first cousins, aunts,  
12 and uncles.

13                   And then there's a technical piece. On  
14 page 6, line 7, we're striking "or." It's just a  
15 technical.

16                   And then No. 4 is really what we have --  
17 or the fourth part of my amendment is what we've had  
18 numerous conversations here today. And so it's talking  
19 about -- and on the bill, it's page 6, line 11 -- we're  
20 striking line 11 and substituting. We're talking about  
21 temporary transfers here. So this piece expands that  
22 type of temporary transfer that can be conducted without  
23 a background check. So the first part of the amendment,  
24 you can always -- and I went, myself, went to a shooting  
25 range with some constituents upon that invitation, and

1 they allowed me to -- because I didn't have my own  
2 weapon, so they allowed me to use theirs. And this  
3 would allow that there. The owner of the gun, they're  
4 in my presence, that I'd be able to use that without  
5 violating any laws.

6 The second part of that is that the  
7 amendment would allow for a 72-hour transfer period. So  
8 that's a temporary transfer of 72 hours. And so some of  
9 the situations that have come up, things Senator Harvey  
10 talked about, but I'll use my own example. I'm the  
11 firearm owner. I wanted to lend it to my husband so he  
12 could feel protected, and didn't have a firearm himself,  
13 I could leave him that, be gone for the weekend, and he  
14 would feel confident to be able to protect himself; and  
15 that would be a transfer that would be acceptable under  
16 this bill, if this amendment is adopted.

17 So that is, I think, the substantive part  
18 of my amendment.

19 And Senator Harvey is looking at me funny.  
20 Would you like to address the amendment, Senator Harvey?

21 SENATOR HARVEY: Well, thank you, Madam  
22 Chair.

23 I'm not looking at you funny. I'm looking  
24 at the amendment funny. I find the amendment silly. If  
25 I'm out of town for a week, my wife only has the

1 temporary transfer for 72 hours. What is the magic  
2 number of 72 hours? If she's my wife, she's my wife.  
3 That kind of goes to the silliness of the entire bill,  
4 in my opinion. You can't enforce it. You can't say  
5 we're going to allow law-abiding citizens to have a gun  
6 for 24 hours or 72 hours and put -- and government say  
7 what is an appropriate time limit for you to be able to  
8 defend yourself.

9 So we're going to say you can defend  
10 yourself for 72 hours, but, Senator Giron, if you leave  
11 town for more than 72 hours, your husband doesn't have  
12 the constitutional right to defend himself.

13 THE CHAIRWOMAN: Thank you, Senator  
14 Harvey.

15 I guess I didn't really think there was a  
16 magic number, but, actually, upon testimony, and I think  
17 more than one witness said, is that then an individual  
18 would have that time to be able to go themselves and get  
19 a firearm to protect themselves. So that's where the 72  
20 hours is that magic number that you were looking for.

21 Senator Harvey.

22 SENATOR HARVEY: Well, I don't know about  
23 your household, Senator Giron, but in my household, I  
24 don't have enough money for my wife to go buy a \$500 gun  
25 to defend herself and exercise her Second Amendment

1 rights.

2 I have a gun, the family has, that's in my  
3 name. I purchased it. But in your amendment, because  
4 I'm poor, my wife has to be defenseless after 72 hours;  
5 but if I were in your household that's not poor, then  
6 you could defend yourself more than 72 hours because you  
7 have the wherewithal to buy a second gun. That doesn't  
8 sound very equitable to me.

9 But you're telling me that my wife has to  
10 be unarmed after 72 hours, if I'm gone for more than 72  
11 hours, because the government, in its ultimate wisdom,  
12 has chosen to say 72 hours is the limit that law-abiding  
13 citizens can defend themselves. I think that's  
14 inappropriate for the government to say, especially in  
15 light of the Constitution that we've all taken a pledge  
16 to uphold.

17 THE CHAIRWOMAN: I very appreciate your  
18 thoughts on that matter. I guess I -- I had a thought,  
19 and I just lost it, so let me think about that. Let me  
20 see if there are any other comments on the amendment.

21 And Senator Carroll.

22 SENATOR CARROLL: Thank you, Madam Chair.  
23 And I'm not sure we actually moved it yet.

24 THE CHAIRWOMAN: I did move it.

25 SENATOR CARROLL: I didn't quite hear

1 that.

2           So this may not do everything that you're  
3 wanting, but if you're wanting fewer situations, here's  
4 the thing: For anyone who's having some concerns with  
5 the bill as drafted because of the possession issues,  
6 this actually moves closer towards a direction of  
7 removing more of those potential situations. So I  
8 wouldn't necessarily contemplate that it necessarily  
9 addresses them, but if anyone has concerns with the bill  
10 because -- first of all, as a sponsor, I'll tell you the  
11 pieces of this that I think are good and why I would  
12 actually consider this a friendly amendment.

13           As a logistical matter and the bill was  
14 introduced on the first part -- we need to make sure  
15 both the buyer and seller get a copy of their paperwork.  
16 I mean, that's just a logistical issue.

17           The request to have an expanded definition  
18 of family is one that does come based on testimony. So,  
19 again, by expanding the definition of family, you're  
20 extending, under subsection B on 5, those could be  
21 included in a bona fide gift.

22           I guess part of the issue that was coming  
23 up in how it's written is folks will see a whole series  
24 of exceptions, you know, that start on page 4, which is  
25 exempting certain antiques, going through an exemption

1 for immediate family, gifts, the wills and inheritance  
2 situation.

