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HOUSE OF REPRESENTATIVES

HOUSE JUDICIARY COMMITTEE HEARING

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WEDNESDAY, JULY 17, 2013
10:30 A.M.

PRESENTATION ON
PENNSYLVANIA PROCEDURE FOR FIREARM BACKGROUND CHECKS

BEFORE:

HONORABLE RONALD S. MARSICO, MAJORITY CHAIRMAN
HONORABLE BRYAN CUTLER
HONORABLE SHERYL M. DELOZIER
HONORABLE DICK HESS
HONORABLE MARK KELLER
HONORABLE TIMOTHY KRIEGER
HONORABLE MIKE REGAN
HONORABLE TODD STEPHENS
HONORABLE THOMAS CALTAGIRONE, MINORITY CHAIRMAN
HONORABLE MATTHEW BRADFORD
HONORABLE DOM COSTA
HONORABLE MADELEINE DEAN
HONORABLE DEBERAH KULA
HONORABLE JOHN SABATINA

ALSO PRESENT (NOT ON COMMITTEE) :
HONORABLE BRENDAN F. BOYLE
HONORABLE CHRIS SAINATO
HONORABLE STEVEN J. SANTASIERO
HONORABLE RONALD G. WATERS

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CHAIRMAN MARSICO: Well, good morning, everyone. Welcome to the House Judiciary Committee public hearing on the issue of the procedures for firearm background checks in Pennsylvania, so welcome. I want to ask the members and staff to introduce themselves starting on my right.

Chairman?

CHAIRMAN CALTAGIRONE: Thank you, Mr. Chairman. Just for the record, I had eye surgery yesterday, so I have to avoid the glare and put the sunglasses on. But I want to thank the Chairman and his staff and members that are participating here today because I think this is a very important topic that we're going to be dealing with, and I do appreciate your skill and ability to put this together, to hold this. And I thank you.

(Whereupon, roll was taken.)

CHAIRMAN MARSICO: Well, thank you for being here, everyone, and just a few comments. I'm very pleased to say that we have a very topnotch group of testifiers here today to educate us about this issue. Those joining us are coming from across the political spectrum, and we invited each of you here to educate this Committee and the public on how firearm background checks are currently

performed in Pennsylvania and also to suggest possible improvements to the process.

We are not here to discuss any particular bill. Let me repeat that. We are not here to discuss any bill in particular. The Committee does not intend to get bogged down discussing any specific bills, merits or faults, but rather the Committee would like to just benefit from your insights about the issue in general.

Joining us today are Lieutenant Colonel Scott Snyder and Captain Scott C. Price of the Pennsylvania State Police; Joe Keffer, President of the Pennsylvania of Firearm Retailers; Shira Goodman, Executive Director of CeaseFire Pennsylvania; Francine Lobis Wheeler. Mrs. Wheeler is a Pennsylvania native whose 6-year-old son, Benjamin, was tragically killed at Sandy Hook Elementary School.

Ms. Wheeler is active with the advocacy group, Sandy Hook Promise. Jake McGuigan, Government Relations and State Affairs for the National Shooting Sports Foundation; Mayor Richard Gray and Mayor Geoff Henry of the organization, Mayors Against Illegal Guns; John Hohenwarter of the National Rifle Association, and Kim Stolfer and David Green of Firearm Owners Against Crime.

We welcome all of you and look forward to what I'm sure will be helpful and insightful testimony. A few

comments, note that we're being recorded today. Secondly, please silence all your cell phones; and also, I'd like everyone to know that the Committee will keep the record open after this hearing in order to receive written comments from other persons interested in this topic at a later point.

Our first testifiers today are Lieutenant Colonel Scott Snyder and Captain Scott Price of the Pennsylvania State Police.

Please join us and begin when you'd like to.

I just want to note that Representative Hess is here. Representative Hess just got here.

Welcome, Representative.

Welcome. Go ahead.

MR. SNYDER: Well, good morning, Chairman Marsico and members of the House Judiciary Committee. I am Lieutenant Colonel Scott Snyder, Deputy Commission of Staff with the Pennsylvania State Police. And with me today is Captain Scott Price, the Director of our Operational Records Division.

Thank you for the opportunity to appear before you to discuss the Pennsylvania Instant Check System commonly known as PICS. The federal Brady Act of 1993 mandated the establishment of the National Instant Criminal Background Check System commonly known as NICS. As allowed

by this act, all states are granted the authority to determine their own involvement with the NICS. States may choose to implement their own background check program, rely solely on the NICS or use a combination of both.

Pursuant to Pennsylvania General Assembly Act 17 of 1995 known as the Pennsylvania Uniform Firearms Act Amendment, the Pennsylvania State Police, or the PSP, was required to establish, maintain and operate an instantaneous background records check system used for firearms transactions.

The PICS became operational July 1st, 1998 and is housed within the Firearms Division of our Bureau of Records and Identification. It provides quick, reliable service and is charged with the significant responsibility of preventing prohibiting persons from acquiring a firearm, which at the same time, allowing timely clearance for lawful gun purchases, transfers and licenses to carry a firearm concealed.

The PICS conducts the records check utilizing an Interactive Voice Response system, or an IVR, that issues most approvals without operator intervention. Since its inception in 1998, the PICS has processed over 9 million calls for background checks, an average of over 625 thousand calls per year.

In 2012 alone, the PICS processed a record-high

1,028,113 phone calls. Consistent with that mission, the PICS manages a database containing information on Pennsylvania involuntary mental health commitments. This year, the PSP overcame long-time legal and technical impediments and delivered 642 thousand of these records to the NICS, closing a gap that might have allowed those with this type of prohibition from traveling to another state to purchase a firearm.

Pennsylvania is now one of the nation's most significant states in terms of the number of mental health record submissions to the NICS. Through its diligent work, the PICS has prevented thousands of prohibited persons from legally obtaining firearms. It's important to note that the PICS utilizes a number of databases and technology, some directly under control of the PSP and some outside of our control.

For example, it must interface directly with the NICS, the National Crime Information Center, as well as Verizon. Such entities sometimes experience service interruptions, which in turn, affect our operations. Further, our own systems may experience technical difficulties as well. These issues are inherent to complex networks.

Notwithstanding these issues, we believe our system provides exceptional service to the retail firearms

sales industry with downtime kept to a minimum and wait times averaging only 2.38 minutes for automated approvals. The legislature's initial crafting of the enabling statute provided additional protection to Pennsylvania citizens than that required by the national model.

For example, in the event of a failure of the NICS system to properly identify a prohibited person within three days of the attempted sale, the licensed firearm dealer could proceed with the sale, potentially creating a public safety risk. In 2012, the NICS Section referred 3,722 firearm retrieval actions to the Bureau of Alcohol, Tobacco, Firearms and Explosives.

Alternatively, if a person's status cannot be determined during the initial call utilizing the PICS, the PICS Instant Check Unit places the request in the delayed status for up to 15 days while they further investigate the record. Furthermore, Pennsylvania law allows a PICS check to be conducted on those we entrust with the safekeeping of a firearm that is taken from an owner as a result of a domestic violence incident.

Similarly, the PICS assists in performing a background check prior to returning a firearm which is seized or recovered as evidence in an investigation. These benefits are not available through the NICS. Additionally, federal standards exclude many criminal arrest records from

being entered into the FBI's Interstate Identification Index, due to insufficient fingerprint sample quality.

In Pennsylvania, despite the quality of these prints, the records are included into the more encompassing PSP Central Repository, therefore greatly increasing the likelihood of a denial to a prohibited person.

The Firearms Division actively assists in the capture of fugitives, is an important source for identifying and initiating investigations on suspected straw purchases, identifies false information on both state and federal firearms forms and aids in the solving of serious crimes. In 2012, the unit initiated 322 criminal investigations, which were forwarded to state, local or federal law enforcement for follow-up investigation.

Over the past ten years, PICS has been responsible for initiating 3,507 of these investigations, which have resulted in the successful arrest and prosecution of 1,428 subjects. Utilizing the PSP application record of sale form, which has been sent to the Department for decades, Firearms Division personnel were able to assist in solving countless crimes over the years including homicide, straw purchases and burglaries.

Moreover, this past year, the PICS unit was directly involved in the capture of 161 individuals with active warrants attempting to purchase firearms. Since its

inception, PICS has been responsible for the apprehension of 1,707 fugitives at the point of purchase. Customer service has always been paramount to the Firearms Division. In January 2012, a telephone survey was conducted, and 513 licensed firearms dealers representing small-, medium- and large-volume dealers from around the state were contacted.

The majority of dealers surveyed had used the PICS system for over five years, and more than 81 percent used it on a daily or weekly basis. Over 96 percent of the dealers related that they were satisfied with the PICS IVR phone system. The results also showed that over 70 percent of the dealers reported that they typically receive an automated response on a background check in less than four and another 18 percent in less than six minutes.

Regarding calls that are required to be researched by an operator, over 92 percent of the dealers responded that this transaction typically took less than ten minutes to complete, with over half reporting five minutes or less completion time.

Internally, these results can certainly be attributed to the fact that the PICS is staffed with the retail industry in mind, accounting for predicted high-volume dates and times such as those associated with scheduled large gun show events.

Experienced supervision is on site at all times

of operation and the command personnel are available by phone at virtually all times of the day to direct additional resources if necessary. It is not uncommon for the PICS commanders to be apprised of even the slightest interruption in service on weekends or holidays to work with the staff on a resolution.

These efforts are paying dividends based on the feedback recently received from some of the highest volume users of the PICS, who also happened to have been some of the PICS greatest critics in the past. Most importantly, I can assure you we have a particularly dedicated staff vested with a significant responsibility to not only be efficient, but also to ensure their research is thorough and correct so as not to compromise public safety.

To further improve service, we have recently increased our allotted telephone lines coming into the PICS from 72 lines to 96. Looking to the future, a project is underway to place the system onto a new Microsoft server-based platform. The goal is to bring this updated system online in the fall of 2013.

The system upgrade will provide retail firearms dealers and sheriffs internet access to request a background check. Dealers will also be able to submit forms and payment online. It will further allow mental health agencies the ability to send required information

electronically for more timely and efficient storage into the database and reporting to the NICS.

A separate initiative is underway with the Pennsylvania Justice Network and the Pennsylvania Sheriffs Association to have certain arrest notifications sent directly to the Sheriff for a determine of license to carry revocation. These upgrades were fully funded through a federal grant, and they represent the next generation of efficient service to our private and public partners.

In closing, let me state that when the Pennsylvania General Assembly directed the creation of PICS, it did so with the charge to protect public safety while also protecting the fundamental right of all law-abiding Pennsylvania citizens to keep and bear arms.

For the past 15 years, the Pennsylvania State Police has embraced these ideals and will continue to carry out its mandated duty and obligations to the benefit of all citizens of the Commonwealth. So once again, thank you for inviting me to appear before you, and I'd be happy to answer any questions.

CHAIRMAN MARSICO: Well, thank you for your testimony. I appreciate your presence here today and the information you provided to us. How many other states have their own, do you know, instant background check system? Any idea how many rely on just a national system? Do you

know?

MR. SNYDER: There are 12 or 13 point-of-contact states who handle the gun checks 100 percent through the state system.

CHAIRMAN MARSICO: Okay. So if I go in to purchase a firearm at a retail establishment, just walk us through this process again. I understand it, but just so the public knows that if I walk in to purchase a firearm, then what happens? What happens at the point of sale?

MR. SNYDER: I'm going to allow Captain Price to address that since he's an expert in the transaction business.

CHAIRMAN MARSICO: Okay.

MR. PRICE: Essentially when you go into a firearms dealer in Pennsylvania, first, firearms dealers are licensed federally, an FFL, as it's colloquially known, but they're also licensed by the county sheriff. So there are two licenses that a firearm dealer requires.

When you go in to purchase a firearm -- and I use firearm colloquially to refer to a gun because a firearm in and of itself has a specific definition within the Pennsylvania Uniform Firearms Act -- you essentially complete, in the case of a long gun purchase, you complete a federal form, which is an ATF Form 4473.

In the case of a handgun, you complete a second

form, which is the state record of sale form, and there are a multitude of questions on the federal form. Much of it is demographic identifiers and things of that nature, but there are also some questions which refer to past history of arrests, past history of mental health commitments and so forth.

Essentially you complete that form or those forms depending on the type of firearm that you're purchasing, and at that point, the dealer calls, the federally licensed dealer calls our PICS system and enters your driver's license number. There's an interface to PennDOT.

Once he or she enters the driver's license number, in actually 57 percent of the cases or 57.1 percent of the cases, they get an automatic approval number, which indicates that the individual is not a prohibited person, and the dealer may then transfer the firearm.

In the remaining 40 percent of the cases, that call may be transferred to an operator, and the operator will then do some additional queries and inquires of various databases and interpret various data to determine whether or not the transfer may be completed. Essentially, if an individual is not prohibited, then the transfer can be completed and they walk out of the store with the firearm that they purchased.

CHAIRMAN MARSICO: What happens if I don't have a driver's license?

MR. PRICE: Well, demographic data can be utilized. Normally, that's a call that would go to an operator.

CHAIRMAN MARSICO: Okay. So then if there are questions that are found or situations found where I'm not eligible for a firearm based on something, you know, some background checks, what happens then?

MR. PRICE: Essentially the dealer's advised that the approval or the transaction cannot be completed, and the dealer can't sell the firearm.

CHAIRMAN MARSICO: Okay. And if I have a record of some type, what happens then? Are the police notified then if I'm not supposed to be purchasing a firearm because of my background problems?

MR. PRICE: At that point, not necessarily. If there's a record of a warrant, for instance, as we said, a fugitive from justice, a wanted person, at that point, our PICS staff interacts immediately with the local law enforcement agency of jurisdiction.

If the individual is prohibited, then what happens is there are a number of criteria in place that are evaluated by our PICS staff and our PICS Challenge Unit, and the investigation is subsequently potentially referred

to a local police department for further investigation and potential prosecution.

MR. SNYDER: Plus, the individual does have the right to appeal the denial.

CHAIRMAN MARSICO: All right. Thank you.

Questions?

REPRESENTATIVE BRADFORD: Thank you, gentlemen. I just -- following up on your testimony about the different background checks that there are in place, there's been a lot of conversation understandably about the idea of a uniform or universal background check to make sure that every firearm purchase, regardless of what kind of gun, whether it's a gun show or from a licensed dealer, that there's a background check.

Can you kind of run down for me what the current state laws are in Pennsylvania in terms of what weapons are subject to background checks, which ones are not and just the interplay of the different laws as they affect these different systems?

MR. SNYDER: Any handgun purchased or transferred within the State of Pennsylvania must go through a licensed firearm dealer, any rifle that is purchased from a -- and they would have to undergo a PICS check. Any rifle or long gun purchase from a licensed firearms dealer would also undergo a PICS check. The

transfer of long guns between individuals within the state does not require a PICS check.

REPRESENTATIVE BRADFORD: So the only loophole, so to speak, is long guns not purchased from a federally licensed firearm dealer?

MR. SNYDER: That's correct.

REPRESENTATIVE BRADFORD: Okay. So that would be the only instance in Pennsylvania where a gun could be purchased at a gun show or something like that where there would not be a background check performed?

MR. SNYDER: That's correct. If it's purchased from a licensed firearms dealer at a gun show or anywhere, there is a PICS check conducted; but if it's between individuals, there is not.

REPRESENTATIVE BRADFORD: From a -- you've kind of gone through kind of the improvements that you've made to the system. Is there any reason from a feasibility standpoint that operationally, the system would be overwhelmed if those additional portions of the firearm market were put into background checks?

Could you handle that -- there's a bill, as you may know, currently-pending House Bill 1010, that tries to close that loophole. Is there any reason to believe that the current system could not handle those additional background checks?

MR. SNYDER: And that's a difficult question to answer because we don't know what the volumes would be for those kinds of transactions. We don't know how frequently that is occurring, if it's a great number or, you know, what level of occurrences that's happening.

REPRESENTATIVE BRADFORD: I guess then, if we have no idea of how many guns are being transferred without background checks, I guess that one just raises kind of an alarm bell that there are guns being purchased without a background check in volumes that we frankly don't know.

Do you believe that number would be quite large? I mean, I know it's asking you to put an estimate on something you said you don't have an exact number on, but do we suspect that that is an overwhelming number, that it's a small number of transactions?

MR. SNYDER: I would hesitate to speculate at any number of transactions because we just don't know how frequently it occurs.

REPRESENTATIVE BRADFORD: And from obviously the highly regarded State Police, whose opinion matters a lot in terms of public policy and public safety, from a policy standpoint, does the State Police have an opinion on whether we should be closing that loophole?

MR. SNYDER: Well, I mean, conceptually, it might sound like a good idea, and if a bill is presented,

we'd be happy to review it and explore it and work with the legislature to evaluate any proposed legislation.

REPRESENTATIVE BRADFORD: To date, you have not been asked to evaluate House Bill 1010 or any other bill that would close that loophole?

MR. SNYDER: It hasn't risen to my level at this time.

REPRESENTATIVE BRADFORD: Okay. I will -- I know the Chairman wants me to yield back, and I'll be glad to do that. I would just ask, if you would -- I know the prime sponsor would love to present you with that and get the feedback of the Department to make sure that happens.

CHAIRMAN MARSICO: Thank you, Representative Bradford.

Representative Keller?

REPRESENTATIVE KELLER: Thank you, Mr. Chairman.

My question concerns the fact that an individual has obtained a permit to carry. Why then does that individual need to have, if he goes, or she goes and purchases another gun from a licensed dealer, why is there a background check needed because there's also already a background check done on the permit to carry?

MR. SNYDER: Well, because first of all, the law requires it, and I guess there would be a question as to how long ago maybe that background check was completed for

the license to carry. Certainly, the license to carry is renewed every five years, but the law does require that a PICS check be conducted for the purchase or transfer of every firearm.

REPRESENTATIVE KELLER: But doesn't the law also say that you cannot obtain a permit to carry unless -- you know, if you violate the law, the sheriff or whoever issued the permit is to reject that permit. So if I can't produce that permit, that means that I need to have a background check.

MR. SNYDER: Well, the permit that's issued by the sheriff is a complete separate process from a purchase or transfer of a firearm.

REPRESENTATIVE KELLER: But it's the same background check?

MR. SNYDER: Well, a PICS check is part of that background check. There could be a number of other reasons perhaps that the sheriff might choose to deny an application for a license to carry above and beyond the PICS check.

REPRESENTATIVE KELLER: Well, we're not talking about denying. I have in possession a permit to carry. I go to a dealer to buy, purchase a firearm. By producing that permit that I have, the documentation, why then do I need to do a PICS?

