

1 CITY AND COUNTY OF DENVER

2 STATE OF COLORADO

3 JUDICIAL COMMITTEE MEETING

4 Taken on March 4, 2013

5 HOUSE BILL 13-1229

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REPORTER'S TRANSCRIPT

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10 This transcript was taken from an audio
11 recording by Jana Mackelprang, Certified Realtime
12 Reporter, Registered Professional Reporter, and
13 Notary Public.

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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.