3           The other thing that I thought was  
4 relevant to what had come up before that I think also  
5 applies to the spouse situation is a transfer that's  
6 temporary under subsection D and occurs while in the  
7 home, as long as you're not basically doing it -- like  
8 if your wife is not a convicted felon. So that's in  
9 addition to subsection B, is also subsection D, which is  
10 other folks that might be in the home.

11           The issue that we've come into, as you can  
12 imagine -- I mean, the exceptions go on to say, you  
13 know, for temporary use with shooting ranges and kind of  
14 contemplating some of those appropriate gun safety  
15 classes or target shooting, competitions, hunting,  
16 fishing, you know, for firearms repairs.

17           The problem with not adopting this  
18 amendment is that there's the potential for all kinds of  
19 totally appropriate, lawful activity that could be  
20 happening within a temporary period of time. And  
21 without putting in a catchall exception of lawful  
22 activity on the transfer here, you're leaving it to sort  
23 of one hypothetical at a time.

24           And I may not change your mind on the  
25 amendment, but the amendment does move closer, instead

1 of trying to necessarily list every single thing that  
2 can be used, because there may be others that we haven't  
3 contemplated yet, that this is basically then for any  
4 lawful purpose on a loan. It contemplates a loan for  
5 any lawful purpose to someone who is not criminally  
6 ineligible.

7 THE CHAIRWOMAN: Thank you, Senator  
8 Carroll.

9 And I did remember my thought. Can I show  
10 you my thought?

11 SENATOR HARVEY: I'm dying to hear it.

12 THE CHAIRWOMAN: Now that you said that --  
13 I'm trying to think about that 72 hours -- oh, that  
14 there is no perfect time frame. But I think we open it  
15 up so much that we would just be able to let anyone  
16 borrow it. And I think that there has to be a limit.  
17 So I think that really is -- if you don't put any time  
18 on to it, you may not want this amendment or want the  
19 bill for sure, but I do think that that's reasonable, 72  
20 hours, because when I was talking to the constituents in  
21 my district, they were really talking about weekends  
22 where they were hunting and those kinds of sporting  
23 events, or they wanted to go to a shooting range, they  
24 wanted to try out a gun for a short period of time  
25 before they purchased it.

1           So that was just trying to put my arms  
2 around a period of time that seemed to make sense. And  
3 maybe there isn't a perfect time.

4           Senator Harvey.

5           SENATOR HARVEY: Thank you.

6           And I appreciate that, but that's what  
7 we're getting to here, is when government tries to set  
8 up exceptions to the laws that they already -- that they  
9 are putting in place, to deny law-abiding citizens the  
10 right to self-protection in this case.

11           We are saying we're going to deny the  
12 right to legal, lawful citizens the right to defend  
13 themselves with this bill, but we're going to make these  
14 exceptions, because this bill isn't denying -- this bill  
15 won't stop bad people from getting guns. They already  
16 do.

17           Look at Chicago. It's the highest murder  
18 rate in the world, and they already have so many  
19 restrictions on guns that nobody should have guns there.  
20 But they do. And more people have died in Chicago in  
21 the last 10 years than Americans have in Afghanistan.  
22 That doesn't mean that it's going to stop illegals -- or  
23 criminals from getting illegal guns.

24           But you are -- we already have on the  
25 books that it is illegal to give a gun to somebody you

1 know or should have known shouldn't have a gun. That  
2 law is already on the books. So what we're saying is,  
3 to Senator Carroll's comments about this amendment, if  
4 we follow paragraph B and say a transfer that is a bona  
5 fide gift between immediate family members, that that  
6 deals with the wife being, or the husband being, left at  
7 home for more than 72 hours. I can gift my wife, you  
8 can gift your husband your gun while you're gone. And  
9 then he can gift it back to you and he won't have to  
10 abide by the rules of this bill.

11 That's the protection, is if you gift it  
12 to them. So are we going to write down a contract that  
13 says we gifted it to them? Because if we don't write  
14 that contract down and we just, under paragraph H, line  
15 13, then we are violating the 72-hour rule. And if  
16 something bad happens -- where who knows what might  
17 happen -- and we don't have that contract to say that I  
18 gifted it to them, then we're both in violation of this  
19 statute.

20 We are tying ourselves in knots to try to  
21 get out of the unintended consequences of a bill that  
22 all of the sheriffs in the state of Colorado stood up  
23 here and said they can't enforce in the first place. It  
24 is the unintended consequence of all of these amendments  
25 and all of these -- and this bill that is so concerning

1 to most law-abiding people in the state of Colorado.

2 THE CHAIRWOMAN: And the last thing I  
3 would say on this is that, as we had witnesses testify,  
4 that -- I heard anywhere between 88 and 92 percent of  
5 Coloradans support background checks for everyone. And  
6 that can be disputed. But what I heard some people say  
7 was that, if they understood that they couldn't give it  
8 to their first cousin, then maybe they would have not  
9 said they were in support of that.

10 I do think that with this -- my belief  
11 definitely is that universal or background checks for  
12 everybody, citizens are in favor of that, and what we're  
13 just trying to do is to not to make it burdensome on our  
14 law-abiding citizens. And I think that this amendment  
15 helps to do that, and I stand by that.