MR. SNYDER: Well, because the law requires it, sir.

REPRESENTATIVE KELLER: So you're telling me we need to change the law?

MR. SNYDER: We can only abide by what is in the law, sir.

REPRESENTATIVE KELLER: Okay. I understand, but you see what I'm getting at?

MR. SNYDER: Yes, sir.

REPRESENTATIVE KELLER: I've already went through a check as an individual for a carry permit. If the sheriff denied it, then there was a reason for denying it. If I have one in possession -- and as I read the law, it also says that if I obtain or have that permit in my possession, that means that I still have a clear record.

In the event that something happens, whether there was -- if I violated the law, is it not the requirement of the issuing agent, which is the Sheriff's Department, to go retrieve that from that individual?

MR. PRICE: Sir, if I could -- and we know -- conceptually, I understand what you're saying. We know, however -- and that's part of what we mentioned, what Colonel Snyder mentioned in the testimony relative with

linking the license to carry system through JNET to AOPC to accomplish or to establish conduit to notifications of the sheriffs issuing the permit of arrest.

That doesn't occur right now, so if an individual is potentially arrested and the arresting police officer, such as it were, doesn't take the extra step to inquire with the individual if he or she has a license to carry, we know that that's an imperfect notification process.

So there is a time lag between when that permit may be issued and if there is an arrest of an individual or a conviction of an individual, when the sheriff is notified and actually revokes the physical permit, and that's the concern.

REPRESENTATIVE KELLER: So that's something we need to address to remedy that problem, that if the arresting officer doesn't follow through, we should have something maybe in the form that says just that, and that's lacking. That's what you're telling me?

MR. PRICE: There are a number, I think there are a number of areas where that notification process isn't perfect. There is something in the law which requires, upon conviction of a prohibiting offense, that a judge fills out a particular form and makes notification to the sheriff.

Again, none of that is automated. It's imperfect. There's a time lag, and so conceivably, a person could become prohibited. And until the sheriff gets notification and then physically finds the individual and revokes the permit, again a time lag; wherein, during that period, an individual could purchase a firearm, that's one of the issues that I think exists.

REPRESENTATIVE KELLER: Okay. All right. Thank you very much.

Thank you, Mr. Chairman.

CHAIRMAN MARSICO: Representative Krieger is here, and I think he has a question.

REPRESENTATIVE KRIEGER: Thank you, Mr. Chairman. I know the time is late. I have several questions, but I'll try to pick the one that seems most appropriate.

Thank you, gentlemen, for testifying. And one of the most, one of the more controversial portions of the Uniform firearms act is the record of sale and the PSP's maintenance of the record of sale. Could you describe for us how the State Police uses that data in the record of sale?

MR. SNYDER: The record of sale information is used specifically to further criminal investigations.

REPRESENTATIVE KRIEGER: How? I mean, could you

describe in more detail?

MR. SNYDER: Well, for example, if a weapon is --

MR. PRICE: I solicited our various troop commands for specific instances of which the record of sale was useful in criminal investigations. For example, in one particular incident, it was a homicide investigation, and in fact, there were a number of suspects interviewed and a number of suspects eliminated.

However, ultimately ballistics proved that the particular weapon used in that crime was somewhat unusual. It was a 32 H&R Magnum, relatively unusual weapon. A query of the record of sale database was made, and it was determined that one of the suspects who had been eliminated, in fact, Herb Paramore (ph) had a 32 H&R Magnum of a type consistent with the particular homicide weapon, a registered, or it was in the record of sale database.

They then went back to that suspect, the female individual with that information, and elicited the confession and ultimately made an arrest in the homicide case. So there are any number of instances where we can site very specific situations that they aided in solving a crime, particularly homicides and significant crimes.

Beyond that, in many instances, guns are

returned to us. Individuals -- guns are lost and returned to us, and in some instances, we can assist in getting the gun back to its rightful owner through a query of the record of sale database.

So it not only provides, I believe, a valuable investigatory tool -- and I will say all of our troop commands solicited echoed that sentiment, that they believed it was a valuable investigatory tool, but it also serves as, in some instances, a public service in returning lost or potentially stolen recovered weapons.

REPRESENTATIVE KRIEGER: If I could ask just one follow-up, do you keep a record of how often queries are made of that record of sale database, and if so, can you give us an idea of the numbers?

MR. PRICE: I don't have that information.

REPRESENTATIVE KRIEGER: Is it available?

MR. PRICE: I don't believe so.

REPRESENTATIVE KRIEGER: Thank You,
Mr. Chairman.

CHAIRMAN MARSICO: Representative Dean?

REPRESENTATIVE DEAN: Thank you, Mr. Chairman.

And thank you, gentlemen, for your testimony today providing us information on our background check system. And it's impressive, the statistics, the data, the short wait times. I was on the phone with Comcast over the

weekend, and I waited 36 minutes one call, 47 minutes another call just to try to get cable.

But so it's impressive, your statistics. So I understand also the thoroughness of our background check system versus where are there any gaps. It seems to me the obvious gap in background checks system for the transfer of guns, of course, is the illegal transfer of guns. That we can't capture. We know that. The other exception to the background checks is this long gun exception, and so -- and that has to do in private sales, gun show sales. Am I correct with that?

MR. SNYDER: Private transfer of long guns between individuals.

REPRESENTATIVE DEAN: Right. And by long guns, we're talking about rifles, but we're also talking about semi-automatic weapons, AR-15s. What are some of the other eligible long guns under our statute, you know, anything with revolver, barrel more than 15 inches as I read it. What are some of those other kinds of weapons that can transfer without a background check?

MR. PRICE: Well, any -- if a shotgun, for instance, or if a rifle has a barrel shorter than 16 inches or if a shotgun has a barrel shorter than 18 inches, they are defined as firearms, hence they would require a background check. So, you know, you may have a Remington

700 Bold Action rifle with a 22-inch barrel.

That's a long gun. You may have a Remington Model 3200 Over and Under shotgun with a 32-inch barrel. That's a long gun. That can be transferred. As you mentioned, AR-15s generally have barrel lengths anywhere between 16 and 20 inches. It's a rifle, just as a Bold Action rifle would be. And that would be a long gun, which could be transferred, again, between private parties; not by a dealer at a gun show, but strictly between private parties, one private sale to another.

REPRESENTATIVE DEAN: And at a gun show, for example, private sales, even though handguns -- and maybe you could explain this just as the Chairman asked you to walk us through the transactional piece of this. At a gun show, handguns have to go through background checks. Is that correct?

MR. PRICE: That's correct.

REPRESENTATIVE DEAN: How does that work at a gun show?

MR. PRICE: There's no -- I think there's a misnomer because of the somewhat -- it's become kind of a colloquialism, the gun show loophole, and that term has been bantered around a lot. The regulations in Pennsylvania at a gun show are no different than anywhere else, so if a dealer is operating from a gun show, he or

she must perform the PICS check on any firearm that they sell.

Having said that, if two individuals meet at a gun show and one has a rifle for sale, he may sell it to the other individual without benefit of the background check, as he could do, you know, at his home. That's not restricted. But the fact that it occurs at a gun show, the point of occurrence, so to speak, doesn't change the law in Pennsylvania. If it's a dealer transaction, everything requires a check.

REPRESENTATIVE DEAN: Absolutely. And a gun show, as you say, it could be, that misnomer, it could be privately at someone's home. But certainly at gun shows, there are a lot of private individuals who are not federally licensed firearms dealers transacting business selling rifles, but also we're talking about assault weapons.

That can happen too at a gun show, a private individual, private individual, sell an assault weapon, no background check needed because of this gap in the law. Am I right about that?

MR. PRICE: That's essentially correct.

REPRESENTATIVE DEAN: Okay. Thank you very much.

CHAIRMAN MARSICO: Representative Cutler?

REPRESENTATIVE CUTLER: Thank you, Mr. Chairman.

Thank you, gentlemen, for your testimony this morning. I certainly appreciate the explanations that you have provided. I actually wanted to follow the line of questioning that Representative Bradford and Dean had done and just to make sure that I understand it as well. You've said that really the genesis of the sale, whether it's privately at home or at a dealer, the law's consistent regardless of where that takes place.

My question is this: Would that also include internet sales then? You know, you buy a gun off of gunbroker.com and you're going to have it shipped into the state. Wouldn't you, if it's a -- let's say it's a handgun, in your example, you would have to then ship that too an FFL dealer and then go through the normal background check. Do I understand that correctly?

MR. SNYDER: That is correct. An internet purchase must be shipped to, if it's a handgun or a firearm, must be transferred to a licensed dealer within the state to purchase.

REPRESENTATIVE CUTLER: Okay. Thank you. And then one other question, slightly off the transactional piece, but certainly involves you and your background, do you keep any kind of data in regards to what the internal cost for the Pennsylvania State Police per transaction and

what it costs in time, manpower, resources in order to effectuate that background check? And then I guess the follow-up is, does the fee cover that cost for you as an organization? Thank you.

MR. SNYDER: I don't have the individual, the cost per transaction. It costs us approximately \$5.9 million to support our Firearms Division a year. The fees cover approximately 50 percent of that.

REPRESENTATIVE CUTLER: Thank you. I'll follow up privately and get the specific data year-by-year. Thank you.

CHAIRMAN MARSICO: Representative Stephens?

REPRESENTATIVE STEPHENS: Thank you, Mr. Chairman.

And thank you both for being here. I certainly appreciate your testimony, and thank you also for working to get that mental health information into the national database. I know it may have been a thorn in some sides along the way, but I certainly appreciate your efforts in working with us on that.

Along those lines, how often is that data being transferred moving forward? I know that you did kind of the bulk, what I'll call the bulk dump of data back, I guess, in January. In terms of your own policies and protocols, how often will that be occurring? How quickly

is that data getting to the national database, and will you continue it, whatever that rate is, moving forward?

MR. SNYDER: Yes. We upload the information to the NICS nightly, so it happens on a daily occurrence. And we receive about 32 hundred a month.

REPRESENTATIVE STEPHENS: 32 hundred involuntary commitments a month?

MR. SNYDER: Yes, sir.

REPRESENTATIVE STEPHENS: And that information is going nightly?

MR. SNYDER: Yes.

REPRESENTATIVE STEPHENS: That's terrific. Thank you for that. And do you -- and I know that you're currently not required to do this legislatively. Internally, I mean, is that -- I mean, how -- can you assure me that that's going to continue occurring and continue occurring at this rate?

MR. SNYDER: As long as the NICS continues to accept them, we will continue to send them. It was a goal that we have strived to achieve for several years, so we're very grateful that we're able to accomplish that and be able to submit those on a regular basis.

REPRESENTATIVE STEPHENS: I appreciate that. Thank you very much. Along those lines, can you describe for us some of the differences, or really some of the data

that might be obtained through NICS -- I'm sorry -- through PICS that is not available through NICS, you know, some -- if you could just kind of break that down for us.

I know that, I guess you mentioned about a dozen states or so are utilizing their own system, and I'm just trying to gain an understanding, thorough understanding of what information is available to those retailers who are conducting those background checks in Pennsylvania by using the PICS system as opposed to the NICS system.

MR. SNYDER: Well, at least as far as Pennsylvania is concerned, our PICS hits on a number of different databases, and many of them are separate, distinctly different databases. Some of the information we can upload to NICS, like the mental health records.

Some NICS will not accept because the standards within Pennsylvania are not the same as the requirements that NICS has established. For example, many PFAs, NICS has a requirement for certain fields to be completed before they will accept a PFA in the national system.

Pennsylvania does not have that specific requirement, so currently there are about 1,570 PFAs that are accessible only through a NICS query --

REPRESENTATIVE STEPHENS: I'm sorry. 1,570?

MR. SNYDER: Yes.

REPRESENTATIVE STEPHENS: Okay.

MR. SNYDER: -- available only through a PICS query and not acceptable through a federal database. I talked about rejected fingerprint records for criminal history arrests.

REPRESENTATIVE STEPHENS: Could you elaborate on that a little bit? As a former prosecutor, it's a little troubling to me that some conviction records may not be available through NCIC.

MR. SNYDER: It is troubling understandably. There are thresholds for acceptance of fingerprints that are submitted to the FBI. Now, please understand, fingerprints are still submitted through ink prints, ink print cards, which are not, clearly not as efficient as a live scan submission, which is an electronic submission.

So all of the fingerprint submissions come through our AFIS system. We kind of enhanced them as best we can before we submit them to the FBI. However, approximately 2 percent of them get rejected on a regular basis. Those rejected prints are typically sent back to the submitting agency to acquire a more acceptable print.

We're not sure the frequency of resubmission that occurs and acceptance, but the numbers are troubling. And those criminal history records do not, are not contained within the National Triple I System.

REPRESENTATIVE STEPHENS: Could you -- you said 2 percent are rejected. Can you -- are you able to -- and I don't mean to put you on the spot. Are you able to give me a number on that to quantify that over just a year's time how, I mean --

MR. SNYDER: It's approximately 4 to 5 hundred a month.

REPRESENTATIVE STEPHENS: 4 to 5 hundred a month are rejected?

MR. SNYDER: Yes, sir.

REPRESENTATIVE STEPHENS: And so does the State Police -- and I'm not suggesting you should by this question. I'm just asking whether you do. Is there a tracking system to determine whether or not those agencies who submitted the inadequate fingerprints are following up to get adequate fingerprints and submitting them?

MR. SNYDER: There is not. We just don't have the resources to do that. And please understand. This isn't a situation that's unique to Pennsylvania alone. This happens to every state in the nation.

REPRESENTATIVE STEPHENS: Right.

MR. SNYDER: As a matter of fact, we made a query, and we're about middle of the road as far as the percentage of rejections from the FBI. So it's not unique

to Pennsylvania.

REPRESENTATIVE STEPHENS: Do you have it by agency, those agencies with outstanding inadequate fingerprint records? Because while I understand your level of resources may be strained, perhaps maybe some public awareness about which agencies are not following up and getting those fingerprints done properly would be helpful.

MR. SNYDER: Yeah. And we are exploring that. For the last couple years now, the State Police have been working closely with, like, the PA Chiefs Association and PCCD with a fingerprint compliance group.

And the main objective of that group was to increase fingerprint submissions initially because there were many criminal arrests being made, and the fingerprint submissions were not being sent to the State Police. And, of course, a criminal history record does not exist without a fingerprint submission.

So we've been working closely and have made great success in increasing the number of submissions, and now we're working toward increasing the quality of those prints to be submitted. And please understand that the Pennsylvania State Police accept these prints. We believe that it's better to have a bad set of prints and get the records in the file rather than to reject them.

REPRESENTATIVE STEPHENS: So do you have a

listing by agency of those with outstanding inadequate fingerprint records that you could get to us? I'm not saying now, but, I mean --

MR. SNYDER: I don't know. I'd have to check on it.

REPRESENTATIVE STEPHENS: Okay. I'll follow up. Again, I appreciate all your help today and all the information. Thank you very much.

MR. SNYDER: You're welcome.

CHAIRMAN MARSICO: Thank you very much. Just one more follow-up to that, as far as NICS and your communication with them, do you have any problems or delays at all with that system as far as trying, obviously trying to get information? Do you have any problems at all?

MR. SNYDER: Well, we have a great relationship with the folks that work with the NICS. Certainly that's an IT system as well, and they have --

CHAIRMAN MARSICO: But everything's pretty timely as far as what you're asking for from them?

MR. SNYDER: Yes, sir, for the most part. I mean, sometimes they have delays or they're down for either scheduled or unscheduled reasons.

CHAIRMAN MARSICO: Okay.

MR. SNYDER: But for the most part, we have a fairly prompt response from them.

CHAIRMAN MARSICO: Okay.

MR. PRICE: Sir, and to just follow that, the salient point there is NICS is sometimes down, and our down times are always going to be greater than NICS because their down time is included in our down time because we hit the NICS database as one of our queries.

CHAIRMAN MARSICO: Right.

MR. PRICE: So when you look at down times and system down times, out-of-service times, we know -- it's a fact of life -- we are always going to be higher than NICS because NICS is one of the queries we do.

CHAIRMAN MARSICO: Okay. Any other questions?

Okay. Seeing none -- well, let me -- Representative Boyle, one more question?

REPRESENTATIVE BOYLE: You can't see me because I'm behind the table here, but first I want to thank both chairmen for allowing me to sit in on this hearing. I'm not a member of the House Judiciary Committee, but this is a subject I've spent a great deal of time on and certainly appreciate the ability to participate.

I just wanted to highlight two things from your testimony and hoped you could expand upon, especially for those that who might think our background system is somehow some extra or undue burden. You mentioned that you

actually went to the trouble of surveying the dealers, the gun shop owners, and the studies showed that 96 percent approved of the PICS system. Is that correct?

MR. SNYDER: Yes, sir, as far as the IVR is concerned and their satisfaction with the process.

REPRESENTATIVE BOYLE: I think a 96 percent approval rating is something all of us in elected office would be quite happy with. In terms of those situations where the operator had to do a little bit more research, the vast majority of those were resolved in less than 10 minutes. Isn't that right?

MR. SNYDER: That's correct. I mean, there are certain circumstances. Each situation is different depending on the individual's position and how much research might be required to rectify the situation.

REPRESENTATIVE BOYLE: Well, thank you. It seems like a very efficient system, and certainly for the 1,707 criminals that we caught through this system, thank God it was there. Thank you.

And I want to thank both chairmen again.

CHAIRMAN MARSICO: Well, yes, thank you very much. I appreciate it. This has been very, very helpful I know to me and members of the Committee, your time and what you've done being here. We took a lot of time, and we have a lot more testifiers to hear from. So, once again, we

thank you and appreciate what you guys do. Thank you very much.

MR. SNYDER: Thank you so very much.

CHAIRMAN MARSICO: Our next testifier is Joe Keffer. Joe is the President of the Pennsylvania Association of Firearms Retailers. Joe, welcome and thank you for coming, and you may begin when you're ready.

MR. KEFFER: Good morning.

CHAIRMAN MARSICO: Good morning.

MR. KEFFER: Mr. Chairman, members of the Committee, I appreciate the opportunity to appear here today. My name is Joe Keffer. I am the President of the Pennsylvania Association of firearms Retailers.

I am a business owner and a licensed firearms dealer as well as being a representative of the interest of my fellow firearms dealers in the State of Pennsylvania.

Beginning in 2008 and continuing through today, the firearms industry has experienced unprecedented growth. The last six months in particular have been unbelievable for most dealers across the country in terms of the volume of business that has been done.

The limits have been tested at all levels. Manufacturers, distributors, retailers, NICS and certainly PICS have all struggled to meet this surge of growth. The amount of time required to purchase background checks

during some of the peak periods, in December, January and February, ran as long as 55 minutes.

Many retailers, myself included, had to expand the number of people doing checks by a factor of two or three in order to try to keep the process moving for our customers. There were times where our checks were on hold for 30 to 40 minutes just waiting to speak to an operator, and this was typical comments from dealers throughout the state. Please do not think that we expected PICS to flow as normal.

No one was prepared to absorb this level of increased business. Captain Price and his people have worked diligently and continue to do so in an attempt to process these checks in timely paces, and we thank them for their efforts. However, in discussions with dealers in states that utilized NICS alone, they did not experience anything like the increase in delays that we had through PICS.

It would seem that, for whatever reason, NICS was better positioned to absorb the increased volume. From our perspective, it seems like the duplication of efforts, expense and manpower does not translate into the most efficient method of accomplishing the task that we all strongly support, that being preventing prohibited individuals from obtaining firearms.

In closing, we respectfully request that the need to duplicate this process at the state level be examined closely and then acted upon those findings. I thank you for allowing me to speak with you today.

CHAIRMAN MARSICO: Thanks, Joe. I appreciate your testimony and your help with this. You know, I've talked with a number of retailers and dealers in this area. They have complete opposite than what you're saying as far as problems with PICS. They're saying they've had delays with NICS, and so I just wanted to point that out as well. I mean, this is from some of the retailers in this area. I know it's a problem with both, delays, so --

MR. KEFFER: I'm not sure I understand. Since we function through the State Police as a point of contact exclusively, how would dealers in Pennsylvania have a problem with NICS?

CHAIRMAN MARSICO: I believe probably what they were referring to was that the State Police have mentioned to them that they were held up because of the NICS system.

MR. KEFFER: Certainly that occurs from time to time, yes. We meet with the State Police on a regular basis to discuss issues of importance to both of us. We like to think we're on the same side, in that we do not want prohibited individuals to get firearms.

We try to explain the issues that are giving us

trouble with our businesses in the context of that process. NICS has not been presented to us by the State Police as a major issue with regard to the delays that we've experienced.

What I was referring to was dealers that I know and meet with from across the country that I have asked them what their experience has been with NICS through this. They said maybe from 5 minutes to 15 minutes, but nothing like what we've experienced.

CHAIRMAN MARSICO: Okay. Thanks.

Any questions from members?

Representative Krieger?

REPRESENTATIVE KRIEGER: Thank you,
Mr. Chairman.

Thank you, Mr. Keffer, for being part of this hearing today. First, could you tell me, how many retailers are members of your association?

MR. KEFFER: At present, we have just over 4 hundred that are signed members.

REPRESENTATIVE KRIEGER: And I heard your testimony. I've heard some of the same things you've heard, the long delays. And you mentioned some of the delays in December, January and February ran as long as 55 minutes.

Now, you heard the State Police testimony that

they did a telephone survey and 96 percent of the surveyees were satisfied. Can you harmonize what you're hearing with that survey result if you can?

MR. KEFFER: Well, I'm not familiar with that survey. I don't recall having seen it. It may be on the State Police website. I'm not aware of any dealer that was surveyed. I'm not saying it's not accurate. I'm just not familiar with it.

REPRESENTATIVE KRIEGER: If you can -- and if you can't, I understand -- based on your experience, does that sound like an accurate number to you?

MR. KEFFER: Of the dealers that I speak with, that would not be consistent.

REPRESENTATIVE KRIEGER: Thank you,
Mr. Chairman.

CHAIRMAN MARSICO: Representative Bradford?

REPRESENTATIVE BRADFORD: Thank you, Chairman. Just following up on Representative Krieger, you had given the number of your members. Would all of your members also then be federally licensed firearm dealers as well?

MR. KEFFER: Yes, sir.

REPRESENTATIVE BRADFORD: Okay. So every firearm sold by one of your members is already subject to a background check?

MR. KEFFER: Yes, sir. That is correct.

REPRESENTATIVE BRADFORD: Okay. So any legislation proposed to close loopholes, would in no way, in terms of closing the loophole in terms of assault weapons, long weapons, that doesn't affect your business at all, those --

MR. KEFFER: Your definition of loophole is private transfer?

REPRESENTATIVE BRADFORD: Yes, because all of your members are federally licensed.

MR. KEFFER: That would not affect our operation of our business. That's correct.

REPRESENTATIVE BRADFORD: Okay. Thank you.

CHAIRMAN MARSICO: Representative Cutler?

REPRESENTATIVE CUTLER: Thank you, Mr. Chairman.

Thank you, Mr. Keffer. I appreciate you coming up this afternoon to share your testimony. I'm going to actually take off a question that I had previously in regards to the State Police. I understand the internet sales are, in fact, under Pennsylvania law, treated the same as any other sale.

Is that something that you individually in your shop or any of your other shops, is that something that happens frequently, where you have guns shipped from out of state that then have to be transferred through a licensed dealer in PA, and do you keep any records in regards to the

volume of those transactions?

MR. KEFFER: We receive transfers of very few firearms from other dealers. It's something that we do not encourage. Some dealers do seek that out as a way to get a new person in the store. Our evaluation of that is that we have had an inordinate amount of time involved with those kinds of transactions, and we do not seek them out.

REPRESENTATIVE CUTLER: All right. Thank you. But it is also your understanding then that the same laws, in fact, do apply for those kinds of sales --

MR. KEFFER: Absolutely.

REPRESENTATIVE CUTLER: -- if that were the mechanism you were to purchase your firearm?

MR. KEFFER: Absolutely. That is correct.

REPRESENTATIVE CUTLER: Thank you.

CHAIRMAN MARSICO: Representative Dean?

REPRESENTATIVE DEAN: Thank you, Mr. Chairman.

You've described to us that business is on the rise, dramatically on the rise for your industry. Is that correct?

MR. KEFFER: That is correct.

REPRESENTATIVE DEAN: And so associated with that -- or maybe the delay was always there, but you're seeing also an increase in delays, not always for the background, the PICS system, but sometimes you have these

longer wait times?

MR. KEFFER: That is correct.

REPRESENTATIVE DEAN: Are your members losing customers as a result of that?

MR. KEFFER: Some claim to, yes.

REPRESENTATIVE DEAN: Although your business is really surging as you described, so it seems to me it's not a great deterrent.

MR. KEFFER: Well, I would cite an informal telephone conference call among a number of dealers across the country, including big box stores that have stores in multiple states, and one of the largest made the claim that the problems that they had with PICS system was affecting their bottom line significantly as opposed to what they experienced in other states.

REPRESENTATIVE DEAN: So people leave and don't buy a gun? Those who wanted a gun leave?

MR. KEFFER: We've had that occur, so, yes, that does happen.

REPRESENTATIVE DEAN: And we're not sure if it's because of the delay or for some other reason perhaps?

MR. KEFFER: Well, we can't know that. That's correct.

REPRESENTATIVE DEAN: All right. And to follow up on Representative Bradford's question, if Pennsylvania

were to change our legislation and close the one loophole, what we're calling a loophole, it wouldn't affect your business and, in fact, it might positively affect your members' businesses because those private transactions would need to go and be with a licensed, federally licensed dealer?

MR. KEFFER: It would not impact our business one way or the other.

REPRESENTATIVE DEAN: But it might actually increase your business? It might bring more people into our stores?

MR. KEFFER: I suppose that's a possibility, yes.

REPRESENTATIVE DEAN: Okay. And you talk about the benefits of NICS in terms of speed, but we heard testimony from the State Police showing us that PICS actually has some other extraordinary benefits for capturing and identifying people who should not have guns. You're not here to dispute those benefits, are you?

MR. KEFFER: I don't -- I'm not privy to what other checks they do that NICS does not do.

REPRESENTATIVE DEAN: I'm just referring to the testimony. Maybe you weren't in the room, but the testimony we just heard from the State Police in terms of the number of criminal investigations the PICS system has

initiated.

MR. KEFFER: I heard that. I can tell you that I was down at the Department of Justice at a meeting. The NICS system was part of the conversation there, and we had an informal discussion after the meeting. And one of the people from NICS who I spoke with, I said that PICS makes the claim that their checks are more thorough than what NICS checks are. And the response I got was one that you would not interpret as agreeing with that statement.

REPRESENTATIVE DEAN: Even though the testimony that we just heard is contrary to that, and the numbers that they offer us is contrary to that?

MR. KEFFER: That's correct.

REPRESENTATIVE DEAN: Thank you very much for your testimony, Mr. Keffer.

CHAIRMAN MARSICO: Any other questions?

I would like to recognize Representative Santasiero from Bucks County. I appreciate you being here.

I know that Representative Boyle asked a question as a nonmember of the Committee, so we'll allow you to ask a question at your discretion.

Okay. Any other questions?

That's it. Thank you very much for your time and being here. I appreciate your insight. Thank you.

The next testifier is Shira Goodman, Executive

Director of CeaseFire of Pennsylvania.

Welcome. You may begin.

MS. GOODMAN: Thank you, Mr. Chairman, and thank you to both Chairman Marsico and Chairman Caltagirone and the whole Committee for being here today. I think we can agree that even so far, it has met the objective that you stated about educating us. And I had two main points that the Committee has in my testimony that I'd like to talk about, but because Commissioner Snyder was so thorough, so I can just briefly talk about PICS.

And I'll focus on the other part because, in fact, much of my testimony quoted prior testimony that he had offered to another committee of this body two years ago, and he's updated those numbers and I think has made a very compelling case for why PICS is so important.

CeaseFire Pennsylvania is a coalition of mayors, police chief, faith leaders and community organizations and individual Pennsylvanians taking a stand against gun violence. We're the largest gun violence prevention organization in Pennsylvania.

We engage in education, coalition building and advocacy with the goals of reducing gun violence, stopping the flow of illegal guns into our communities and keeping guns out of the hands that should not have them.

Pennsylvania suffers more than 13 hundred gun deaths a

year. The problem is not limited to our large urban centers.

We're here today to urge the Committee to consider and support measures that would further strengthen and improve what is already acknowledged to be a good background check system and to reject any measures that would strip it of its effectiveness. So our two points are, 1, to maintain PICS as a way that keeps Pennsylvania safe; and, 2, to expand the background check system to cover the one loophole we have, the private sale of long guns.

Again, as I noted, I think that the State Police testimony about PICS and how it's been a highly effective system to prevent prohibited purchasers from obtaining firearms is very compelling.

Especially, I'd also like to echo Representative Stephens and congratulate the State Police and the Governor for uploading those 642 thousand missing mental health records earlier this year that really took Pennsylvania from being one the bottom states, where only one record had been uploaded prior to that time, to one of the most compliant states that keeps not only Pennsylvanians safe, but other states who use only the NICS system.

They now know about those 642 thousand and growing numbers every day of people who have been

prohibited purchasers because of mental health history in Pennsylvania. That keeps us safer. We are thankful that we're doing that, and we hope that will continue along the lines that Commissioner Snyder.

I also think that the data that he offered about the benefits of PICS is compelling and should show that this is a system that works for Pennsylvania. It does include records that NICS does not. It does offer procedures in case somebody is on a prohibited hold. Rather than a sale going through in three days, it's put in an undetermined status. And that person has the right to challenge it, but the gun is not sold until a fair determination is made.

It also offers an easier way for people who have been denied the opportunity to purchase a firearm to challenge it, unlike NICS, which places the burden on the challenger. PICS puts the burden of proof on the State Police, and that is something that is a fair process for people who want to buy firearms in Pennsylvania.

It has assisted in the capture of hundreds of fugitives. It helps in domestic violence cases because somebody with an active PFA, a protection from abuse order, tries to buy a gun and is prohibited, PICS personnel can inform local police that a prohibited purchaser, somebody with a PFA, is trying to buy a firearm.

It works. Law enforcement relies on it as a critical tool to keep firearms out of the hands of people who should not have them, and it assists law enforcement and other aspects of their all-too-difficult jobs. We should be proud of PICS. It was a good decision when the different stakeholders came together and decided to make Pennsylvania a point-of-contact state.

We hope that this Committee will work to maintain it and appropriate the necessary funding to ensure it can operate at full capacity. And on that, I think the fact that, as Representative Bradford and Dean brought up, we don't know what an expansion would do to PICS.

But we do know, from the improvements that Commissioner Snyder talked about, that PICS has met every challenge that has been thrown its way. It is keeping up with the increased burden, especially that we saw in late 2012 and 2013. This is a system that's working and should be maintained to keep us safe.

The other issue I want to talk about is the one loophole we do have here. I will admit, although my organization is often talking what we can and should do to make Pennsylvania's gun laws stronger -- and we think there are many such things -- we think we have -- certain aspects of our system are a model for other states.

The requirement that all handgun sales go

through a background check, that's something that not other states have, and they should. But there's no reason to not go that extra step and say that those other private sales of long guns between private purchasers, as the Commissioner talks about, wherever that is; whether that's at a gun show, whether that's at somebody's home, whether that's people meeting in the classified ads and then going to meet somewhere to do the transfer, they should be covered as well.

We know that long guns are just as deadly as handguns, and they should be subject to the same background check procedures. Background checks work. They prohibit purchasers at the national level and at the state level, and that's really what the whole goal of background checks is, to make sure that people that we all agree should not have guns because of something in their criminal history or their mental health history, that they don't get guns.

And we know it works, and I know that one criticism is that people who try to get guns inappropriately aren't always prosecuted. It looks like in Pennsylvania, many of those cases are, in fact, recommended for prosecution. But the figure that I would say is more important, although we would like to see stronger enforcement even there, is that those guns aren't sold.

We know that people who fear background checks

look for other avenues where they can buy guns without background checks, and in Pennsylvania, they can do that by buying long guns from private sellers. That has had deadly consequences here in Pennsylvania and elsewhere.

In 2011, John Schick (ph), who had mental health commitments in New York and Oregon, wanted to buy a gun. In Oregon, he tried to buy a gun, but he was required to go through a background check and it stopped him. He then traveled on to New Mexico, and in a private sale, bought two handguns.

As the Pittsburgh Post Gazette later reported, the man who sold him the guns did not know that Schick had been arrested a year earlier after acting erratically at Portland International Airport in Oregon, that police had found a journal filled with paranoid ramblings and that it had taken six people and a sedative to restrain him when he was taken to a mental hospital for a commitment ordered by a judge or that he had been previously committed in New York City.

Schick bought the two handguns. He came to Pennsylvania to the Western Psych Institute near Pittsburgh. He killed one person and injured five before being killed by responding police. Instances like this happen all over this country every day. Where private sales are exempt from background checks, they are the

avenue of choice for those most likely to be buying firearms with criminal intent.

Again, in Pennsylvania, we're fortunate that the private sales of handguns do require background checks, but we do have that private seller loophole that should be closed. As was mentioned, House Bill 1010 would close this loophole as a straightforward bill that simply eliminates the exemption of private sales of long guns from the background check requirement. This would ensure that virtually every gun sale in Pennsylvania, with the exception of very close familial transfers, would require a background check regardless of the type of gun or the seller.

This is a common expansion of a system that has been working well in Pennsylvania. It does not burden the rights of law-abiding gun owners, and the only right it harms is somebody who shouldn't be having a gun in the first place. Long guns are a problem. 25 percent of firearms recovered in Pennsylvania by the ATF in 2011 were long guns.

Homicides are committed with long guns here. Since 2006, nine Pennsylvania police officers who have been killed in the line of duty have been killed by long guns, including shotguns, rifles and semi-automatic rifles. If you visit the website, the Officer Down Memorial page, you

can hear about the stories of all these heroes. And these stories do deserve to be told, but I'll just share two briefly.

In January 2010, Trooper Paul Richie (ph) was shot and killed during a response to a domestic disturbance in Venango County. When he and his partner arrived, a man had called out from the house to tell them to leave. Before they could even turn to their cars, he started shooting out the window with a rifle. Trooper Richie was hit and died instantly. That suspect then killed his wife and himself before the rest of the police could arrive.

When investigators went in, they found three guns in the bedroom, three long guns. In May 2008, Sergeant Steven Poplawski (ph) was shot killed in Philadelphia on response to a bank robbery call. He confronted the suspects, who were trying to flee, down another street. He stopped their car, and somebody opened fire and killed him with an SKF rifle.

Again, these are not unique stories to Pennsylvania. They are tragedies we suffer every day. So our police know all too well that certain people should not have access to firearms and that the type of firearm shouldn't make a difference in that access. Long guns also play a particularly tragic role in domestic violence murders.

Homicides in domestic violence cases in Pennsylvania have been increasingly involving firearms, and national statistics demonstrate that about 30 percent of the homicides committed in the context of domestic violence cases are committed with long guns. Earlier this year in April in Bucks County, a man who was subject to a protection from abuse order killed his ex-wife with a shotgun and then fired several shots at a officer with the same gun.

The story is tragic and heartbreaking. As the local papers reported, Violeta Isocop (ph) was said to marry on April 28th. She had an appointment for a final fitting of her light rose-colored wedding dress Thursday night, but the 45-year-old Northampton resident never showed, never even made it out of her car. She was shot dead in the parking lot of the Feasterville Dress Shop allegedly by ex-husband Kenneth Phillip.

During that incident, Isacop's 16-year-old daughter was also injured as she tried to pull her mother into the passenger seat with her. This tragedy had followed months of problems, including a prior meeting between the shooter and the police officer who ultimately killed him.

Five months before, Officer Friel, a Northampton patrolman, had filed charges of terroristic threats and

stalking against Phillip after responding to Phillip's former home for a violation from protection from abuse order his ex-wife had obtained.

In the second meeting, Phillip ended up being shot after he killed his wife and shot her daughter. And then he shot at Officer Friel several times, and then Officer Friel killed him. People intent on doing harm or committing crime can do so with long guns just as effectively as with handguns. Our background check system has been preventing guns from getting into the wrong hands. The type of gun and the type of seller shouldn't matter.

When guns get into the wrong hands, tragedy results. The sale and transfer of long guns should be subject to the same requirement of the sale and transfer of handguns. It's common sense. I also want to note that I know that often when we have hearings like this, we end up talking about safety on the one hand and rights on the other.

I think that we also need to focus on how we can get common ground to bridge that dichotomy by talking about the safety factor that unites us all, the right to be safe. Background checks protect all of us. They don't burden law-abiding gun owners. They create problems only for all of those who we agree shouldn't have guns.

Pennsylvania has a chance to lead the way on

this issue. I hope that you will make expanding an already-good system a priority, and I thank you for the opportunity to testify. I would just like to note before I yield to questions that the speaker following me, Mrs. Wheeler and her colleague, Ms. Hockley, I want to thank them coming down from Connecticut to be here and sharing their stories with us today.

CHAIRMAN MARSICO: Questions?

Representative Keller?