16 Senator Harvey, our last comment.

17 SENATOR HARVEY: Every poll that was  
18 referenced today talked about the sale, not transfer,  
19 the sale. This amendment talks about transfers, about  
20 how to limit law-abiding citizens' abilities to transfer  
21 firearms amongst family members. That's what this  
22 amendment does. I don't think any poll has been taken  
23 about, should you be denied the ability to transfer or  
24 be restricted in the way you transfer amongst family  
25 members or friends, for that matter?

1                   THE CHAIRWOMAN: So I have moved the  
2 bill -- or the amendment. And so is there any  
3 objections to the amendment?

4                   SENATOR CROWDER: Oh, yeah.

5                   THE CHAIRWOMAN: In that case, we'll go  
6 ahead and do a roll call. Thanks, Julia.

7                   JULIA: Senator Crowder.

8                   SENATOR CROWDER: No.

9                   JULIA: Senator Harvey.

10                  SENATOR HARVEY: No.

11                  JULIA: Senator Hudak.

12                  SENATOR HUDAK: Aye.

13                  JULIA: Senator Jones.

14                  SENATOR JONES: Yes.

15                  JULIA: Madam Chair.

16                  THE CHAIRWOMAN: Aye.

17                  JULIA: Three to two.

18                  THE CHAIRWOMAN: That amendment is  
19 adopted. And I'll turn it back over to Senator Carroll.

20                  SENATOR CARROLL: Thank you, Madam Chair.

21                  I would ask that someone move Amendment  
22 L.023, I believe, and then I can explain it.

23                  THE CHAIRWOMAN: Senator Jones.

24                  SENATOR JONES: Madam Chair, I move  
25 Senate -- or Amendment L.023.

1           THE CHAIRWOMAN: For motions, Senator  
2 Carroll, do you want to talk to us about --

3           SENATOR CARROLL: Thank you.

4           Members, this is basically a technical  
5 amendment from the judicial department that does three  
6 things. In the first version of the bill, you'll see  
7 referred to as clerks of the district courts. This  
8 swaps out the state court administrator in that role,  
9 which is how we currently send information to the CBI.  
10 So that is making sure that we are referencing the  
11 correct -- the state court administrators, what that  
12 should be.

13           Also, we have on this, like at the  
14 appellate level, one of the provisions of the bill that  
15 we didn't spend as much time talking about is there's a  
16 couple of restoration-of-rights provisions in here, both  
17 for people who get on the list for court-ordered mental  
18 health stuff as well as other things. So the bill adds  
19 due process on restoration of rights for how someone can  
20 get off the list that is currently on there right now.

21           In the earlier version of the bill, this  
22 is just -- typically, appellate court judges don't take  
23 new information. What this does is clean up the  
24 language where they can accept it. They don't have to,  
25 but it is usually -- they don't do what's called a de

1        novo review on appeal. They're stuck with a record.  
2        And if a gun owner feels like there's new information  
3        that needs to be presented outside of the original  
4        proceedings, that we're giving the Colorado Court of  
5        Appeals the discretion to be able to do that.

6                    Then the third part of what it does, on a  
7        technical cleanup here, is that it's clarifying we're  
8        sending the new misdemeanor information to CBI rather  
9        than to both CBI and the NIC system, which is the  
10       federal system. And the reason for that is that -- we  
11       don't do that now. The way we do it now is we give it  
12       to CBI, and then NICS gets it from us. So this is  
13       conforming the process of this bill to how we actually  
14       do it in other background check areas. So that's L.023.

15                    SENATOR HARVEY: Madam Chair.

16                    THE CHAIRWOMAN: Senator Harvey.

17                    SENATOR HARVEY: Thank you, Madam Chair.

18                    I would ask that the chair rule this  
19        amendment is out of order. It's a multipage amendment  
20        that wasn't given to us until just now. Under the rules  
21        of this committee, if I understand correctly, we have to  
22        be given a 24-hour rule -- advance on all multipage  
23        amendments.

24                    THE CHAIRWOMAN: And that is a rule -- I  
25        saw this as almost -- it wasn't substantive, but, I

1 mean, do you see a good amount of substantive nature to  
2 this that isn't something that we could understand in  
3 that period of time?

4 Senator Harvey.

5 SENATOR HARVEY: Well, multiple things.  
6 If we are going to be offering amendments to the bill  
7 to, quote, make it better, I think it would be  
8 advantageous to us to be talking to the experts in the  
9 State, David Kopel and other law enforcement people,  
10 about these amendments. David Kopel is probably the  
11 foremost expert in the nation on gun laws, and he's  
12 right here two blocks away from this building. And he  
13 said that he wasn't contacted about the writing of this  
14 bill and offered amendments, to make suggestions to what  
15 he thought would be appropriate ways to deal with the  
16 transfers and the background checks. He was never  
17 asked, and neither were the sheriffs. At least Sheriff  
18 Maketa from Colorado Springs was never asked. And this  
19 is a multipage amendment. And that's going against the  
20 rules of this committee.

21 And if we're going to be amending the  
22 bill, I think we should be asking those who understand  
23 the law better than we do, what amendments would work  
24 well with Colorado statute. As David Kopel pointed out  
25 appropriately, that many places in this bill talking

1 about transfers was taken directly from a federal bill  
2 written by Michael Bloomberg that did not accurately  
3 reflect how it would interact with Colorado statute,  
4 since Michael Bloomberg is not from Colorado. He's the  
5 mayor of New York City. And if we're going to be  
6 amending the bill to make it apply correctly to Colorado  
7 statute and not to federal statute, written by a mayor  
8 from New York City, perhaps we should talk to the  
9 experts who know about it.

10 THE CHAIRWOMAN: Well, I might object  
11 to -- I don't believe it was written by someone from  
12 outside the state, mayor or otherwise.

13 But, Senator Hudak, do you have a  
14 question?

15 SENATOR HUDAK: No comment. It seems to  
16 me all this bill does is change --

17 THE CHAIRWOMAN: This amendment.

18 SENATOR HUDAK: This amendment. Excuse  
19 me. Thank you for clarification. That all Amendment 23  
20 does is change "clerk of the court" to "court  
21 administrator" 12 times. I don't think it would take me  
22 24 hours in advance to figure that out. And so I think  
23 it is entirely appropriate for us to consider this  
24 amendment.

25 THE CHAIRWOMAN: Senator Crowder.

1                   SENATOR CROWDER: Thank you, Madam Chair.

2                   I beg to differ. This denial in the  
3 appeal process, if you are so deemed not capable of --  
4 deemed (inaudible) incompetent, the process there is  
5 giving complete jurisdiction to the clerk of the court  
6 and the state court administrator.

7                   Just looking at this, I do believe that  
8 the appeal process for someone that's deemed incompetent  
9 is not in any way in the best interest of the person who  
10 is found incompetent. And I've worked a lot with this  
11 in some of the VA. But there's medical people involved;  
12 there's all kinds of other people involved. But to give  
13 that entire discretion to the clerk of the court, I do  
14 find to be somewhat troubling, without medical personnel  
15 in this.

16                   THE CHAIRWOMAN: Thank you.

17                   If we want to go ahead and take a  
18 senatorial five, a little discussion off-line here, I  
19 would appreciate that.

20                   (A recess was taken.)

21                   THE CHAIRWOMAN: I'll go ahead -- well,  
22 we're already back in order. We just had our senatorial  
23 five.

24                   As I looked and continued to have a  
25 conversation with Senator Carroll, I think it was the

1 conversation we were having at the beginning, that as I  
2 saw it -- and I just wanted clarification -- that it was  
3 a -- it really is a very technical amendment. And when  
4 I look at 13-9-129, if anything, that little piece that  
5 I think is more substantive, what it's doing is  
6 expanding it to be able to send electronically. So I  
7 think that this certainly, in what we're trying to do  
8 with the bill and that the bill sponsor is trying to be  
9 amenable, that this is something that enhances what I  
10 think the testimony had to say.

11 Senator Carroll.

12 SENATOR CARROLL: Thank you, Madam Chair.

13 I just wanted to add that one of the  
14 pieces that's getting cleaned up here is sometimes there  
15 are false flags from stale information. And some of the  
16 other testimony we heard, as particularly on the mental  
17 health orders, that's maybe as much as six months late.  
18 So the benefit, in effect, of what's on page 2 of the  
19 bill on here is this means a lifetime electronic  
20 transfer within 48 hours.

21 So you may have people who, for example,  
22 by way of a deferred judgment, at some point of  
23 application, may have been ineligible and they become  
24 eligible. So the longer that data takes, the more you  
25 actually do have people who are legally eligible to be

1 purchasing guns, that by way of a stale or outdated  
2 database, would be waiting longer.

3 So with this -- part of what this does is  
4 give us lifetime, within 48 hours, update of the data,  
5 which I think -- I don't know how many people that  
6 affects, but it does affect some people who might have  
7 previously been ineligible that could become reeligible  
8 to purchase.

9 THE CHAIRWOMAN: Thank you.

10 I'm not sure -- do we have any questions  
11 from the committee members?

12 No questions.

13 I guess I'll go ahead and recognize  
14 Senator Marble as a question.

15 SENATOR MARBLE: Thank you, Madam Chair.

16 I'm just going back into testimony from  
17 the experts, and I'm going to rely a lot on what David  
18 Kopel had said regarding this bill. And I have a  
19 question. Because he definitely stated this had the  
20 Bloomberg effect on this law -- and this law is in  
21 New Jersey -- regarding the transfer or holding of  
22 firearms by a friend or visitor. And it criminalizes  
23 virtually all gun owners in Colorado in that it is not  
24 properly drafted.

25 So what my question would be: How would

1 these amendments fix that?

2 THE CHAIRWOMAN: So Senator Carroll.

3 SENATOR CARROLL: Thank you, Madam Chair.

4 So this bill has been drafted in this  
5 state. This comes from judicial as far as making sure  
6 that we're referring to the state court administrators  
7 or the clerks.

8 I mean, this particular amendment is very  
9 administerial in nature as far as making it work. It  
10 deals with the 48-hour lifetime transfer of data and  
11 ensuring that could be done electronically, and it  
12 allows the Colorado Court of Appeals to accept  
13 additional information.

14 This is Colorado's system. I don't know  
15 what any other state does. But this is a  
16 restoration-of-rights process. We're doing and frankly  
17 expanding here in Colorado under this bill.

18 THE CHAIRWOMAN: Thank you, Senator  
19 Carroll.

20 So --

21 SENATOR MARBLE: One quick question.  
22 According to the 62 sheriffs who wrote the statement  
23 regarding this law is unenforceable and we will not  
24 enforce it, because of its unconstitutional value with  
25 our state constitution, how does this then, you know, go

1 into effect when it's not in line with our state  
2 constitution?