REPRESENTATIVE KELLER: Thank you, Mr. Chairman.

Thank you for your testimony. Your organization, as I read in your testimony, is all in favor of background checks on all firearms. Is that correct?

MR. GOODMAN: We are in favor of expanding the background check system in Pennsylvania to cover long guns in the same way handguns are covered with the same exceptions for close familial transfers that already exist.

REPRESENTATIVE KELLER: I would like to ask you this question then: Do you believe that -- I'll use myself as an example. I want to transfer my long gun to my son. Should there be a background check?

MS. GOODMAN: As I understand it, you can currently transfer that handgun to your son.

REPRESENTATIVE KELLER: No, I'm talking about --

MS. GOODMAN: I just -- correct, under the

existing law? And the law that we are supporting would permit that same exception to be applied in the example that you have just given. So, yes, I think you would -- we are supporting that you could transfer your long gun to your son without a background check.

REPRESENTATIVE KELLER: Okay. I don't believe I can transfer my handgun to him though without a background check because the possession of that firearm is no longer mine. It would be his. So I believe there would be a background check there. Is that correct?

Can anybody answer that?

MS. GOODMAN: I'm sorry. I'm not sure I understand the question.

REPRESENTATIVE KELLER: I believe that if I were to transfer a handgun to my son, there would need to be a background check for him to obtain that and have possession of that.

MS. GOODMAN: I don't believe that's the case, sir.

REPRESENTATIVE KELLER: I don't have to? Okay.

MS. GOODMAN: I don't believe that's the case. My understanding is that that transfer is exempt from the background check requirement.

REPRESENTATIVE KELLER: So between close family members -- now, I'm not saying cousins, but I'm saying

family members, immediate family, we can transfer -- you're in favor of transferring those long guns without background checks of those family members?

MS. GOODMAN: I believe that the statute currently exempts spousal transfers, parent to child, possibly grandparent to child. I don't think siblings and cousins are covered. We would support the same framework for the transfers of long guns.

REPRESENTATIVE KELLER: Okay. Thank you. Thank you very much.

Thank you, Mr. Chairman.

CHAIRMAN MARSICO: I believe you're correct.

Any other questions?

Representative Dean?

REPRESENTATIVE DEAN: Thank you very much for your testimony today, Shira. Just to be clear -- and I think it's important for people to know -- Pennsylvania's background check system is quite good, quite thorough. Wouldn't you agree?

MS. GOODMAN: I do, and I often say that -- and people on this Committee and otherwise have heard us at CeaseFire Pennsylvania criticize Pennsylvania for having weak gun laws generally, but I always talk about our background check system as being the things that we're doing right because of that, that handgun sales, private

sales are covered, which many other states do not do, and because of PICS.

So, yes, our testimony today is to say, yes, we think we have a good background check system. We think we can make it stronger, and we would oppose any attempt to make it weaker because we believe that PICS does more for us than just relying on NICS would.

REPRESENTATIVE DEAN: Right. And the simple way to make it stronger is to remove the one exception that is within our law, that is the private sale of long guns. Is that it?

MS. GOODMAN: Yes. Absolutely.

REPRESENTATIVE DEAN: Thanks so much.

CHAIRMAN MARSICO: Representative Bradford?

REPRESENTATIVE BRADFORD: I just want to follow up on one quick point, Shira. And I know you had some involvement in the federal legislation that Senator Toomey had worked on and the potential compromise in Toomey-Manchin. My understanding is what Senator Toomey had agreed to is the private long gun-type transaction.

If Senator Toomey's legislation had come to pass, if it had gotten closure in the Senate, would that have closed this loophole in Pennsylvania as matter of federal law? Do you know?

MS. GOODMAN: Let me be clear. We were honored

to meet with the Vice President earlier this year. We have met with our senators. We were not involved in drafting the compromise, although we certainly supported it. I believe it would have closed this loophole for Pennsylvania, although I also believe that some of what's already in the Pennsylvania Uniform firearms act on the handgun sales might have been stronger even than some of the exceptions in Toomey-Manchin.

So it would have closed it generally and said that certain kinds of private sales and transfers were covered, but I think that the Pennsylvania handgun statute still would have been stronger. And so if you remove the exemption for long guns now, that might be stronger than Manchin-Toomey, but it was very close. There were certain other kinds of sales they were trying to exempt.

REPRESENTATIVE BRADFORD: No, and I understand that. I think the point a lot of us try to make is Senator Toomey obviously was very courageous in coming out to try to close this loophole, and it would have helped in a lot of states like Pennsylvania; whereas as a whole, we pretty much have a good background system.

But there is this one area where there is a question in our statute, and obviously the federal legislation would have provided some kind of floor. So thank you so much for your testimony.

MS. GOODMAN: Thank you.

CHAIRMAN MARSICO: Okay. Well, thank you very much for your time and being here and your insight and your recommendations. We appreciate it very much.

MS. GOODMAN: Thank you. Ms. Wheeler has asked if I could just sit at the table while she testifies.

CHAIRMAN MARSICO: Sure.

Our next testifier is Francine Lobis Wheeler. Francine, as I mentioned, is a Pennsylvania native whose parents and many family members still reside here in our Commonwealth. Ms. Wheeler's 6-year-old son was tragically killed at Sandy Hook Elementary School.

Ms. Wheeler is active with the group Sandy Hook Promise, which seeks to eliminate the causes of gun violence and takes an approach to making our community safer that includes attention to gun safety, mental health and community building.

Ms. Wheeler, please accept our heartfelt condolences on your loss. We know that we consider ourselves privileged to have you here with us today.

MS. WHEELER: Thank you, Mr. Chairman.

CHAIRMAN MARSICO: If you could please interrupt a second to introduce your colleague with you. This is Nicole Hockley who lost her son, Dylan.

CHAIRMAN MARSICO: Welcome as well, and you have

our heartfelt condolences as well.

MS. WHEELER: And thank you, members of the Committee. Thank you for giving me the opportunity to speak here today. My name is Francine Lobis Wheeler. I lived almost half my life in Pennsylvania, and my family has deep roots here. I was born in Darby, and I started school in Delaware County at the Marple Newtown Elementary School in Newtown Square.

We moved to Washington Crossing in Bucks County when I was 6-years-old, and I attended elementary, intermediate high school in Newtown, Bucks County, Pennsylvania. When I was 17, I attended Bucknell University in Lewisburg on a performance scholarship, and I went on to get my undergraduate degree at DeSales University in Center Valley.

My parents live in West Chester. My three brothers and their families live in Delaware and Bucks County. Our son, Ben, a devoted Phillies fan, wanted to live in Pennsylvania to be close to our relatives, and by age 6, had already picked out the University of Pennsylvania as his college of choice.

In April 2007, my husband David and I moved with our sons, Ben and Nate, from New York City to Newtown, Connecticut. Ben was six months old. With two young boys, we wanted what so many parents want for their kids, a yard

to play in, a safe community and good schools. If we had chosen Pennsylvania instead, I wouldn't be sitting here today.

This past December 14th, Ben was killed along with 19 other first graders and six educators at Sandy Hook Elementary School. Nate's 4th-grade class was in the school gym during the shooting, and Nate survived. I am not an expert on law enforcement or gun policy. I'm a mother. But I have a credential that no parent wants. I have lost a child to gun violence. When this happens to you, when my child was murdered, I no longer have fear to stand up and say what I believe is right and what I believe is important.

And I have nothing to hide. Ben gives me the courage to be here to speak to legislators and to commit to change. All this stems from the love I have for him and the want for safety for all our children. This is how I honor Ben and how I honor all victims of gun violence, by having the courage to find love, listen to one another and make change happen.

Going through this experience over the last seven months has given me some insight. Not until this happens to you, frankly do you realize how many people in America share this distinction. With roughly 30 thousand gun deaths each year in the U.S., there are so many mothers

and fathers who will wake up every morning for the rest of their lives missing their kids.

One thing that has surprised me so much is the disagreement and rancor there is in the discussion of gun crime. I am determined, and I hope others will help me join in this to try to move forward with love and respect. So today, I'd like to focus on the areas of agreement because there is so much on which we agree.

First, I think we all agree that expanding background checks will not eliminate gun crime. The assault weapon that was used to kill my Ben, for example, was purchased legally by the shooter's mother after a background check. But if we are looking only to take steps that will stop all gun crimes, we have set the bar for action too high.

We know that background checks actually do prevent many convicted felons and dangerously mentally-ill people from buying guns. In 2010 alone, more than 150 thousand gun sales were stopped when the purchaser failed a federal or state background check.

We also know that some individuals prohibited from buying guns are buying guns online and through other avenues that don't require a background check currently. Another thing we can all agree on is that the overwhelming majority of gun owners are responsible people. They are

parents and grandparents and brothers and sisters and sportsmen and concerned property owners who are no danger at all.

So many of them just want what I want, to keep their families safe. We should not interfere with the ability of those individuals to buy and own guns. And I think everyone also agrees that there are some people who should not have guns under any circumstances. In fact, federal and state laws already prohibit many convicted criminals and others who are dangerously mentally ill from purchasing or possessing firearms.

That's already the law. So how do we make sure that the law is enforced in a way that makes sense? Right now in Pennsylvania, a convicted felon, say someone has been to prison for rape or abusing a child or even homicide, couldn't go into a licensed firearm dealer and buy an assault weapon like the one that killed my son.

The background check would stop the sale. That same convicted felon, however, could buy a rifle from a private seller or go online, and with a few clicks, buy an assault weapon over the internet and have it shipped to his door, no questions asked. Current law requires universal background checks for handguns, but leaves a giant loophole for long guns.

That doesn't make sense. If we all agree

dangerous individuals shouldn't have guns, then shouldn't we take at least the most basic steps to ensure that they can't get around the system by purchasing from someone who's not a licensed gun dealer or simply going online? Will this stop every criminal? Obviously not. Will it save lives? I think it will.

And if we can keep a mother in Pennsylvania from having to go through what I am going through and we can do it in a way that makes sense and doesn't impose any undo burden, we ought to do it. Now, background checks and other gun laws shouldn't be the beginning and end of our conversation about how to prevent gun crime.

We need to do more to ensure that people with mental health problems get the help they need. We need tighter communities and stronger families. We ought to figure out if there are ways to make our schools safer, but we should also make sure that we're taking common sense steps to keep guns out of the hands of those who would harm our families. Working together as Americans of goodwill, I know we can make our community safer.

Thank you.

CHAIRMAN MARSICO: Thank you. That was well done.

Nicole, did you have any comments that you want to make?

MS. HOCKLEY: No. I'm just here to support Francine today.

CHAIRMAN MARSICO: Members, questions?
Representative Regan?

REPRESENTATIVE REGAN: Mrs. Wheeler, thank you so much for being here. As a father of four, I can't imagine your pain and anguish. On the day of the shooting at your son's school, I was here at the Capitol with this group of school children who were touring the Capitol, so the news of the tragedy hit me particularly hard. As a retired law enforcement officer, I introduced, shortly thereafter I introduced legislation to help protect our kids in school.

MS. WHEELER: Thank you.

REPRESENTATIVE REGAN: And as a result, I was made part of a select committee that is examining school safety and security, and I just wanted to let you know that we will have Ben in our hearts as we proceed. God bless you and your family.

MS. WHEELER: Thank you so much. Thank you.

CHAIRMAN MARSICO: Representative Dean?

REPRESENTATIVE DEAN: Thank you, Mr. Chairman. Thank you very much, Francine and Nicole, for being here. I express, I'm sure, the feelings of everybody in this room that your loss is so grave and so unspeakable. And I know

that members of this legislature across the aisle feel it in our hearts. And I have to just tell you how I admire your courage and strength.

As you said, you're kind of fearless now, and I commend you for that strength and believe that with your words of reason and respect and love, you can inspire us to do good work, to make smarter laws that help make us safer. It won't cure everything, but help make us safer.

MS. WHEELER: That's right.

REPRESENTATIVE DEAN: So I just really admire both of you for your extraordinary work, work that you didn't think you were going to be assigned. So thank you for your help.

MS. WHEELER: Thank you.

CHAIRMAN MARSICO: Representative Stephens?

REPRESENTATIVE STEPHENS: I just want, in echoing Representative Dean's comments, to thank you for coming here to share your thoughts on this issue, which is an important issue, and really just thank you for taking the time and bringing your passion, your composure and your well-reasoned thoughts on the issues and your perspective.

And we really appreciate it and can't thank you enough, and we'll do all we can to honor your son's memory and work to help prevent others from having to endure the pain that you've had to endure.

MS. WHEELER: Thank you for those words.

CHAIRMAN MARSICO: Any other questions?

Once again, we thank you for being here, and I want to say too that we all admire your courage and your strength as Representative Dean said, and we share your pain. And we thank you for your insight, your comments and for being here in Pennsylvania to help us to look at some very controversial laws and bills, so we certainly appreciate the fact that you did take the time to be here. And please give our thoughts to your families as well. Have a safe trip back. Thank you.

Next to testify is Jake McGuigan, Director of Government Relations/State Affairs, National Shooting Sports Foundation.

Jake, please come forward. Welcome, Jake. You may begin.

MR. MCGUIGAN: Chairs, members of the Committee, thank you for having me here today, or this afternoon. My name is Jake McGuigan. I'm Director of Government Affairs for the National Shooting Sports Foundation. We are the trade association for the firearms industry. We represent manufacturers, retailers and distributors across the country and over 5 hundred members here in the State of Pennsylvania.

The firearms industry in Pennsylvania

contributes 8 thousand, a \$1.2 billion economic impact and \$63 million in taxes to Pennsylvania. Banning firearms from law-abiding citizens will do nothing to increase public safety in Pennsylvania. If we look to address the PICS system and the NICS system, currently our Pennsylvania retailers, as Joe Keffer spoke earlier, is burdened with a lot of accounting and administrative costs by having to collect fees and conduct their background checks through the PICS system.

This process is entirely duplicative in nature because these background checks can already be conducted by NICS. The NICS system is highly efficient and already subsidized through federal taxes. The State Police earlier stated that they don't cover the cost of the PICS system here in Pennsylvania with the fees that they are charging, which we have seen in other states.

Other states are having such an increase in volume in background checks that it's costing the states and costing the departments more money to deal with these volumes. Unfortunately, PICS is just acting as a middle man between retailers and the NICS system when a background check is conducted.

As an industry, we would like to thank Pennsylvania and the State Police for putting those records into the NICS system earlier this year. That was a big

problem that we had as an industry, and we have embarked nationwide on a program called Fix NICS. And what that is is we, as a firearm industry, support putting in the appropriate records into the NICS system.

The last thing that we want to see as an industry is prohibited individuals gaining access to firearms, and Pennsylvania was one of the worst offenders until earlier this year. In my testimony, you can see a map laying out some of the other states where there are problems, so that is one area where we can work with gun control groups and agree.

Very rarely can I come up here and say that there are agreement between us, but that is one area. And that's what we're trying to do that in other states as well. So Pennsylvania has done that, and we appreciate the steps they have taken in that. But in the past, the Pennsylvania State Police have always said that going to the NICS system wouldn't be appropriate because they have so many other records that NICS does not check.

Well, that's no longer the case now since those records are in the NICS system. And the PICS system is costing pennsylvania 6 million, or depending where you live, between \$3 and \$6 million a year. So now is the time to actually address this and go to the NICS system.

As stated earlier, many of our retailers are

seeing tremendous delays in the background checks. As Joe stated earlier, there are situations where some of our big box retailers, on their quarterly conference calls, have made statements saying that their bottom line has been impacted by the state system here in Pennsylvania.

That has happened in the past and continues to happen in the past. We strongly urge the Committee to give the serious consideration and to really look at this issue and use the NICS system for any firearms sold at the retail level. Representative Dean earlier had spoken about maybe by mandating background checks across the board -- we're talking about in the private party transactions -- that it would increase traffic flow or increase customers to the retailers.

And that's not necessarily the case. California did do this. They implemented this, and our retailers in California saw a decrease in business because what they had to do was focus a lot of their attention on private party transactions. They took on and occurred a huge liability for small fees.

In California, they mandated the fee that a retailer could charge, so they are out there having a liability for the paperwork. If they had the choice, they wouldn't do it all. And it impacts their stores. They have to deal with customers coming in or -- excuse

me -- citizens coming in to do background checks, but aren't necessarily the customers in the stores.

So the step that the State Police took earlier this year with implementing those records into NICS is the first step in hopefully using the NICS system for the background checks and for our retailers. We fully support that, and we appreciate the fact that Pennsylvania did take those steps.

And just as an aside, we continue to hear stories about people gaining access to firearms or prohibited people gaining access to firearms, but many of the stories that are addressed are felons. They are already felons. They would have failed a background check, but somehow they're still gaining access to those firearms.

And that's one area where we continue to stand as an industry to enforce the current laws that are on the books. Felons gaining access to firearms has nothing to do with background checks, has nothing to do with our retailers. We have a program called, Don't Lie for the Other Guy, which tries to focus on making sure that store purchasers are not buying firearms for prohibited individuals.

The problem is, when our retailers come across a store purchase, local law enforcement and even the ATF are not enforcing the laws and the federal laws that are in

place on those situations and even on the state level. There are state laws here in Pennsylvania on store purchasing.

So those are places where we could have common ground where we support enforcing the current laws and moving forward with that. I have -- if anyone has any questions, I'd be happy to answer them. Thank you.

CHAIRMAN MARSICO: Any questions?

Representative Stephens?

REPRESENTATIVE STEPHENS: Thank you.

Thank you for your testimony. I appreciate it. When you said in California retailers took on a huge liability by handling private party transactions, what do you mean by that? Can you expand on that?

MR. MCGUIGAN: Our retailers are obviously federally licensed. In some states, they have to get a state license depending on the state they're in. What I mean by liability is, the ATF, when they come in and do an inspection on the paperwork -- let's assume the Form 4473, which is the paperwork that you have to fill out when you do a background check and transfer a firearm.

Let's assume there's a small little error on there where the abbreviation is wrong or the county is wrong. You know, that is considered a violation based on ATF guidelines. So a lot of our retailers are taking on a

huge liability and could have the possibility of losing their license for these violations.

You know, you add up enough small nontechnical violations, and it ends up being an issue for them. And many of these guys, it's their livelihood, so they would much rather take the risk when it's a customer coming through the door purchasing a firearm than just dealing with the general public for a small background check fee depending on the state you look at.

REPRESENTATIVE STEPHENS: Sure. And I guess the one other question I have -- and the notion of enforcing the current laws on the books, I'm 100 percent with you, 100 percent with you. I guess I don't know how we do that if we aren't checking the background.

So when you talk about the felon, it's great that we have the prohibition and the felon's not allowed to purchase the firearm, but if the retailer isn't -- if they're putting their head in the sand and not asking the question are they a felon, then are we enforcing the laws on the books?