3 THE CHAIRWOMAN: Senator Marble, we are on  
4 the amendment. So I'm going to go ahead and --

5 SENATOR MARBLE: That amendment, how would  
6 that amendment make that --

7 SENATOR HUDAK: (Inaudible) Madam Chair, I  
8 just -- I'm questioning why people who are not on this  
9 committee are getting to participate in -- they're not  
10 substituting for a member. And I'm -- it's not  
11 generally done here where additional people, additional  
12 legislators, get to also act as a member of the  
13 committee.

14 One of the benefits or privileges of being  
15 assigned to the committee is that we get to hold the  
16 hearing. And other members serve on other committees,  
17 but not ours. And so I would ask for a senatorial five  
18 to discuss this.

19 THE CHAIRWOMAN: I appreciate everything  
20 that you had to say, Senator Hudak. I do recognize that  
21 it was out of the ordinary to be able to do that, but it  
22 is at the chair's discretion. And so I went ahead and  
23 allowed Senator Marble to ask a couple of questions.

24 Senator Harvey.

25 SENATOR HARVEY: It is not unusual. We've

1 done it for the 12 years that I've been down here. They  
2 cannot vote. That is the privilege of being on this  
3 committee, is the right to vote. The privilege of being  
4 on this committee is you were elected by 51 --  
5 50 percent plus one vote to be able to sit on this  
6 committee and ask questions during the committee hearing  
7 that you would not otherwise be able to ask questions on  
8 because you aren't sitting on the committee. This is  
9 done on a regular basis. You just are not allowed to  
10 vote.

11 Just because you have not seen it in the  
12 two years that you have been here --

13 SENATOR HUDAK: Four.

14 SENATOR HARVEY: -- does not mean that it  
15 has not happened. But she did sit through the entire  
16 committee.

17 THE CHAIRWOMAN: Well, thank you, Senator  
18 Harvey. And since I went ahead and allowed that, I  
19 appreciate that feedback.

20 And so I think that we are on to the  
21 amendment, L.023. I'm believing there are some  
22 objections, so we'll go ahead and take roll.

23 JULIA: Senator Crowder.

24 SENATOR CROWDER: No.

25 JULIA: Senator Harvey.

1                   SENATOR HARVEY: No.

2                   JULIA: Senator Hudak.

3                   SENATOR HUDAK: Aye.

4                   JULIA: Senator Jones.

5                   SENATOR JONES: Yes.

6                   JULIA: Madam Chair.

7                   THE CHAIRWOMAN: Aye.

8                   So L.023 passes.

9                   And is there any other amendments?

10                  Senator Carroll.

11                  SENATOR CARROLL: Thank you, Madam Chair.

12                  The final amendment that I have is L.026.

13                  I'm going to ask somebody to offer that.

14                  One of the potential loopholes that came

15                  up, I believe was brought up in Howe's (phonetic)

16                  testimony, is that all someone would need to get around

17                  the private background check is basically do the check

18                  in the name of a trust and effectively doing a

19                  pass-through, which would create yet another loophole.

20                  So Amendment 26 tightens the definition of transferee,

21                  so you basically can't -- a criminal can't gain the

22                  background check by pretending to be a trust and then do

23                  firearms trafficking that way.

24                  THE CHAIRWOMAN: Thank you.

25                  Senator Jones.

1                   SENATOR JONES: Thank you, Madam Chair.  
2                   I move L.026.  
3                   THE CHAIRWOMAN: That's a proper motion.  
4                   Is there any objection to L.026?  
5                   Seeing none -- oh, yes. So, Julia, will  
6                   you take a roll call.  
7                   JULIA: Senator Crowder.  
8                   SENATOR CROWDER: No.  
9                   JULIA: Senator Harvey.  
10                  SENATOR HARVEY: No.  
11                  JULIA: Senator Hudak.  
12                  SENATOR HUDAK: Aye.  
13                  JULIA: Senator Jones.  
14                  SENATOR JONES: Yes.  
15                  JULIA: Madam Chair.  
16                  THE CHAIRWOMAN: Aye.  
17                  JULIA: Is that a four-to-one?  
18                  THE CHAIRWOMAN: That's three to two.  
19                  That's adopted at a three-to-two vote.  
20                  Senator Jones.  
21                  SENATOR JONES: Thank you, Madam Chair.  
22                  I move House Bill 1229 to the  
23                  appropriations committee.  
24                  THE CHAIRWOMAN: That's an appropriate  
25                  motion.

1           Senator Jones.

2           SENATOR JONES: Yeah, just to follow up,  
3 I'm supporting this bill. I've tried hard to listen to  
4 people, and I really, really appreciate people taking  
5 the time to talk to me and e-mail me.

6           Emotions run high on this issue on both  
7 sides. I think we saw that today. And a lot of people  
8 tried to cut through that and get to the facts. Some  
9 people just kept on the emotional thing, and I think you  
10 can see how ineffective it can be. And I don't think it  
11 helps anybody's cause to go there, quite frankly.

12           And the other thing is -- a lot of people  
13 say this about the Second Amendment, and I respect  
14 that -- that it's a constitutional right. We should be  
15 very careful about those. At a townhall I had, people  
16 said, "Well, you ought to go read the court decisions."  
17 I did. I think the Heller decision says for reasonable  
18 reasons, you can do gun banishment laws. And we have a  
19 lot of examples of that.