MR. MCGUIGAN: On the 4473, there is a section where you would check off whether you're the actual purchaser of the firearm, if you're a convicted felon using illegal drugs or the various other questions that are on the 4473. So that obviously goes on to the individual, but

all of our retailers when they conduct the transaction, whether it's at a gun show or at their place of business, conducts a background check.

REPRESENTATIVE STEPHEN: Right.

MR. MCGUIGAN: So if the appropriate records are in the system, whether we're dealing with Pennsylvania or any other state -- and they are many states where those records aren't in the system -- you know, that's where the problem is. As long as the retailer is doing what they're supposed to, it should come back as either a proceed, a denial or a delay.

REPRESENTATIVE STEPHEN: And that's all because they are conducting the background check through one of those systems, whether it's PICS or NICS?

MR. MCGUIGAN: PICS or NICS, correct.

REPRESENTATIVE STEPHEN: I guess one of the questions -- and the reason I asked that question of the State Police is because I looked into this issue about, hey, can we eliminate PICS, save the state some money, make a more efficient system and just rely on NICS. But how do you handle some of those concerns?

For instance, the difference, juvenile records; in Pennsylvania, some juveniles are prohibited from possessing a firearm. And federally, that's not the case. So NICS wouldn't have these records. And then the PFA

problem, where if you don't have the specific identifiers that NICS wants, then they're not in that system, and the issue with the fingerprints.

I mean, how do you get around them? And if you have suggestions on it, please, I'd love to you work with you on that type of issue. I get the duplicity issues, but it seems like, from the State Police, there are a number of places where those systems are not identical; and therefore, we'd be sacrificing some much needed and valuable information.

MR. MCGUIGAN: And I agree with you to a point on that, but those records, depending on how -- I mean, they can only put what would put a prohibited individual into the NICS system. So if they have other determining factors here based on Pennsylvania State Law, they can't drop those into the NICS system.

But here's the problem, and this is what the argument was in the past: Let's assume that individual is in Pennsylvania, not allowed to purchase a firearm because that record is in the local system, the Pennsylvania system. There is nothing stopping that individual from going to another state and purchasing a long gun.

REPRESENTATIVE STEPHENS: True. Agreed.

MR. MCGUIGAN: So that's -- the whole situation, our whole argument in the first place was you better make

sure those records are in the NICS system because the first time an individual goes across the state border to purchase a shotgun or a rifle and then commits a crime, the fingers are going to be, you know, they're going to point it at the legislature and they're going to point it at various other elected officials of why that happened.

So I'm almost agreeing with you to a point that these records, depending on how they are in there, need to be addressed. I mean, that person, there's nothing stopping them from going to West Virginia or Ohio and purchasing that firearm.

REPRESENTATIVE STEPHENS: Well, I'll follow up with you offline, and maybe we can work together and figure out a way to get all of those records into the national database because I share your concerns.

MR. MCGUIGAN: And in my testimony, I did include a map of the NICS system and our program on Fix NICS. And if you look, Pennsylvania does have 651 thousand records that they did put into the NICS system this year, and I would be very surprised that those are all involuntarily committed in mental health records.

That seems like a very large number to me compared to the other states such as California or in Texas and just based on population alone. So I think there must be some other records included in that, and I think we

would probably want to look into that and see what's in there as well.

REPRESENTATIVE STEPHENS: Thank you.

CHAIRMAN MARSICO: Representative Bradford?

REPRESENTATIVE BRADFORD: Thank you, Chairman.

I wanted to clarify something you said in your testimony because I'm not sure if we're -- I don't want to mix metaphors, but I don't know if we have a (inaudible) problem or if we're moving the goal post a little bit. But your concern about getting the records in, the most up-to-date records into either the NICS or the PICS system seems genuine.

I mean, I think everyone can agree that no one wants a felon or a mentally ill individual purchasing a weapon. But to follow-up on Representative Stephens' point, which I think is very valid is then we're saying, okay, we want to get the right information in to do a good background check, but then there's this whole area where we're not doing the background checks, the long guns.

So the idea is to have the private transaction come into a firearm dealer whose license is set up to do the background check. And you're saying, well, even if we get all the information into it that will deal with the felon or the mentally ill, the firearm dealer's going to be overwhelmed, and you threw out the California example.

Is what you're saying is that you don't want to see those transactions subject to a background check, or you don't want to see them subject to a background check done by a firearm dealer?

MR. MCGUIGAN: Well, we, as the trade association for firearms industry, represent retailers and manufacturers, so basically what you're addressing is a private party issue and private party transactions, which would impact our retailers from the background check standpoint. So we don't get involved in the private party transfers.

I mean, as an industry and as a trade association, if you look, we don't really get involved with concealed carry issues either because that's more of an individual issue as well. So all of our retailers have to conduct background checks.

Our concern is the impact on their business by mandating this, and at the same time, there have been some states that say, well, let's do gun show get preferences over retailers. So if you went to your gun shop on a Saturday and you're standing in line and someone at a gun show called in to do a background check or came in to do a background check, you would bump the individual or the customer.

So all we're trying to do is protect our

retailers, our manufacturers in this arena. We don't get involved in the private party side of things. We simply want to make sure the right records are in there, and until that occurs, then we can maybe address the next situation.

REPRESENTATIVE BRADFORD: Okay. And I guess -- and I'll conclude with this point: I think, again, this is kind of moving the goal post. I think everyone agrees to put the right information in, whether it's for private transaction or for licensed dealers. And then I guess the question becomes who should do it.

Whether it's your retailers or it's the county sheriff, which I believe the bill in Pennsylvania would allow such an option, I think that's almost secondary to coming to some kind of agreement that there's a loophole, that there's this information that any transaction to be subject to that review, that background check.

So I think we might be talking past each other a little bit in terms of this issue. I think there's a, there seems to be some bipartisan agreement about the need to get the right information to do the background check. Now, who does the background check as long as it's a confident, qualified individual, I think seems to resolve the issue pretty easily.

MR. MCGUIGAN: And it ends up being, from our retailers, as a liability standpoint and concerns from that

side. So that's why, as we represent the retailers, our concern lies on them losing their licenses to be honest with you.

REPRESENTATIVE BRADFORD: But your problem's not with doing background checks? Frankly, you don't -- I don't want to say you don't care, but as a public policy matter, from a market share position representing your industry, you're not taking a position on whether there should be private party background checks? You're just saying, to the extent they are, they should have all the right information, and you guys don't want to potentially have to deal with the consequences of messing up the paperwork?

MR. MCGUIGAN: Correct.

REPRESENTATIVE BRADFORD: Okay. Thank you.

CHAIRMAN MARSICO: Representative Sabatina?

REPRESENTATIVE SABATINA: Thank you,
Mr. Chairman.

And thank you for your testimony, Mr. McGuigan. Thank you. I just want to bring up a point where you said, regarding Representative Dean's earlier point, where increased foot traffic in the retailer stores -- you know, to me, increased foot traffic in the stores -- you know, you don't just transfer the long gun.

You buy a gun cleaning kit; you buy ammunition;

you buy targets; you buy ear protection that you otherwise wouldn't had you not been in the store. I'm just wondering, the potential offset of the possible liability that you may have if you fudge a background check compared to the accessories that one would purchase from the increased foot tracking in a retail establishment, can you account for that?

MR. MCGUIGAN: Yeah. That was the original thought in California, the increased foot traffic, that it would increase the business, and that was the original use, the reasoning that the legislators used out there as well. And that didn't come to fruition. And this year in Colorado, they did pass a bill on, or two bills; one dealing with magazines and the other one dealing with background checks.

And we did a survey of all Colorado retailers -- I'd be happy to share that with the Committee -- on how they felt about them mandating background checks and increasing foot trafficking to their stores. And it was over 80 percent of them were opposed to mandating that, so if they thought it was going to increase their business, I'm sure the opposition would be far less than the 80 percent that was opposed to it.

REPRESENTATIVE SABATINA: Thank you.

CHAIRMAN MARSICO: Representative Dean?

REPRESENTATIVE DEAN: One quick comment and one quick question. I know that, in your testimony, that you support, your members support withdrawing from the PICS system and relying only on the NICS. And you say that it's because it's entirely duplicative. I just want to comment and say that from the evidence that we've gathered here and through just other research that I've done, PICS is not entirely duplicative.

NICS is not catching everything that PICS is capturing. So I think you might be a little bit ahead of the claim that we ought to just abandon the PICS and go to the NICS. Even you say that the NICS system needs to be fixed, so let me get past that.

The other thing that I really did want to mention is the idea that, you know, everything that we do as legislators is talking about a balancing of burden, a balancing of rights and responsibilities; so that when you characterize that Pennsylvania retailers are burdened with accounting and administrative costs by having to collect fees based upon background checks conducted by PICS, I ask respectfully that you reconsider that.

I don't know that that's so much a burden as it is a responsibility and also the cost of doing business. It is part of your responsibility within this industry, whether you are manufacturers or retailers, to take into

account that cost of doing business and responsibly selling for profit weapons. So I ask you to rethink the way you characterize that.

MR. MCGUIGAN: And actually I would like to extend an invitation to you to come to one of our retailers and see how extensive the entire process is. You know, many people in this room and outside of this room think that the process of purchasing a firearm is a five-minute process, and it isn't. And our manufacturers are federally licensed, and their livelihood depends on the paperwork and getting it right.

So I would like to invite you to maybe educate you on the process, how long it takes -- it's not a simple process by any means -- and maybe go through that. We've learned that in a lot of other states, that's been very helpful. A lot of legislators aren't aware of what goes on and what gets done by a retailer, so I'd really like to extend that invitation.

REPRESENTATIVE DEAN: You know what? I'll take you up on your invitation. And know that I have been to gun dealers, but I appreciate that.

MR. MCGUIGAN: Thank you.

CHAIRMAN MARSICO: Any other questions?

Well, thanks for your testimony, and we appreciate the invitation as well.

Next testifier is David Scholnick, Pennsylvania Director of Mayors Against Illegal Guns; Mayor Richard Gray from Lancaster, Pennsylvania Chairman of Mayors Against Illegal Guns, and Mayor Geoff Henry from Oxford, Pennsylvania.

Welcome. You may begin.

MR. SCHOLNICK: Thank you, Chairman.

Thank you to the Committee and the Committee staff. I'm Dave Scholnick from Mayors Against Illegal Guns, and I won't be saying much. I want to let the mayors speak for our organization. I do want just to quickly call everyone's attention though to a written contribution from Detective Joe Bielevicz from the Pittsburgh PD.

It's on behalf of himself as an individual. It's at the back of the packet, the very last thing, and I think it's very informative to a lot of the things that have been brought up here. So I just want to introduce Lancaster Mayor Gray and Mayor Henry from Oxford and toss it to Mayor Gray to start.

MR. GRAY: I'll just show you how the day's remarks become good morning, Representatives. I guess it should be good afternoon. Thank you for having us.

Thank you, Chairman Marsico and Caltagirone, for holding this hearing, and I want to thank your staff, especially Mike Fink for organizing it.

As it was said, my name's Rick Gray. I'm the Mayor of Lancaster, and I'm also State Chairman of Mayors Against Illegal Guns. Our organization is comprised of more than 950 mayors in 46 states. We have more than 1.5 million grassroots supporters, making us the largest gun violence prevention organization in America.

In Pennsylvania, we have more than 200 mayors in 54 countries that are members. We believe the background check system in place is effective and the State Police are doing a good job running it. The goal of a background check system is to block gun sales to prohibited purchasers like felons, domestic abusers and people with dangerous mental illnesses.

And it's largely meeting that goal, and I think we all would agree with that goal. One of the things here, it seems, this is just one way these individuals procure firearms. Certainly, it's not going to stop the flow of illegal firearms if you would expand background checks.

It might prevent 1 to 10, 20 different incidences of violence happening and might discourage a person to such extent that he doesn't go to illegal means to get a firearm. It's sort of like proving a negative. I mean, how can you prove that background checks kept someone from a firearm and injuring or killing another person?

It's impossible to do. Yet, on the other hand,

this is just one leak in the dike that could be plugged through the proposed legislation. As I said, we're excusing some gun purchasers from background checks and would like to see that loophole closed.

I'll start by exploring some of the myths about background checks put forth by some that are opposed to them. The most erroneous myth is that background checks don't prevent crime because criminals won't submit to them. This is false. Nationally, our background check system has blocked about 2 million purchasers from buying guns, including more than 250 thousand domestic abusers.

In 2011 alone, our state system blocked 96 hundred prohibited purchasers in Pennsylvania. So criminals are submitting to background checks, and our state and federal system are blocking them from buying guns. I should advise the Committee, I, at one time, was President of the Pennsylvania Association of Criminal Defense Lawyers in my previous life.

I've been involved in a lot of criminal litigation involving guns. I've represented people who argued self-defense and were successful in self-defense, where they used a firearm to protect themselves. I've also seen situations where firearms were used in a totally illegal manner.

That said, from my experience as a criminal

defense lawyer, I can assure you that criminals are not geniuses by any stretch of the imagination, and to think that they won't submit to a background check -- most guys who commit a crime assume they're going to get away with it, or they wouldn't commit it. So they will submit to these background checks.

On the other hand, more professional people, criminals, I found would come into the office and know the exact weights and the mandatory sentences in drug cases where the guy on the street was saying, well, this is the first time I was caught. And I always tell them, well, yeah, if it was the second time, you'd be doing five years instead of two.

So, you know, the more sophisticated criminal, if that's the appropriate term, will avoid the system. The less sophisticated, or perhaps the person acting out of the motion at the time, will go in and try to fool the system. The second myth is that background checks won't save people's lives because bad guys will find another way to get guns or they use other weapons.

Generally, this is also false. Pennsylvania is one of 16 states that go beyond federal law and require background checks for private sales of handguns. In those states, 38 percent fewer women are killed with guns in domestic violence incidents, and 49 percent fewer people

commit suicide with guns than in states with weaker background checks.

Background checks save lives, and people in states with stronger background checks are not just picking up other weapons. The rate of non-firearm suicide and domestic violence murders are about the same in both sets of states. States with stronger background checks also see 17 percent fewer aggravated assaults with guns and 39 fewer police officers killed with handguns in states with weaker laws. We see less trafficking too.

States with stronger background check laws explored 64 percent fewer guns that are recovered from crime scenes in other states. Background checks save lives and reduce gun crime. If we close this loophole for long guns, we can save more lives.

I should -- as I was sitting here listening, I was thinking, I had a case one time -- it was a contract murder -- where in New York, New York City, they contracted with a Chinese (inaudible) to shoot a person in Quarryville, Pennsylvania, another Chinese immigrant.

As it turned out, the weapon that was used by the guy from New York that came down and shot this woman was a gun that had been purchased at a gun show in Adamstown, I think it was, Pennsylvania. It was formerly possessed by a police officer.

Now, this was before we had as extensive a check as we do right now, but the gun found its way from Adamstown to New York City and came back to Quarryville, Pennsylvania and was used in a homicide. In April of this year, Kenneth Phillip of Bucks County got out of prison and killed his ex-wife with a shotgun in front of their 16-year-old daughter.

It's unclear how he got the long gun, but if it had been required to do a background check, his wife might be alive today. Phillip drove off and then fired that shotgun three times at Timothy Friel, who returned fire killing Phillip. Kenneth Phillip was a prohibited purchaser because of a protection from abuse order.

He shouldn't have had a shotgun, but our lax laws allowed him to get a gun without a background check. This is an issue of enforcing current law. Long guns account for 10-and-a-half percent of gun murders in this country. We know that long guns are used in at least 780 homicides a year, and that figure leaves out more than 45 hundred reported homicides for which the type of gun is unknown.

How many long gun murders are enough for us to do something? I will say this too: In my experience as a criminal defense lawyer, there's no question that pistols or revolvers are far the preference because of concealment.

A person can carry it, where you can't walk around with a shotgun, and people don't know you have it.

On the other hand, homicides are occurring with long guns. Another myth is that expanding background checks infringes on the rights of lawful gun owners. This is not true. Our background check laws don't prevent anyone from lawfully possessing or buying a gun, and most gun owners don't mind background checks. In fact, we found that most gun owners believe we already have a system that requires background checks for every gun sale.

I will say, Representative Keller raised a question about family transfers. I was also Chairman of the Board of the American Motorcycle Association. I've owned 38 Harleys in my life, and I wanted to give my youngest son a bike that I owned. I had to go to a dealer, transfer the title, transfer the information for the vehicle.

It took me more than a minute or two minutes or three minutes to do. I didn't mind doing it. I wanted to give him title to the vehicle. Similarly, many people relate to motorcycles the same way members of the NRA relate to guns, and I completely understand that, that they consider it part of their culture, part of their background.

They want it for sport. They want it for

protection, target shooting, whatever. They relate to it the same way. I currently own 12 motorcycles. Do I need 12 motorcycles? No. Similarly, I have friends that have 20, 30 guns. Do they need that? No. But depending on how they want to use it, when they want to use it, they like that selection.

I don't have a problem with that. I can certainly understand those people wanting them. The question is how do we keep them out of the hands of the wrong people. That's the problem. The right to keep and bear guns is not infringed by background checks unless we're talking about the rights of felons and domestic abusers.

I should say too, over the years, I represented three different people who had protection from abuse orders against them that shot and killed their wives. So protection from abuse orders don't mean much to somebody if they can get a gun. Will this keep them from getting a gun? Maybe, maybe not, but it certainly might, and that's worth the try.

There are many other myths and conspiracy theories that we can get into, but I want to refute the three that I've heard the most. My written testimony cites all the sources for these facts. And, again, background checks do stop criminals from getting guns, background

checks do reduce crime and saves lives and background checks do not interfere with the rights of lawful gun owners.

We stand with the State Police and support the current background system. It's proven to be successful, and we would suggest it be expanded to every gun sale in Pennsylvania. Thank you.

MR. HENRY: Thank you, Chairman. Thank you members of the Committee and to the Committee staff for allowing me the opportunity to come and speak to you this afternoon. My name is Geoff Henry, and I'm the Mayor of a small town in rural Chester County. And I also am a gun owner.

I oversee the police department, and I personally know many of the 5 thousand residents of our borough. Many of them are gun owners themselves. We have been discussing gun violence at our borough council meetings and at a town hall meeting that I organized that drew people from not only the Borough of Oxford, but many of the surrounding municipalities.

And at times, that town hall meeting got a little contentious. However, our council recently passed a resolution that affirms the right to own guns and also asserts the responsibility of police and government to reduce crime with sensible gun laws. Our resolution was a

result of many discussions like we are having today, which led to compromise, and in the end, consensus.

I believe that this body will eventually find consensus with the mayors, the State Police, law enforcement agencies and even gun owners on the need to extend background checks to every gun sale. I am a Republican mayor, and I'd like to give you my perspective on the issue of background checks.

The rationale for excluding long guns from background checks might be falsely predicated upon the fact that shotguns and rifles are not used as frequently in crimes as handguns, but the nightmare that unfolded as we heard earlier in Bucks County, when a man with an illegal shotgun killed his ex-wife and fired on a police officer, was no less horrifying than it would have been had he used a handgun.

The killing of three Pittsburgh police officers by Richard Poplawski in 2009 was no less deadly because he used a semi-automatic long gun than it would have been with a handgun. We have the same duty to protect our citizens from violent crime, whether it is perpetuated with long guns or handguns.

There are nine categories of prohibited purchasers, including felons, domestic abusers and people with severe mental illnesses. No one disagrees with the

State Police that these are people who should not have guns. In order to prevent them from getting guns, we subject them to background checks for every gun sale at a licensed dealer.

We also require checks if they are buying handguns from private sellers. But if the same private seller transfers a long gun to the same buyer, we do not require a background check. Putting it simply, we need to enforce the laws that are on our books. We enforce our prohibited purchase laws by requiring background checks for every handgun sale, but we do not enforce the same laws for every long gun sale.

We have an opportunity to enforce current law, to support our police and to save lives without creating any new government agency or task force and without even making any new laws. We already have a background check system in place that's working and the State Police are doing a good job administering it, but we are not getting the most from it.

We do not need a new law. We just need to repair a loophole in the law we have. This is a matter of simplifying our Uniform firearms Code. Subjecting a few more gun sales to background checks will cost very little, and it will save money by preventing crimes.

Connecticut, Colorado and Delaware all passed

laws in the past few months requiring background checks for private sales of long guns. Six states and the District of Columbia require background checks for every gun sale at the time of purchase.

Pennsylvania hopefully would be the seventh. The public wants this. Polls show that 88 percent of Pennsylvania voters support requiring all gun owners to pass a criminal background check no matter where they buy the gun and no matter whom they buy it from. Long guns, as we have heard, are estimated in 10.5 percent of all gun murders in this country.

In Pennsylvania, we know that between 2007 and 2011, there were at least 129 long gun murders committed, an average of about 26 every year. And since we only know the type of gun in 78 percent of the cases, the actual number is likely to be a good deal higher. I ask, are 26 murders a year enough to take meaningful action?

We require background checks for handguns because they're used to murder people. But long guns are also used to murder people, and I think we can come to a consensus that every murder is one too many. I, myself, as I mentioned, own a rifle. And I certainly would not risk selling it to someone without a background check.

We cannot continue to exempt certain guns based on barrel length or because they simply just don't kill

enough people. Felons, domestic abusers and people with severe mental illnesses are prohibited from having both handguns and long guns, no matter who they buy them from.

Perhaps now it's time for us to start enforcing that all of our gun sales, licensed and private, regardless of the type of gun, be enforced. Thank you very much for giving me the opportunity to speak.

CHAIRMAN MARSICO: Questions?

Representative Dean?

REPRESENTATIVE DEAN: Thank you, both mayors, for your testimony today, and I was thinking of you coming in and speaking with us. As I was reading a newspaper article, I was thinking of another mayor, Mayor Nutter. Over the weekend -- I don't know if you saw the article, but Philadelphia, between Friday and Monday, there were ten homicides, gun violence.

The burden that you as mayors have as a result of gun violence in your communities is extreme, and so I admire you for holding up well under that burden and coming and voicing your opinion to try to do something to try to lessen that burden on all of our communities. I know that Pittsburgh -- I've been in contact with some of the council members in Pittsburgh.

They too suffer from gun violence each and every year, and they are in support of the very things you're

talking about, closing the loophole for the background checks, the lost and stolen legislation which we have issued, which we have entered here in the House.

Sadly, Pennsylvania has one distinction that the ATF, recent ATF report just put out, that 15 hundred guns are lost or going out the back door of our retailers. It's number one in the country in terms of lost and stolen out of our retail establishments, so I just admire you for your leadership on this issue and hope that our legislature hears your words.

CHAIRMAN MARSICO: Representative Keller?

REPRESENTATIVE KELLER: Thank you, Mr. Chairman.

Mayor Gray, your analogy of transferring a motorcycle versus a firearm is not comparing apples to apples. When you're transferring vehicles, you have insurance purposes and those types of things, so, you know, I understand what you're trying to get at there.

I just wanted to bring point of the fact that my questioning on the fact of transferring it between family members of a firearm versus transferring of a motorcycle, you know, are not apples and apples.

MR. GRAY: In our family, motorcycles, especially Harleys, are sacred.

REPRESENTATIVE KELLER: Well, they're sacred in my house too.

MR. GRAY: But I will say that I agree with you completely. I'm just saying I wanted to give him that. I had to go and go through all the transfer of title and whatnot, the insurance, but I agree with you. It's just, as an aside, that in other things, we transfer and give to our kids.

REPRESENTATIVE KELLER: Absolutely.

MR. GRAY: And I don't have a problem with the exception that you can give a gun to someone in a close family relationship. I don't think we have any opposition on that at all.

REPRESENTATIVE KELLER: Okay. Thank you.

Thank you, Mr. Chairman.

CHAIRMAN MARSICO: Okay. Well, thank for your time and testimony. Thanks for being here.

Next on the agenda, the next testifier is John Hohenwarter, the National Rifle Association of America.

You may begin.

MR. HOHENWARTER: Good afternoon. Thank you, Chairman Marsico and Chairman Caltagirone, for having me here today. There's been a lot said earlier, so I'm going to jump around from my testimony that was submitted earlier to a couple things.

And the first thing that's immediately on my mind are some of the comments that were just made, where we

had some scenarios put forth about how individuals went out and committed crimes with long guns.

And I want you to keep this in the back of your mind -- well, I would like for you to keep it in the back of your mind throughout the rest of this legislative session and onward, but the individuals that they are talking about, for the most part, are all repeat offenders.

For instance, Lancaster, I did a little research in the City of Lancaster. You'll find in Lancaster, people have priors in York showing up in Lancaster getting arrested time and time again, people from Philadelphia showing up in Lancaster getting arrested time and time again.

These are repeat offenders that sometimes go out and commit crimes with firearms. But while this is going on, while with the mayors in here today, you will find, including the City of Lancaster, they have been consistently reducing their police force, consistently.

And it's tough to come in here and say you're getting tough on crime when you're consistently reducing your boots on your street. And I think the State Police, if they were here, they will say boots on the street are the number one effectiveness that they can put out there to mitigate crime.

So I just wanted to -- while that was fresh on

my head. There's a lot of things because I took a lot of notes here, so bear with me. I'm going to skip around a little bit. Let's talk about PICS versus NICS. You know, I agree the State Police recently, over the last few years, I think they've been doing a pretty good job with the Pennsylvania Instant Check System.

However, I think we're really at a point here in Pennsylvania where we have to take a look at a cost benefit analysis. I mean, right now, with the technology present, NICS can practically run an identical check that they're running right here in Pennsylvania. As you have heard, we have recently submitted our mental health records.

They have the ability to take other information that we may have here in Pennsylvania to put in that database as well. So they can pretty much duplicate what we're doing here in Pennsylvania and save the state \$6 million. I think that's really what you need to think about. You're saving the state \$6 million.

Now, I think the State Police would like to take that \$6 million and have more officers on the street. You will find that by hiring more officers with that \$6 million, that you're going to mitigate crime. So I think you need to have that discussion.

Because at the end of the day, you're going to have the same background check that's going to deny the

same amount people, and you're going to have \$6 million to put back into law enforcement. But let's talk about the denials. I'm not here today to pick on the State Police or the National Instant Check System, but I'm going to give you an example.

Last year, there was 11 thousand denials here in Pennsylvania, of which there were 41 hundred challenges and 15 hundred approved. Now, that leaves 95 hundred denials out there for 2011, in which there was 110 arrests made out of those 95 hundred denials. Now, how many people were successfully prosecuted out of that 110, I don't know, but I think these are some of the questions that need to be answered here in Pennsylvania because we have seen very similar data with the National Instant Check System, which is a very low arrest and prosecution rate off of denials.

So that's something, I think over the next few months as you debate this, maybe to ask the Pennsylvania State Police. Let's move along to the universal background check, which has taken a lot of the debate here today and the time you've been sitting here. There are really three primary considerations when you're talking about moving Pennsylvania to a universal background check.

Number one, we know Pennsylvania has a universal background check on handguns, so there's only two states that I'm aware of in the country that have a universal

background check which would include handguns and include long guns, that being California and Rhode Island.

And California has always been held as the state to take a look at, and I provided you some information on California, in which even the Department of Justice in California attributed the decline in violence and murders in California, not due to universal background check, but due to other factors.

And at that same time, crime across the country was falling to the same parallel as California, but interestingly, over the last ten years, firearm ownership has been going up. So we have been seeing firearm ownership on the increase and crime on the decrease.

So if you look at the effect on this in California, you will find there's nothing to attribute universal background checks as the reason for the decline. Number two, what I think you need to take a look at is obviously there are constitutional considerations, and we can probably debate this all day.

But when you create a universal background check, basically you're creating a paperwork computer system on every gun transaction here in Pennsylvania, and if you did in the United States, we'd be in the United States. Somewhere there would be a record on every gun transaction that's out there.

So a lot of the opposition that you see from the gun owner side, aside from the point that it's ineffective, would be the point that it is a constitutional issue. And then looking here into Pennsylvania, I think you also have to take, again, what I discussed earlier, which is financial considerations, meaning getting your biggest bang for your buck.

The State Police, they really can't determine the cost of this, but there's no question there would be an increase to cost to the State Police to run these checks. And with that, this would actually be put in your camp how to fund that, whether that would be to raise the fee, which when this first started, was supposed to be a nominal fee and not carried to the gun owners, but it was supposed to be carried unilaterally across all taxpayers because of the common good.

So you would have to obviously come up with more funding for the State Police to conduct these background checks or these additional background checks. Now, again, on these background checks that you're creating -- and this is part of the effectiveness -- you're talking about firearms that are used in very little crime in this state.

Now, in my testimony, I outline that, in which still 60 percent of all murders in Pennsylvania are by handguns; 26 percent are by other than firearms;

1.3 percent are by rifles and 3 percent by shotguns. So as far as data goes, this is not the choice of criminals, and clearly it's not the choice of murderers.

The handgun still results in 60 percent of all murders here in Pennsylvania. And, you know, looking at that, I think, you know, you have to really, again, take a look at is this really where you want to go with your money here in Pennsylvania, to go after a firearm that's used in less than 3 percent of all murders and crime here within the state. I could go on. I know it's getting late, but I want to thank you for giving me the opportunity to provide some comment and look forward to working with you in the future.

CHAIRMAN MARSICO: Well, thank you, John. Your testimony on the bottom of the first page there, I think it's worth pointing out that Pennsylvania statute requires -- for the public to know this -- a universal background check on the private transfer of all handguns, the private transfer of handguns.

And it's currently illegal to sell a handgun to a person in a private transfer without obtaining a PICS background check, so I think that's important for everyone to know that. And if you do that, both parties are subject to felony charges.

MR. HOHENWARTER: Absolutely. And I think,

Mr. Chairman, members of the Committee, I think you should note also -- and it hasn't been brought up -- it's currently illegal to sell a long gun to a prohibited person. That is a felon.

And I didn't hear it brought up today by any of the previous speakers, but if you knowingly sell a firearm to a prohibited person, it's a felony. It's not a free ride.

CHAIRMAN MARSICO: Thank you for pointing that out as well.

Representative Stephens?

REPRESENTATIVE STEPHENS: Thank you, Mr. Chairman.

John, I know you do a lot of work all over the country, and one of the things that jumped out at me as we're talking about the PICS/NICS issues when the State Police were testifying, that issue about 2 percent of fingerprint cards being rejected and not being put into the national database for those convicted of crimes, have you encountered -- I mean, is that the first time you heard that statistic?

Is this something that's being discussed in other states? It just seems to me -- that got my attention, and when I hear that there are 4 to 5 hundred fingerprint cards per month being rejected just in the

State of Pennsylvania by the FBI and those people then are in no database as being criminals, is this unusual, or is this --

MR. HOHENWARTER: Well, Mr. Chairman, Representative, is it unusual? I mean, I'm not familiar with that. If you take a look at the chart that Mr. McGuigan, I think, presented in his testimony, you will see many states that haven't submitted their mental health records yet. It's funny. Massachusetts, which boasts as probably having some of the strictest gun controls in the country, has the least amount of records submitted to the Federal Government. So would it surprise me that we may be having problems? I don't know. I think that's something that we should find the answer to, absolutely.

REPRESENTATIVE STEPHENS: All right. I look forward to working with you and the other groups. I mean, I do, as I said before, I share a lot of the feelings and concerns about duplication.

We don't need to necessarily duplicate functions. It just seems as though there are some gaps in the two systems, and if we can address them, I'd be more than happy to work with you on that.

MR. HOHENWARTER: I'd be happy to.

CHAIRMAN MARSICO: Representative Bradford?

REPRESENTATIVE BRADFORD: Thank you, again,

Chairman. I wanted to touch on an issue that hasn't been touched on as much, which is the possibility of an assault weapons ban. And I know that that legislation federally had expired a couple years back.

And one of the concerns and actually one that, as I read more about it, the concern that I think is valid is the cosmetic issue, that really what you get at with an assault weapons ban might not be lethality, but really cosmetics. What are your thoughts generally on legislation like that? Is that --

CHAIRMAN MARSICO: If I could just interrupt a second, like I said before, we're here to talk about background checks, procedures and not any particular bill dealing with, that's in the committee, like I had mentioned before. So we want to focus on background checks, process, procedures and to get recommendations from those that have taken their time to be here today.

REPRESENTATIVE BRADFORD: And, Chairman, I guess the reason why is because obviously assault weapons are long weapons under the Pennsylvania statute, and, again, everyone defines assault rifle differently, whether it goes to cosmetic or not.

So I guess my question is, in Pennsylvania, it would seem that an assault weapon -- and, again, it depends on how you define it -- would not be subject currently to a

background check.

MR. HOHENWARTER: You mean a rifle?

REPRESENTATIVE BRADFORD: And everyone defines it differently. I know everyone's got --

MR. HOHENWARTER: What you're referring to is a semi-automatic rifle.

REPRESENTATIVE BRADFORD: An AR-15, for example.

MR. HOHENWARTER: A rifle.

REPRESENTATIVE BRADFORD: Correct.

MR. HOHENWARTER: Not an assault weapon. I think we should clear that up. Assault weapons have been regulated for many years, and it requires a different license to have a fully-automatic firearm. Where does our association stand on that?

REPRESENTATIVE BRADFORD: Yeah.

MR. HOHENWARTER: About banning them? Well, it's been tried before in certain ways. And it's been demonstrated to be ineffective, so we oppose gun bans. Now, I think during the whole course of this --

REPRESENTATIVE BRADFORD: What about a background check for an AR-15?

MR. HOHENWARTER: You go through a background check if you buy through an FFL, and it's illegal to sell one to a prohibited person.

REPRESENTATIVE BRADFORD: What about a universal

background check?

MR. HOHENWARTER: As I said, you do a background check through an FFL.

REPRESENTATIVE BRADFORD: What about a private transaction though? You don't. You could buy one on the internet.

MR. HOHENWARTER: Or you could buy -- it's the same as buying a double-barrel shotgun. You can do that within this state.

REPRESENTATIVE BRADFORD: Right.

MR. HOHENWARTER: Correct.

REPRESENTATIVE BRADFORD: Again, I'm just asking for your position. I'm not looking to debate the --

MR. HOHENWARTER: No, no.

REPRESENTATIVE HOHENWARTER: Do you support, does your organization support someone on a private transaction selling an AR-15 -- you can call it a rifle, assault -- again, I'm not trying to get into that debate -- whether you would support a background check for that kind of --

MR. HOHENWARTER: No. We support the present law here in Pennsylvania, absolutely.

REPRESENTATIVE BRADFORD: So you support background checks, just not for certain weapons? The distinction I guess I deal with and kind of where I get a

little confused as to the position is, if background checks are good for handguns -- and you conceded they are -- why aren't they good for what some would call an assault weapon, an AR-15, for example. If they're good for the goose, why aren't they good for the gander?

MR. HOHENWARTER: Mr. Chairman, Representative, I thought I laid that out earlier. I think you need to take a look at where they fit into the crime puzzle. They're rarely used in crime, number one. Number two, you're creating a registration system within Pennsylvania if you do -- that means every gun transaction's going to have paperwork involved in it.

So those are the two major factors involved in that decision making. You know, Pennsylvania's legislature has debated this in the past, and that's why we're here today with the law that's already in the books. And you can go even further.

If you take a look -- a few years ago, the Rendell administration had a, I believe they called it a gun violence task force, in which they met a number of times throughout a year and came up with recommendations. Not one recommendation through the Rendell administration -- let me --

REPRESENTATIVE BRADFORD: It wasn't the Rendell legislature.

MR. HOHENWARTER: I said the administration, the Rendell administration, which I would not define as a pro-gun administration -- through that task force, did not come up with any recommendations dealing with gun control, just as a side note.

REPRESENTATIVE BRADFORD: And, again, I don't want to belabor the point. I guess where I'm struggling to understand your point is, so you're saying a certain segment of weapons -- you're saying since long weapons only -- and I think your number 3 percent -- are only about 3 percent of gun crimes; therefore, no background checks in that area, and by the way, with that paperwork. I mean, that's pretty much your position?

MR. HOHENWARTER: That's correct. And to go further, this goes to what I was trying to get to earlier. We're hearing a lot about the firearm, but we're not hearing very much about the criminal and how to mitigate, really how to mitigate crime because that conversation, I think, is a little more difficult to have.

REPRESENTATIVE BRADFORD: And I'll conclude with this because I think you make actually a great point about that. I think we've not talked nearly enough about the mental issue and the felons possessing weapons, and I know you actually ended your testimony, I think, with saying it's currently a crime to knowingly sell a long arm

to -- it's currently a felony to sell to a prohibited individual.

I think the point you raise though is knowingly, and without a background check, how do you know, except where you have the straw purchaser where you have two people with bad intent? In order to knowingly sell to a prohibited person, there has to be a background check.

I guess without a universal background check, a lot of the points that you raised -- and I think there needs to be a larger discussion about the mentally ill, and I think that is equally true about felons possessing. But I think that discussion needs to be had in a more comprehensive manner, but, again, I think universal background checks has to be more than part of that discussion.