20           And then you get into this data back and  
21 forth. Everybody has got this number, that number, this  
22 number and that number, and it's hard to sort through.  
23 And everybody makes great cases. But, for me, what it  
24 comes down to is there's a fundamental number that I  
25 keep looking at when I kind of try to sort this out. Of

1 the 344,000 purchases -- I believe it was last year's  
2 numbers -- 5,000 of those were blocked. And we talked  
3 about how some of them got reinstated. But we should  
4 think about the things that they're blocked for. Here  
5 are just two examples: 420 for restraining orders, 31  
6 for accused or convicted homicides.

7           So, no, this is not going to solve all our  
8 problems. And this logic that seems to go on that says  
9 criminals will get guns. So we should not keep  
10 criminals from getting guns when we can, doesn't make  
11 much sense to me. Yeah, they're going to get guns. But  
12 we ought to do what we can to stop that from happening.  
13 And that's what motivates me on this.

14           And, again, I appreciate everybody taking  
15 the time to talk to me. I think people have strong  
16 feelings on both sides of this. But that number, I keep  
17 coming back to that. And, for me, I think, through  
18 time, it's going to save lives. And so everybody talks  
19 about the frequency; it's a real small number. Well,  
20 the severity, the other side of that equation, is  
21 extraordinarily severe. And you heard it today. And so  
22 that's the balancing act, and that's where I come down.

23           And thanks, everybody, for sitting through  
24 all of this and being part of this. I appreciate your  
25 participation.

1 THE CHAIRWOMAN: Thank you, Senator Jones.

2 Is there any other discussion?

3 Senator Hudak.

4 SENATOR HUDAK: Thank you, Madam Chair.

5 I'm sorry I wasn't here for a lot of the  
6 testimony. I was in the other committee, presenting a  
7 bill, but I have received e-mails and have had e-mail  
8 conversations with a number of people, particularly my  
9 constituents, whose opinions range the gamut on this  
10 issue. And I want to say that in even the  
11 legislating -- the magazine that we receive as  
12 legislators, there is a lot of very good information  
13 about how effective background checks are, and the  
14 thousands of people that are screened out who shouldn't  
15 have a gun because they get a background check.

16 And then I also got a packet of letters  
17 from fifth graders in my district, Arvada K-8, and many  
18 of them said -- they urged me to vote for background  
19 checks because it scares them -- my biggest wish is that  
20 I want to be safe. And I just want to say that I hope  
21 we're smarter than -- as smart as fifth graders.

22 THE CHAIRWOMAN: So I'm going to go ahead  
23 and do one more comment from Senator Crowder, and then  
24 I'm going to go to the close for Senator Carroll.

25 Why don't we go ahead before -- because I

1 neglected to do -- let Senator Carroll do a wrap-up.

2 Senator Carroll.

3 SENATOR CARROLL: Thank you, Madam Chair.

4 I suspect there will be final comments in  
5 closing.

6 I just wanted to address a couple of  
7 things because I was listening and taking notes with  
8 everything that was there. First of all, I was  
9 impressed with the caliber of testimony on both sides of  
10 this issue. This is not a superficial, light issue. I  
11 think we heard really good and important feedback.

12 My wrap-up, I want to hit a few things  
13 just because there's some differences -- I think it's  
14 important to talk about in a way what the bill doesn't  
15 do when we're closing. Even if we pass House Bill 1229,  
16 every single law-abiding citizen in Colorado can still  
17 own and buy as many guns as they want, and possess.  
18 That does not change if we pass House Bill 1229.  
19 Nothing about having a background check in advance of a  
20 prior sale does anything to change Colorado's law about  
21 self-defense.

22 I, too, share the importance -- I mean,  
23 obviously, we would not be interested in doing anything  
24 that would weaken the right of self-defense. And so I  
25 think some of the testimony was geared towards, you

1 know, does making someone go through a background check  
2 before a private transfer in any way change our rights  
3 of self-defense? It doesn't.

4 I think it's important to note that  
5 Colorado's concealed carry laws, which I also support,  
6 remain 100 percent in effect. So passage of this bill  
7 doesn't change the rights for concealed carry.

8 On the Second Amendment, both by text and  
9 by the Supreme Court, background checks have explicitly  
10 been upheld as constitutional with regard to the Second  
11 Amendment.

12 The registration idea came up. And I  
13 think David Kopel brought up a good point in what he was  
14 talking about, which is it would be easier to enforce a  
15 bill like this if we had a registration. I don't  
16 support a registration. And that's just where I come  
17 down on something like this. This bill isn't  
18 registration.

19 Part of why the record-keepers are the  
20 private FFLs is because we don't have a government  
21 database. So once someone is run through the system,  
22 basically purged on that as well.

23 Senator Harvey, it was probably you who  
24 brought up on the unlicensed -- the use of the word  
25 "unlicensed" in here. What that means in Colorado --

1 what we're referring to as licensed are the FFLs. So we  
2 have replaced -- you see the word "unlicensed," it's  
3 just clarification that we're not talking -- these  
4 provisions don't provide -- they don't really apply to  
5 FFLs because those guys are regulated and licensed  
6 elsewhere.

7 I think we did go through and hit some of  
8 the exceptions. I think, overall, I just really want to  
9 hit on closing that we've been using background checks  
10 with success for a long time. It is really that one  
11 thin, fine line -- you know that fine line between how  
12 do we make sure that we are protecting the rights of  
13 law-abiding citizens and how are we keeping guns out of  
14 the hands of convicted felons?