MR. HOHENWARTER: Representative, Mr. Chairman, again, I think this discussion of universal background checks -- I mean, to use the old expression, you're barking up the wrong tree. That is not going to be effective in reducing crime. You know, we should be here discussing what do we do to get money to go after early intervention.

I mean, as you look at California, what they attribute to the success to reducing crime in California had nothing to do with their universal background check. It had to do with getting young kids off of crack, getting

kids help at early ages.

That's what California, who has universal background checks, attributes their decrease in crime. So I would hope that this Committee, again, would venture out and take a look at those types of issues.

REPRESENTATIVE BRADFORD: And I appreciate your admonition, and I guess I would conclude then with just saying this: I think the colleague of mine that was talking about the coal industry said their idea of energy now is we need to support all of the above, and I think all of the above needs to be part of that equation. I don't think we should all have sacred towels and carve out areas that are uncomfortable for us to talk about.

I think we need to talk about all of those things, administration of justice, how we handle background checks. It's got to be all part of the discussion. If we all carve out the areas that are not touchable, then I think we can all comfortably do nothing.

But I think after some of the testimony today, I think the days of comfortably doing nothing probably in this state and maybe in this nation, need to be looked at. So thank you, sir.

CHAIRMAN MARSICO: Representative Krieger?

REPRESENTATIVE KRIEGER: Thank you, Mr. Chairman.

And, John, thank you for your testimony. I think one thing we can all agree on is we don't want mentally-ill people to have guns. You touched on something, John, that I wanted to make sure I understand.

In your written testimony, there's a section regarding de facto registration, and I'm going to state what I think you're saying and wonder if I could get your comments on. I mean, in Pennsylvania, we already have de facto registration of handguns because despite the language in the Uniform firearms act, the State Police keep a database of the sale.

So I think your concern and, again, I think my concern is by extending background checks to long guns, we are extending that de facto registration, something that I think gun owners are very afraid about. Am I correct in stating that?

MR. HOHENWARTER: Mr. Chairman, Representative, absolutely. As you know, we have a record of sale on handgun purchases here in Pennsylvania that started back in 1931. And there was some brief discussion earlier in this hearing about the need to actually keep the record of sale, which many believe to be a de facto registration.

So I'm glad you brought that up because I wanted to touch on that. And I think this whole idea of maintaining the record of sale coincides with whether you

keep PICS and move to NICS.

And if that's a great concern about getting rid of the PICS system, it really needs not to be because we have a federal system called E-Trace that does the same thing that the State Police are utilizing for the record of sale, meaning you call the Federal Government up, and they will track down firearms as well for a criminal investigation. So, again, that's a duplicative system as well, but I share your concerns obviously.

REPRESENTATIVE KRIEGER: Thank you, Mr. Chairman.

CHAIRMAN MARSICO: Representative Santasiero, do you have a question?

REPRESENTATIVE SANTASIERO: Thank you, Mr. Chairman, for giving me the opportunity.

And thank you. I want to echo my colleagues earlier today about having this hearing today, and thank you, sir, for appearing in front of the Committee to offer testimony.

As I understand your previous comments this afternoon and kind of following up on some of the questions that Representative Bradford had asked you earlier, you said that one of the -- I'm paraphrasing, and tell me if I'm getting it wrong -- one of the main disincentives out there right now to prevent felons from getting weapons is

the fact that it is a crime to sell a weapon to a felon, correct?

MR. HOHENWARTER: That's correct.

REPRESENTATIVE SANTASIERO: Right. And that's the case whether we're talking about long guns or handguns, right?

MR. HOHENWARTER: That is -- absolutely.

REPRESENTATIVE SANTASIERO: Okay. But right now under Pennsylvania law when we talk about our background check system and the scope of it, as we've acknowledged already today, it applies to the private transfer or sale of handguns, correct?

MR. HOHENWARTER: That's correct.

REPRESENTATIVE SANTASIERO: And the NRA supports that current system?

MR. HOHENWARTER: Supports the check that we have right now on handguns?

REPRESENTATIVE SANTASIERO: Right.

MR. HOHENWARTER: Well, NRA hasn't, since I've been here for 15 years, we've never been asked to take a position on the universal background check on handguns.

REPRESENTATIVE SANTASIERO: Okay. So I guess I'm asking you now.

MR. HOHENWARTER: Well, that would be something I would have to take back to the folks that help foreign

policy at NRA.

REPRESENTATIVE SANTASIERO: Okay. So you're not prepared to answer today? You don't have the authority to answer today, in other words?

MR. HOHENWARTER: That's correct.

REPRESENTATIVE SANTASIERO: Okay. So there is some question as to whether or not the NRA does support the universal background check for handguns?

MR. HOHENWARTER: I can tell -- NRA supports obviously background checks for firearm purchases. When you bring in the private sale, again, you know, you're bringing in, on the long gun side obviously, a firearm that's used in less crimes than what knives are used for murder.

So on that, you know, one can easily debate the effectiveness of bringing in long guns. As far as handguns go, as I said earlier, that's a firearm that's used in 60 percent of murders here in Pennsylvania, so it qualifies for a little bit of a different debate than the long gun.

REPRESENTATIVE SANTASIERO: Okay. But you're still not certain whether or not the NRA actually supports the background checks of --

MR. HOHENWARTER: Well, I would have to hear all the information obviously that's out there before -- as far as a bill being introduced.

REPRESENTATIVE SANTASIERO: No, I'm talking about the handguns. I'm sorry.

MR. HOHENWARTER: No. Can NRA today make a statement on whether we would support eliminating the private sale of handguns?

REPRESENTATIVE SANTASIERO: The background check for those sales, yes.

MR. HOHENWARTER: No. We haven't taken a position on that since I've been here for 15 years. I think one could easily argue that it is not, as far as the effectiveness that we see with long guns, that criminals do not buy their guns, number one, through a dealer or through after-market sales.

These guns are normally derived through straw purchases and theft. I think that if you take a look -- I think Pennsylvania easily could move over to eliminating the universal check on handguns, and you probably wouldn't see any increase in crime.

REPRESENTATIVE SANTASIERO: Okay. You earlier mentioned that, I think the statistics you used were about 1.3 percent of murders are committed with rifles and 3 percent of the murders with shotguns?

MR. HOHENWARTER: Correct.

REPRESENTATIVE SANTASIERO: Okay. So that's 4.3 percent with long guns, if you want to use a general term

to describe those two types of firearms. And I think you mentioned that obviously there would be some increase in cost if there was an expansion of the PICS system to cover the private transfer of these firearms, right?

MR. HOHENWARTER: Correct.

REPRESENTATIVE SANTASIERO: Right now, I think the State Police said it was something like close to \$6 million a year under the current law. It's hard to quantify what the increase would be since no one seems to know exactly how many transactions we're talking about, but I think the -- and tell me if I'm wrong about this because the impression I got when you were talking about those two ideas a little while ago was that there would be, from the NRA's perspective, a fairly significant cost, dollar cost, associated with trying to address 4.3 percent of the murders that are committed in the state. Is that your point?

MR. HOHENWARTER: Representative, Mr. Chairman, my point is there could be. As the State Police said earlier, it's hard to put a number on how many private transactions that are out there. The only thing we do know is that these firearms are rarely used in crime, so the point being, is it worth focusing your attention on firearms that are rarely used in crime.

And, I mean, why aren't we sitting here today

talking about the 11.5 percent of murders that occur by the use of knives or approximately the same amount that are occurred by beating someone to death by a 2-by-4? But, no, we're here talking about an instrument that's used in less than 4 percent of murders in Pennsylvania.

REPRESENTATIVE SANTASIERO: Well, again, I'm not going to get into a debate about the distinction between a 2-by-4 and a gun. I don't think that's going to be productive to do this afternoon. But my point is -- I'm trying to get to a point. Is there -- do you see some quantitative analysis between cost and the benefit of saving lives in this? I mean, I certainly agree with your point earlier.

In fact, as a local official, when I was a local official, I actually increased the size of our police force because I think you're right. We need to make sure we have the proper number of police on the street, but I'm trying to understand more fully what your position is on that.

MR. HOHENWARTER: Well, Representative, Mr. Chairman, well, I think you make that decision -- you just made it -- what was it yesterday -- on the budget, every time you appropriate money for the State Police.

Clearly, the State Police can use more funding to help mitigate crime which will save lives. So every year you put a budget together to fund the State Police,

you're making that decision. Another example is, many years ago when this state decided to raise the speed limit to 65 miles an hour to go along with the rest of the country.

There's absolutely data out there that they knew by doing so, they were going to kill men, women and children by raising that speed limit because driving 55 save lives, but people want to drive fast. So you made a decision as a body to decide to go along and raise the speed limit because people want to drive 65 knowing that it would kill lives. So you make these decisions every day here in Harrisburg.

REPRESENTATIVE SANTASIERO: One more question if I may, Mr. Chairman. I think you mentioned before that the original contemplation was a, what you described as a nominal fee to help fund the background check system. And I think currently, the total of that fee is roughly \$5?

MR. HOHENWARTER: Correct.

REPRESENTATIVE SANTASIERO: Do you consider \$10 a nominal fee?

MR. HOHENWARTER: Well, they considered \$5 a nominal fee back in '98.

REPRESENTATIVE SANTASIERO: I'm just asking. It's now 15 years later. Would \$10 qualify as a nominal fee?

MR. HOHENWARTER: Well, 60 percent of the program is funded by the taxpayers right now. 40 percent is funded by the actual gun purchaser. So whether \$10 is a nominal fee, I don't know the answer to that question. I think if you want to extend those percentages, if the State Police need a funding increase, well, then maybe you can take a look at a 60/40 split.

But when it was first proposed, it was supposed to be a nominal fee for the gun owner because it is a matter of common good for everybody.

REPRESENTATIVE SANTASIERO: Okay. Thank you, sir.

And, Mr. Chairman, once again, thank you for the courtesy of allowing me to pose some questions. I appreciate it. Thank you.

CHAIRMAN MARSICO: Representative Dean?

REPRESENTATIVE DEAN: Thank you, Mr. Chairman.

Good afternoon. Thank you for your testimony. Thank you for coming today. I am confused by part of your testimony. I hear a conflict in it.

I think earlier in your testimony, you said that the NRA supports Pennsylvania law as it is now, Section 6111, the background check transfer on the sale and transfer of guns. That was your testimony. Is that correct? You support the current law in Pennsylvania?

MR. HOHENWARTER: As it stands now?

REPRESENTATIVE DEAN: Yes.

MR. HOHENWARTER: Representative, Mr. Chairman, I don't remember saying that, but I think my testimony speaks for itself. I mean, right now in Pennsylvania, we haven't had a debate in quite some time whether the universal check on handguns is effective, and I would welcome that debate because I think it should be had.

REPRESENTATIVE DEAN: Okay. I believe I heard you correctly earlier when you said that the NRA and you are here to say that you don't want to change the Pennsylvania law, that you support the Pennsylvania law as it is; and yet, when asked by my colleague from Bucks County do you support the universal, so-called universal background check on handguns, you couldn't make a statement yet, couldn't take a position.

MR. HOHENWARTER: Mr. Chairman, Representative Dean, I don't recall saying that. If you're saying that I did say that, I would say to you that, again, that I would welcome the debate on the effectiveness of the universal background check on handguns.

REPRESENTATIVE DEAN: And there is some research to show that -- what I have seen is that PICS was put into place in 1993, and the homicide rate from '93 on has fallen dramatically, that there is some correlation between

background checks and denying purchases to dangerous persons; it has efficacy. Do you agree that background checks have some efficacy?

MR. HOHENWARTER: Mr. Chairman, Representative Dean, no, I do not agree with that because if you look at the data across the book, across the country, you're going to find similar data; and no one has attributed that data to increasing background checks because we know criminals don't buy their guns through an FFL. And apparently when criminals do attempt to buy their firearms still through an FFL, no one wants to prosecute them.

REPRESENTATIVE DEAN: So you're against background checks?

MR. HOHENWARTER: I didn't say that. I'm just saying that I think it's debateable to the effectiveness.

REPRESENTATIVE DEAN: Okay. And then finally, the other argument you make is that long guns simply aren't the weapon of choice; no reason to close this loophole; long guns are not the weapon of choice.

At what level would it be incumbent upon us to do something? If it's only 4.3 percent of the crime is committed with the long guns, at what level would you think it would be important for us to then fill that gap?

MR. HOHENWARTER: Mr. Chairman, Representative Dean, I think really that's a question for you as policy

makers to decide where to put the money to best mitigate crime. If it came down to that you had to spend \$2 million a year to bring long guns into a universal background check, well, I think some in this body probably would disagree with doing that, and they would favor putting that \$2 million into law enforcement.

So it goes back to there's only obviously a limited amount of funding for law enforcement and where to best put that money, and that's a decision for this body to make, not for --

CHAIRMAN MARSICO: Let's, if we can interrupt, let's wrap up here if we can.

REPRESENTATIVE DEAN: Thank you, Mr. Chairman. We have one more testifier.

John, thank you very much for your time and your testimony.

MR. HOHENWARTER: Mr. Chairman, thank you.

CHAIRMAN MARSICO: I appreciate it. We have one more testifier -- I believe two actually -- Kim Stolfer, Chairman of the firearms Owners Against Crime; and David Green, Board of Directors of the Firearms Owners Against Crime.

Welcome, and you may begin.

MR. STOLFER: Good morning, Mr. Chairman, and members of the Committee. It's an honor to be before you

today in more ways than one. I'm going to depart from my prepared remarks because you've got them to go over, and they're pretty lengthy. And it's late in the day, and I'm sure everybody's tired.

But from what I've heard so far, I took copious notes because, quite frankly, there were so many things that were said that was wrong, it's incredible. For the legislators that know me, I've been studying this issue for 30-plus years, and Firearms Owners Against Crime was organized to work hard to be respectful of the Constitution as well as put criminals away if we could, or at least help in it.

And the reason why I'm here today is because I would like to bring some clarity to this issue. First of all, we -- as former chairman, Majority Chairman Tom Caltagirone will tell you, I've been before this Committee quite often. I have testimony going back to 2001 soliciting this Committee to go after actively transferring the data on mental health.

It has not been done until recently this year. While I applaud that being done, how many people could we have saved? This wasn't initiated from another organization. We came here out of the goodness of our heart. We've never asked the state for a penny or anyone. We're doing this because we're concerned.

The PFA database has still not been updated, but I will go back on my statement. I want to read something, and you can tell me whether or not you think the database for the State Police really works. And I'm going to do it with what's said by a federal agent, and not just any federal agent.

His name is Craig Foal (ph), and he is the liaison with the ICE Agency, with International Law Enforcement, Interpol and the rest. So this isn't an average everyday law enforcement officer, who was denied, by the way, by the Pennsylvania State Police based on their interpretation of the law that was -- his violation was disorderly conduct and was not one that rose to the level of disqualification here in Pennsylvania prior to their interpretation, but it was an out-of-state penalty.

And by the way, I have the e-mails from Agent Foal to back this up. He had no misdemeanor or felonious criminal record. With only one charge of disorderly conduct when he was in college 19 years prior in New York State, Agent Foal is fully credentialed to make arrests and carry firearms as part of his duties.

In December 2009, Agent Foal, who resides in York County, attempted to purchase a firearm and was denied by the PICS system for the disorderly conduct charge as a possible domestic violence charge. Now, this is a law

enforcement officer who almost had his career wrecked because of interpretations of a background check.

I'm sorry. I'm pretty passionate about this because he really was in a pickle with his agency. Obviously, Agent Foal could not work for the ICE Agency with this disqualifying offense on his record, and a potential significant impact to his career of the actions of the PICS system cannot be overstated.

Agent Foal has purchased firearms in numerous other states through the NICS system and even in Florida, which is a full point-of-contact state, without any indication of a problem. He challenged the denial, and the subsequent interaction with the PICS system revealed that it is commonplace to interpret charges in other states as having a connection with domestic violence where none exists.

And right from Agent Foal, what he wrote to me in his many e-mails -- and I do have his permission to use this today -- the system is radically flawed, and change is needed. This was on 1/13/2010. This was such a nasty experience; yes, these laws and processes definitely need to be changed, 3/19/2010.

Now, perhaps I'm too passionate about this, but this is not the only law enforcement officer that has been in this situation and definitely not the only American

citizen and Pennsylvania citizen, for that matter, who has been in the state-run point-of-contact set-ups.

And all we're trying to do is come to the Committee and say, you need to look at this because it's all well and great to hold hands and sing Kumbaya and to bend over backwards for even out-of-state advocates for more gun control.

But when it gets down to it, I have developed a huge respect for many of you on this Committee and for many of the legislators, but you're not being told the complete story. And that is something that is incredible, and that's why I'm departing from my testimony. I wanted you to hear from Agent Foal's personal statements. I have other examples, and I have many more in my files.

We have never heard, outside John Hohenwarter and the NRA and the NNSF, anyone in this state who advocated more gun control complain about the actions here. We are the ones locally that brought forth a law in House Bill 1717 as an amendment to change the PFA database to make it mandatory to share these records, and they don't.

The Federal NICS Improvement Act requires the State Police to share these PFA database records. It also requires them to also make sure there's a challenge process in Pennsylvania law for people who have a mental health record so they can challenge it. We don't have that.

And I'm not here to pick on the State Police. I'm here to tell you this is what the law requires. And I know I'm old-fashioned and a lot thinner, but in the end result, the law applies to everyone. There's no double standard, and that's what I'm here today to also reinforce.

We need to look at this from a pragmatic standpoint, does it work, and I don't think it does. And I'm just going to give you a couple examples here, and then I'll turn it over to my colleague, who is a lot younger and got better eyes.

Okay. This is -- first of all, tracing firearms, are you aware of the National Tracing Center? John Hohenwarter referred to it. When real law enforcement officers go to track down a firearm, they don't use PICS. There was a shooting at a McDonald's in Pittsburgh on Penn Avenue, where a guy came in and shot up the McDonald's.

He had used a firearm that was given to him by his father. When they wanted to check it to see if it was a crime gun or was owned by an illicit person, a straw purchase, they went to the Federal Government, not the PICS, not the PSP. What's that tell you?

I think that they know where they need to get the information from, and these are the people that we will empower by the change. But if we expand the NICS system -- and this is critical. If we expand it to cover

all firearms, what you are going to do is you're going to create a system where with the simple turn of a light switch, the Pennsylvania Constitution is gone; the Second Amendment is gone.

Because the State Police have testified, if the phones don't ring, then your right to bear arms is no longer a right. And that's the crux of this. This doesn't stop crime. Robert E. Sanders, who's now a board member of the NRA, has come up on our behalf to the legislature for years, more years ago than I care to admit, which is late 1990's.