15 If we basically eliminate or fail to make  
16 meaningful background checks, then we are really erasing  
17 the difference and saying we think convicted felons, as  
18 a practical matter, ought to have just as easy access.

19 I do agree with some of the point that  
20 there's no doubt some committed criminals who will try  
21 really hard to work their way around this. So like any  
22 other law we pass, we are not going to see perfect  
23 compliance with it. None of us have ever passed a bill  
24 in the history of the legislature with perfect  
25 compliance. But I do think that we are plugging into a

1 system to make sure we at least have the exact same  
2 background checks, the exact same constitutional  
3 background checks that any other lawful purchaser does.

4 So the people who are disadvantaged by  
5 this bill -- here's who it affects at the end of the  
6 day: If you are a convicted felon, if under current  
7 Colorado law, you're not allowed to buy or possess a  
8 firearm, then your odds are much higher you're going to  
9 be blocked, if this passes. That's who the burden is  
10 on.

11 Otherwise -- we've had lawful, law-abiding  
12 people making their purchases at FFLs or at gunshows for  
13 a while. And this basically is that fine line between  
14 how we even detect who is or isn't eligible under  
15 current law for doing that.

16 These amendments, in part, I think, help  
17 expand, you know, some of these scenarios with immediate  
18 family, with the temporary loan kind of situations. And  
19 so they were offered in the spirit of that, in hearing  
20 some of those examples that were brought up.

21 So I think -- you know, I'm sure there's  
22 more. I guess, Senator Harvey, you also brought up the  
23 online point. And I agree that online sales -- I think  
24 one of the places where you have online facilitation, in  
25 a way, where you're kind of a third-party facilitator

1 between private transactions -- that right now is not  
2 covered by background checks. And that would be the  
3 distinction in my view, anyway.

4 I think that's it.

5 THE CHAIRWOMAN: Thank you, Senator  
6 Carroll.

7 Senator Harvey has a question.

8 SENATOR HARVEY: The question -- I didn't  
9 even think about that by reading the bill.

10 The facilitator in this bill -- Rocky  
11 Mountain Gun Owners has a website that allows two  
12 individuals to meet each other to sell, just like The  
13 Denver Post used to, or the Thrifty Nickel still does,  
14 or things like that, Craig's list. Under this bill, are  
15 they facilitating that mutual meet-up, and are they  
16 liable because of that under this bill?

17 THE CHAIRWOMAN: Senator Carroll.

18 SENATOR CARROLL: Thank you, Madam Chair.

19 So the buyer or seller, whether they're  
20 doing it in person or whether they're using kind of a  
21 third-party facilitator, they are the ones that are  
22 responsible. The third-party facilitator on this bill  
23 is not.

24 THE CHAIRWOMAN: Any other question -- any  
25 other questions or comments?

1                   Senator Crowder.

2                   SENATOR CROWDER: Thank you. Thank you,  
3 Ms. Carroll.

4                   I'm glad that you and I agree on one  
5 thing. The registration, you're opposed to  
6 registration. And I firmly believe that the only way  
7 that this can be enforced would lead to a registration.

8                   I need to oppose this bill due to the fact  
9 that southern Colorado, which is my district, from Wolf  
10 Creek Pass through Pueblo and all the way to Kansas,  
11 would -- they have indicated their opposition to this.  
12 So what I have to do is I have to -- I have to not only  
13 vote the constitution, I need to vote my district. And  
14 they have indicated opposition to this. So -- but  
15 nothing personal, mind you, but I would have to go that  
16 way.

17                   Thank you.

18                   THE CHAIRWOMAN: Any other comments?

19                   Just a quick comment for me. As I was not  
20 very aware of the issues around gun culture in my own  
21 upbringing in Pueblo, so I really felt like I put a lot  
22 of time and effort trying to get -- to understand a part  
23 of a culture that I wasn't aware of, and have learned a  
24 lot.

25                   And, you know, even though some of the

1 e-mails or phone calls that I've gotten that started to  
2 help creating some kind of image of gun owners in my  
3 mind and stereotypes -- those were being created, but  
4 then when I went out and reached out to people who were  
5 responsible gun owners and have been contacted by many  
6 responsible gun owners, I understood that a person who  
7 is an owner of a gun is really no different than me, and  
8 they use it for a lot of reasons. And the gun owners  
9 that I've talked to, or many of the gun owners that I've  
10 talked to, had no problem with this piece of legislation  
11 as far as background checks for everyone.

12           And, certainly, I think as you said,  
13 Senator Carroll, we shouldn't let the perfect get in the  
14 way of the good. And for me personally, that's an issue  
15 for me. A lot of times I always want everything to be  
16 perfect, and that's the only way I think it's something  
17 good. And in this case, I don't really think that  
18 that's appropriate.

19           And I'll diverge a little bit: We do  
20 create laws -- I mean, we can talk about speed limits.  
21 And we don't say because nobody follows them -- and I  
22 would be the first one who doesn't follow them; I hope  
23 there's no state patrol people in here -- that we  
24 shouldn't have them. It still puts some constraints,  
25 even on a speedy driver like myself.

1                   So I think this is a start. It's not  
2 going to solve all of our problems.

3                   And one of the most compelling statistics  
4 that I heard today was what happened in Missouri. So,  
5 in 2007, when they repealed their requirement for  
6 background checks for everybody, that they -- that the  
7 crime with regard to guns went up by 30 percent. And I  
8 do think that that is -- from the gun owners that I've  
9 talked to, I don't think it hurts, and they're willing  
10 to do that, anything to be able to reduce some crime.  
11 We've got to figure this out, the violence. And it's  
12 certainly a comprehensive, big, huge issue. This is a  
13 tiny, little piece of it.