And we went to caucus. And he explained, background checks don't work and neither does registration. He said what works is you got the gun; you got the criminal; don't let them get out of jail. But we do let them get out of jail. I go through the courts. I sit in the courts.

I watched Judge Manning and others all around Southwestern Pennsylvania and up in the Erie area. They turn them free like it's some kind of lottery ticket. One police officer I know whose whole family is a member of firearms owners Against Crime and they're all police officers, told me that when he arrested a guy, before he could get out with his paperwork and get back in his cruiser, the guy was walking out the door.

This was a firearm charge for shooting at that very police officer. This concerns me because I'm a taxpayer and a resident of Pennsylvania, this Commonwealth, but I also know what the Constitution says. I took it, and I know all of you have.

And there's a word in there that says obey. You may not like it, but you swore an oath to it. I haven't rejected mine. And this is a constitutional issue because background check isn't anywhere in Article 1, Section 21 of Pennsylvania law. I still take my oath very seriously.

I train people, including police, but you'd be amazed at where this starts because what it does is local communities like Mayor Gray -- and John Hohenwarter referenced this in Lancaster, but it's happening all over the state -- when they need more money, the police budget's the first that's cut in many cases.

And we perform pro bono training of those police officers. I'm a member of the American Society of Law Enforcement Trainers. I'm also on a training council with the NRA. I've trained over 5 thousand people to shoot. Failure to fund the training puts police officers at risk. More lives are at risk, and I'm deeply concerned about that.

Oh, and I also wanted to reference the fact, there was testimony here today about police officers being

killed. Nine were referenced. Maybe we should look and ask for police officers from line officers and bring them in because Michael Tramogli (ph), a Philadelphia police officer, wrote an article, where have all the cop killers gone; why are they on the street.

Every police officer that's been killed in Pennsylvania has been killed by a career criminal, and yet that never comes across in a hearing. For me personally, I'd like to see us swear an oath and prove what's going on. You can't just -- I could offer a poll, and I could say to each one of you that our poll shows that 96 percent of gun dealers hate the PICS system. Well, let's prove it.

I can tell you that about 70 percent of the ones that I talked to don't like the PICS system. The other 30 percent are such a small dealer out in the back woods somewhere. You know, they got a small store. They've never run into this. They sell maybe 14 guns a month or less.

So when they get a hold-up in the sale of a firearm, they just take it as part of doing business. But the bigger ones, Ace Sporting Goods -- Joe Keffer can talk about other ones. I've brought legislators in. I've had them see the process.

I've watched them listen to the phone when they're making an instant check and the system says hold,

or the system says this purchaser is on a delay. So they have to stick around in the store. Now, granted you're going to say, well, what's a delay if you can come back.

What if you're 250 miles away? What if you've never had a problem before, and the State Police made a mistake and then they just put it on an automatically denied? Because they didn't say anything about automatic denials. Those things should be a concern.

And I'm going to use one more, and then I'm just going to turn it over because, as you can imagine, I can talk for hours. I don't rely on speculation. I rely on facts because you deserve facts. You deserve the honest truth, and frankly, I don't think you're getting it a lot of times. Let's see. They're saying that this background check change doesn't hurt gun owners. Based on what?

I just want to ask one question because I like to look at all the laws, all the proposals and ask, based on what. What are we doing? Do you know that there were 23 laws broken in Sandy Hook? Are we going to have another one?

The person who committed the Sandy Hook crime -- and it was a crime, and if I could be there in the place of one of those children today, I would be there myself. I'd gladly take the bullets. But who put the bullets in the man's gun? We made gun-free school zones.

Shootings in school zones went up over a thousand percent.

We don't talk about that. Why? I think it needs to be discussed. When it comes to background checks, the same thing occurs, a person's buying a gun. A woman in Virginia was going to try to buy a gun down there because her spouse, she had a PFA against him, and he had already challenged her.

She was in the Army. What happened? The state denied her. She got raped and brutally beaten. Could she have defended herself? She was a law enforcement officer. It's the same state that let Cho buy guns because the State Police down there didn't do their job, didn't turn over to the NICS system the fact that Cho was mentally disabled. So with that, I'll wait for questioning. I'll turn this over to my colleague here. Thank you.

MR. GREEN: Thank you, Kim.

Thank you, Mr. Chairman, and I want to thank everyone actually who stuck around. And I'm going to defer from my testimony because some of you, if you've already read it, might note that I mention giving time for everyone else, and here I am last. I'm used to testifying in advance of almost everyone in the room.

But what I didn't put in my title is that I'm also an employee, a sales employee for a federally-licensed firearms dealer here in Pennsylvania, a pretty mid-sized

one. For the past 27 days, I've been working straight between two jobs.

One of them is the firearms dealer, so I've been selling firearms five to six days out of every week over the last year because, frankly, it's not a high-dollar business. Margins are low, and every cost actually does matter. And with all due respect to Representative Dean, when she asked if extra costs are a burden on businesses, you know, we fret over \$2 per hour on a minimum wage.

My salary -- I don't have a salary. I'm hourly just above minimum wage selling firearms. Every dollar matters. And, you know, we can debate the reasonableness of burdens, but I don't think calling an extra cost a burden is any way wrong or something that we shouldn't do.

We should address all the costs, see if they're necessary; and if they are, how we can work with them. So what I want to talk to you about today, instead of just touching on the testimony alone -- I'll reference it -- the process for purchasing a firearm when you walk into a dealer, what we do because some of the representatives who have stuck around, Representative Keller for example, reflected some questions on that process.

And I want to address exactly how we process a sale because the Pennsylvania State Police, they're not wrong in their statistics on their averages for how long

long it takes to process a sale, although I do believe the numbers are a little bit dated and don't include this fall.

But they don't reflect the full length of time for a sale because it's not a decision that people make in a snap judgment. And as a firearms salesman, I have to actually watch for people who are making snap judgements on purchases because they're likely buying for somebody else.

So when someone walks into a store, we greet them. We ask them if they need any help. If they want to browse, we'll let them do that, but we engage them with questioning, what they're looking to purchase the firearm for, have they purchased a firearm before, things along these lines. Because as the point of sale, I have not just a legal obligation to make sure that the sale is on the up and up, but also a moral obligation to do so.

So we engage in the questioning, and this can take a long period of time. Once the individual knows which firearm they want to purchase and then confirm that they want to purchase that firearm that day, then we move on to the paperwork. The paperwork, as others have mentioned, the long guns is one form.

It's a federal form. It's titled the ATG Form 4473. It's got a series of questions. It's very legalistic, and it could be argued, from a sociological perspective, it's flawed in its design because the series

of questions leads to a large number of people, doctors, educated people checking down the list, skimming as they go.

And there are popular errors. If you were to come in and want to purchase a firearm for the first time, I guarantee you 9 times out of 10, I can guess the errors you're going to make on the form. And it's not that you're a convicted felon. It's that you read the question wrong.

So we have to look at this from a perspective that, as a dealer, we have to turn people away who make errors when they're not prohibited from owning a firearm. They don't have a record or anything. But they don't understand the form, and therefore, we can't complete the sale because we cannot coach them on these forms.

We see more errors with the federal form than we do with the state form, which is the record of sale that's required for handgun purchases. It's a little more simplistic. It offers for a lot of the same information, although some of the information it does ask for is rather erroneous. I could ask for an employer.

Being employed is not a prerequisite to exercise in a fundamental right. I don't think anyone would suggest that we should make employment a requirement for voting. But if someone working for an employer who's particularly made known that they don't enjoy the exercise of a

fundamental right, I myself would be rather disinterested in writing that employer down.

But if they leave it blank, if they don't put that on and later it becomes an issue, they're actually guilty of a crime for leaving that information off for their own privacy sake. So how we outline these forms, what we do with them, this is a serious concern of firearms owners that we need to keep in our minds as we move forward and make changes.

Because I don't think the record of sale form in and of itself, if we're going to keep it, that information needs to be looked at how we're providing it. But we complete those forms. If all the forms are completed perfectly fine, then we move on to the background check. And there's actually one step I forgot about before the forms.

We check ID. You must have a valid state-issued government photo ID or non-photo ID if it's issued for religious exemptions. You must have that to conduct the sale and do a background check. I don't remember if it was Lieutenant Colonel Scott Snyder or Captain Scott Price who suggested that you could just use demographic data instead. You can't. It's absolutely not required.

The federal level requires we verify ID. We must verify that the person is a resident of the state or

falls under one of the few sales where they don't have to be. And what we do with that ID once the paperwork is done, we dial into the Pennsylvania Instant Check System.

There is no online access. This is one of the areas where the State Police are behind the federal level. The federal level system already has an online form. They've conducted, if I remember correctly from the FBI data, already over a million checks through it.

And that number is growing continuously. I am excited to hear that they are looking to bring an online portal online later this year because even if we eliminate PICS, I know we're not going to do it before then. So we call into the system. The number's pretty easy to remember. We dial it in.

If we connect, then we go on to the background check. And I say if we connect because, like I said, the State Police are not wrong on their information, but they're leaving out December and January of this year. If they ran the same survey they did in January of 2012 in January of this year, I guarantee you those results would be different.

We had to increase our staff because of the increase in the sales that happened after December, mid December into January. Even now we're still seeing an uptake in overall sales. The state level system was so

overwhelmed, I had an employee -- and I've done it myself -- dialing two phones, separate phone numbers and a cell phone for over an hour just getting busy signals.

And yet, the system was officially still operational. It was officially operational because they were still receiving some calls that would get through. And because it was officially operational, even though we couldn't get through, the law's little 48-hour clock beyond which we could start processing sales without a functional system, never starts because the system's still technically online even if we can't use it.

And that's a fundamental problem. One of the things I reference in my testimony, for example, is we have no idea when that clock starts. Kim mentioned the whole switching off the lights thing. I have absolutely no doubt that the people running the PICS system, specifically the PICS system, and the State Police are doing the best job that they can. And extended downtimes are minimal, but we need to know when those safeguards in the law kick in.

Dealers have no way of knowing when that starts, and last year, we had an over 60-hour downtime when the State Police took the system off for a weekend. We couldn't do a gun sale. We didn't know when the downtime officially started. There was no clock for it, and we had no idea exactly when it would come back online.

And during that time, we couldn't use licenses to carry as substitutes for background checks even though we knew the buyers weren't prohibited. We couldn't just access straight through the NICS system because the NICS system wasn't down for that 60 hours. That was the state that was down.

What we need to look at is if we're going to keep the PICS system, during those times when it's down, dealers ought to be operating through NICS. There's no reason -- unless PICS is down because of a NICS delay, which is relatively rare, there's no reason why we shouldn't be able to use the system. Dealers in the majority of states, I believe it is, are able to use that system. It's easy to use.

They pick up faster than the state level systems do, and they don't get overwhelmed with temporary spikes in purchasing. So the state level system is more efficient than our system here, and that actually comes into some of the aspects that I've noticed a lot of people referencing.

The State Police mentioned that PICS picks up on a lot of different databases that the national system doesn't, but the large reason for that that they mentioned was that PFA forms don't get filed correctly and that fingerprints just are improperly corrected.

So what they're saying -- the State Police

didn't really offer an opinion on whether we should keep the system or move towards it. They're just mentioning that they're doing the best they can.

But for those who want us to keep the state level system, when they cite those reasons, they're essentially saying that we should be stuck with a broken system for the sole sake of the fact that it's broken. What we need to do is fix those problems and move forward. Those are other issues that I don't see anyone addressing in legislation yet. We see legislation to expand the current system without fixing the problems that it already has. And if you're going to expand the system with problems, you're going to expand those problems. More people will experience it.

Now, no one knows the exact number of transfers that would have to go through dealers, but from a dealer perspective, I happen to work with a dealer that invites transfers in. We don't push people away. The National Shooting Sports Foundation and other representatives here mentioned that it's not something that a lot of dealers like to do, and there's reason for this.

One, we don't charge a large fee, so every single minute matters because it goes beyond a certain point. You're losing money on labor, even at just minimum wage for a retail sales employee. That adds up pretty

quickly when you're waiting on the phone for an hour. But we accept internet transfers.

We accept people who come, just want to do a transfer from side to side. What we do then is the same process as if the gun were ours. We actually have to take possession of the firearm in our own inventory requiring us to do a background check.

I noticed in the testimony of a few people, or at least one today, the idea of ordering a gun on the internet and having it shipped to your door. That's an absolute lie. That's not legal. Anyone doing that is committing a crime.

Now, if there are people doing that, I'd like to know what websites those are because I'd like to report them to the ATF because they threaten the very legitimate business that myself and others engage in.

You know, when we get a firearm in, it doesn't matter whether it came from a distributor or an internet retailer. We treat it the same way. The transfer's the same. The process for purchasing is the same. It's just that when we get a gun in from our regular distributors, it's not someone already who's ordered it.

But when we get something in from the internet, they already know what they want, but the process is the same. So we dial that PICS system to get them that

firearm, but we don't just -- they just can't get it handed to them or shipped to their house, not legally.

But back to the PICS system itself, we dial the phone call. And it asks for our dealer number and our pin, which is a secure way to access the system, but it also emphasizes the fact that individuals can't run background checks, despite how easy the system is to operate when it's functioning properly.

But we enter our pin in, and then we enter the driver's license number of the buyer if the ID that we're using is a driver's license. There are certain other IDs that are acceptable. If we have another form of ID, we have to wait for an operator, so it does extend the timed phone call if it's not a driver's license.

We enter the number in, and it reads back three things, and these three things are important to highlight. It reads back date of birth, the correct spelling of the last name; and here's the most point: Regardless of whether the buyer puts it on the form or not, it reads back the last four digits of the Social Security number.

The Social Security number was never intended as an actual identification number, and the FBI actually addressed the fact with the State Police that it's optional. It's completely optional. And yet, when people leave it blank, the sales clerks, we get it anyway.

I don't see where they have the authorization to pull that number. It's an issue within our current system that we ought to be looking at because that's a very serious privacy concern because the Social Security number tied to other information can enable a vast amount of identity theft if the individuals know what they're doing.

And the very simple fact that it's supposed to be optional, but we're getting it anyway, is an area that concerns me, at least from a privacy perspective. But we move beyond that. If all the information's correct, with any luck, we get the automated system. And that cues it up, and almost right away, within 30 seconds when we enter the information in, if we get an automatic answer, it tells us that. Most of the time it's automatic answers.

Like I said, the State Police are not wrong in the fact that most sales go through automatically. It's when we go to an operator that things get interesting. Because we have to go to an operator, give them all the information off the forms with the exception of they don't really need the firearm information at that time.

They get all the information. They run checks on their end. We get put on hold for a period of time. We have no estimate on how long we're going to be on hold for as they verify all that information. If they can verify the individual, we either get a denial or a point of

approval.

And usually it's only a few minutes. But during December, during January when we saw this influx in sales, I mean, these things, we were waiting on the phone on hold for over an hour. I actually had one sale that was processed, where because of the category that the individual fell into, as someone in the country on a Visa with a hunting license, they had to verify everything with all the federal agencies.

They said, well, let the buyer know that we don't know how long this is going to take; we'll call you back. They called back five hours later. Now, that is a rare exception, but it's worth highlighting that those things happen. And the State Police mentioned the delayed status.

If we can't get an answer right away, they give us a delayed status, and they have up to 15 business days. Well, in reality, they don't have up to 15 business days because they go ahead and put people into undetermined statuses after 15 business days and require those individuals to fight it on their own if they can't figure things out.

It's basically a government agency saying, well, we don't know who you are; we're going to treat you like a prohibited person for the time being. And they do have the

right to an appeal, but because it's a civil matter, they have no right to counsel during that appeal.

And this is a very legal matter, and it can involve a lot of past records that, frankly, if you're not a lawyer, it's very complicated and confusing. And every form you sign is subject to penalties if you happen to knowingly put something down that's either false or just incorrect by nature of omission.

So you have the right to appeal, but you don't have the right to have any counsel on your appeal. And after those 15 business days, it's kind of just left up to, well, whenever the system can get it done, it will get it done. And that undetermined status, you don't really see that on the federal level at all. They issue only approvals or actual denials.

The appeals process on the federal level does take a fair bit of time. It does take longer than the average appeal time on the state level, but at least they're clear cut. There's no undetermined.

Because to say that your rights are undetermined, it's a little insulting when I think about it because we've had people who have a license in their hands get an undetermined status, even though the standards for license to carry are more than for purchasing a firearm.

But one database is off, one fingerprint was put

in incorrectly; and the State Police thinks it matches theirs, but it doesn't. That and other reasons can create that type of status here. So that's --

CHAIRMAN MARSICO: If I could just ask you to wrap things up a little bit because the interest of time. But, I mean, what you're telling us is really good. Going through that transaction, I think, is very helpful.

MR. GREEN: And that's what I really wanted to emphasize, just how these checks are actually done because that's the general process. I mean, there are longer issues with that that would take longer to explain, but let me hit a little more on the ideological perspective as well on the background check issue. You know, I mentioned that, as from a dealer's perspective, we have a moral obligation to make sure that we're transferring a firearm to someone who we know can actually get it.

I think if we're going to look at expanding that system, we should look at expanding it to make sure that individuals can run these checks because there's no reason the system shouldn't be able to be operated by individuals. That would require a change at the federal level unfortunately.

So we have to look at what we can do within the constraints of federal law now. But it's notable to mention that on the federal level, Tom Coborn (ph) had a piece of

legislation waiting to debate that very issue. It never got a vote. So there are these things that we need to look at as far as who's running background checks, how efficient they are.

And I think it's worthy to note that the background check system we have now, it's not likely ever to be perfect. But it is seriously flawed in several key areas right now, and we shouldn't just dismiss that and say, oh, let's just pass an expansion without any improvements built into this system.

I think if we're going to expand it, we have to take a critical look at everything, and I really think that honestly, we need to fix our database issues and then move to the next system. And that's going to be the end of my testimony today.

CHAIRMAN MARSICO: Well, thank you very much, both of you, for your time and your recommendations, your suggestions. And we appreciate that very much.

Any questions from members?

Okay. Seeing none, well, thank you very much.

We do have, for the record, submitted testimony from Joseph Bielewicz. And I also want to, in conclusion, thank the members for being here, all the testifiers. It was a long proceeding, but I think it was worth the time that the members took and that testifiers took to come in

here today for this hearing.

I want to thank also the staff for putting this together, and so with that, this ends the hearing. And, once again, thank you for being here.

(The hearing was concluded at 2:05 p.m.)

I hereby certify that the proceedings and evidence are contained fully and accurately to the best of my ability in the notes taken by me on the within proceedings, and that this copy is a correct transcript of the same.

Jennifer L. Sirois, Court Reporter,
Notary Public