14                   So I thank you. And I will be supporting  
15 with this amendment. And I appreciate that.

16                   So, Julia, go ahead and take roll call.

17                   JULIA: Senator Crowder.

18                   SENATOR CROWDER: No.

19                   JULIA: Senator Harvey.

20                   SENATOR HARVEY: I'm going to take a  
21 minute to explain my vote.

22                   I understand the emotion behind this bill.  
23 I understand the emotion behind all of these bills. But  
24 the public policy should not be based on emotion. The  
25 public policy should be based on logic. What will be

1 readily able to limit people who want to create evil  
2 from accessing weapons of destruction?

3 Mark Kelly was here, testified in behalf  
4 of the bill. Even if this bill was in place in Arizona,  
5 it wouldn't have stopped the shooter from getting the  
6 gun, and he admitted this. Even if this was in place in  
7 Arizona, the shooter that shot at his wife would not  
8 have been -- it would not have stopped the person from  
9 getting the gun. But it would infringe on other  
10 people's ability to protect themselves.

11 Jane Dougherty, whose sister was killed at  
12 Sandy Hook, was here representing her sister who was  
13 killed. This bill would not have stopped that shooter  
14 from killing all of those innocent people. But they  
15 were denied their right to self-protection because of  
16 the law that said that school will be a gun-free zone.

17 Karina, who was at the Aurora shooting,  
18 the 16-year-old girl who was in the wheelchair, God  
19 bless her. I understand the passion and the emotions.  
20 But this bill would have done nothing, nothing, to stop  
21 that situation.

22 Dave (sic) Mauser, I believe those  
23 shooters at Aurora -- I mean at Columbine; Katie Kyles  
24 (sic), I believe the shooters at Columbine; Dave Moses,  
25 I believe the shooters at Columbine would have gotten

1 those guns regardless of this bill.

2 So, yes, there is a lot of emotion behind  
3 these bills and the desire, honest desire, to help  
4 people and to stop these atrocious acts of evil. But in  
5 the process, I don't want to do what I believe would  
6 happen, because it might leave honest, law-abiding  
7 citizens from being able to defend themselves when they  
8 need to, despite the 72-hour limit that the sheriff put  
9 in there to allow them to have a gun. I believe we are  
10 limiting people's abilities to defend themselves, in all  
11 good intentions. But those good intentions are going to  
12 cause more people to be hurt.

13 Just like gun-free zones cause more people  
14 to be hurt, I believe this bill, as well intentioned as  
15 it is, is going to cause more people to be hurt, not  
16 less. And so because of that, I will be a no vote.

17 JULIA: Senator Hudak.

18 SENATOR HUDAK: Aye.

19 JULIA: Senator Jones.

20 SENATOR JONES: Yes.

21 JULIA: Madam Chair.

22 THE CHAIRWOMAN: So Senator Harvey just  
23 reminded me of something else of why I'm voting yes on  
24 this bill. And for those committee members who know me  
25 and other people in the Senate, I can have an

1 overemphasis of empathy. But when I really looked at  
2 this, it really wasn't even -- and I don't know if that  
3 was the impetus of this bill, because of the tragedies  
4 that we had. I think it does bring it to our  
5 consciousness more here in Colorado. But I'm looking at  
6 the gun violence that happens every day. And when we  
7 ignore that, and we just look at the tragedies, yeah,  
8 then we are just being emotional about it.

9           But, to me, this is about every single day  
10 that gun violence happens. And that's why I'm voting on  
11 this. And it has nothing to do with the emotional  
12 testimony that we had, as hard as it was to hear it.  
13 And even to hear Krista, who braved that and came out  
14 and spoke about that, this law wouldn't affect -- just  
15 as you talked about the people who were proponents of  
16 the bill, this -- her mother could have had a conceal  
17 carry weapon. This would not have affected her mother  
18 from getting that.

19           So I -- I think it's about the longer and  
20 everyday violence that happens with guns. It's not  
21 about these horrible tragedies that everybody in this  
22 room and everybody in this country is brokenhearted and  
23 crushed about. But it's about every day that we,  
24 because of guns and irresponsible people -- that's why  
25 this bill is really important to me. So I'm an eye

1 vote.

2 So I should remember my responsibilities,  
3 that passes on a three-to-two. Thank you so much.

4 UNIDENTIFIED SPEAKER: Thank you. And the  
5 motion was to appropriations, right?

6 THE CHAIRWOMAN: Yes.

7 UNIDENTIFIED SPEAKER: And thank you,  
8 committee, and to all the witnesses.

9 (WHEREUPON, the audio recording was  
10 concluded.)

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STATE OF COLORADO )

) ss.

CITY AND COUNTY OF DENVER )

I, Jana Mackelprang, Certified Realtime Reporter, Registered Professional Reporter, and Notary Public 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 the information provided; that the foregoing is a true transcript of the conversations; that I am not an 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 hereunto affix my hand and notarial seal this 24th day of June, 2013. My commission expires January 24, 2016.

\_\_\_\_\_  
Jana Mackelprang  
CRR, RPR, Notary Public  
Calderwood-Mackelprang, Inc.