

COMMONWEALTH OF PENNSYLVANIA
HOUSE OF REPRESENTATIVES

JUDICIARY COMMITTEE
SPECIAL PUBLIC SAFETY HEARING

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HARRISBURG, PA

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ROOM 205

MONDAY, APRIL 16, 2018
10:39 A.M.

PRESENTATION ON
GUN LAWS AND VIOLENCE

BEFORE:

HONORABLE RONALD MARSICO, MAJORITY CHAIRMAN
HONORABLE STEPHEN BLOOM
HONORABLE BECKY CORBIN
HONORABLE HAL ENGLISH
HONORABLE BARRY JOZWIAK
HONORABLE JERRY KNOWLES
HONORABLE TEDD NESBIT
HONORABLE RICK SACCONI
HONORABLE PAUL SCHEMEL
HONORABLE JESSE TOPPER
HONORABLE MARTINA WHITE
HONORABLE JOSEPH PETRARCA, DEMOCRATIC CHAIRMAN
HONORABLE BRYAN BARBIN
HONORABLE DOM COSTA
HONORABLE JOANNA MCCLINTON
HONORABLE DANIEL MILLER

ALSO IN ATTENDANCE:

REPRESENTATIVE FRANK A. FARRY
REPRESENTATIVE JEFFREY P. PYLE
REPRESENTATIVE LEANNE KRUEGER-BRANEKY
REPRESENTATIVE CHRISTOPHER M. RABB
REPRESENTATIVE BRIAN SIMS

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*Pennsylvania House of Representatives
Commonwealth of Pennsylvania*

COMMITTEE STAFF PRESENT:

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MAJORITY COUNSEL

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SUBMITTED WRITTEN TESTIMONY

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(See submitted written testimony and handouts online.)

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

2 * * *

3 MAJORITY CHAIRMAN MARSICO: Good morning,
4 everyone. Welcome to the House Judiciary Committee Special
5 Public Safety Hearing on guns laws and violence. You can
6 see that we're being recorded today, and also please
7 silence your cell phones.

8 We've had three days of hearings last week, and
9 we have three scheduled for this week. And we have last
10 week a total of 14 Members that testified. This week, we
11 have scheduled 21 Members to testify.

12 So with that, I'm going to ask Members on the
13 Committee to do Member introductions starting on my far
14 left with Jesse.

15 REPRESENTATIVE TOPPER: This is the first time
16 I've been --

17 MAJORITY CHAIRMAN MARSICO: On the far left?

18 REPRESENTATIVE TOPPER: -- on the far left with
19 anything. Jesse Topper, 78th District, Bedford, Fulton,
20 and Franklin Counties.

21 REPRESENTATIVE JOZWIAK: Barry Jozwiak, 5th
22 District, Berks County.

23 REPRESENTATIVE SCHEMEL: Paul Schemel, Franklin
24 County.

25 MR. DYMEK: Tom Dymek, Committee Executive

1 Director.

2 MAJORITY CHAIRMAN MARSICO: Ron Marsico,
3 Chairman, Dauphin County.

4 MS. SPEED: Sarah Speed, Democratic Executive
5 Director.

6 REPRESENTATIVE COSTA: Dom Costa, 21st District,
7 Allegheny County.

8 REPRESENTATIVE CORBIN: Becky Corbin, 155th in
9 Chester County.

10 REPRESENTATIVE BLOOM: Steve Bloom, 199th
11 District, Cumberland County.

12 REPRESENTATIVE SACCONI: Rick Saccone, 39th
13 District, Washington and Allegheny Counties.

14 MAJORITY CHAIRMAN MARSICO: I have to note on my
15 far, far right is Representative Saccone. I couldn't
16 resist that. I'm sorry.

17 So with that, our first Member to testify is a
18 Member of our Committee, Representative Barry Jozwiak.
19 Representative Jozwiak, will you come up front? We have
20 your written testimony. Thanks for passing those around.

21 REPRESENTATIVE JOZWIAK: Thank you, Mr. Chairman.
22 Is it okay to proceed?

23 Well, good morning, everyone on the Committee,
24 and Chairman Marsico. You know, my background in law
25 enforcement, I could say a lot about a lot of these things

1 that we discussed last week and some of the emails that
2 I've been getting on both sides, but I'm going to -- you
3 know, while there's a lot of issues with these hearings,
4 and I could speak about lots of them, I'm going to narrowly
5 limit my testimony concerning a law in the Crimes Code
6 involving the police.

7 In today's world, there's more and more attacks
8 on police officers from the criminal element. Officers are
9 being attacked almost routinely, and many of them are
10 seriously injured and some killed. In addition to
11 firearms, criminals are using vehicles, knives, baseball
12 bats, pipes, tire irons, all of which are capable of
13 inflicting serious bodily injury or death.

14 My bill, House Bill 249, which I'm the prime
15 sponsor, deals with Section 2702.1 of the Crimes Code, the
16 section is titled "Assault of Law Enforcement Officer."
17 Currently, this section requires a person commits a felony
18 of the first degree who attempts to cause or intentionally
19 or knowingly causes bodily injury to a law enforcement
20 officer while in performance of duty and with knowledge
21 that the victim is a law enforcement officer by discharging
22 a firearm. That's the key element here, discharging a
23 firearm.

24 House Bill 249 changes that law by saying a
25 person "who attempts to cause or intentionally or knowingly

1 causes bodily injury by discharging a firearm or" -- and
2 this is the change -- "serious bodily injury by use of a
3 deadly weapon, as defined in Section 2301 relating to
4 definitions." Serious bodily injury is defined as bodily
5 injury which creates a substantial risk of death or which
6 causes serious permanent disfigurement or protracted loss
7 of impairment of the function of any bodily member or
8 organ.

9 Deadly weapon today is defined as any firearm,
10 whether loaded or unloaded, or any device designed as a
11 weapon and capable of producing death or serious bodily
12 injury or any other device or instrumentality which, in the
13 manner in which it is used or intended to be used is
14 calculated or likely to produce death or serious bodily
15 injury, a firearm, a car, a baseball bat, a knife, a tire
16 iron, et cetera, any item that can cause risk of death,
17 disfigurement, or impairment of any function of any bodily
18 member or organ.

19 I believe it's time we add the word "causes
20 serious bodily injury by use of a deadly weapon" to this
21 law. I believe we need to pass this legislation in order
22 to give our protectors, the police, the added protection
23 they so deserve by allowing them to be on solid ground when
24 attacked by anyone using a deadly weapon.

25 This bill currently has 29 cosponsors from both

1 sides of the aisle, and I would just like to say thank you
2 to the Committee and the Chairman for hearing my testimony,
3 and I would urge all of you to support House Bill 249.

4 And I'll take any questions that we have.

5 MAJORITY CHAIRMAN MARSICO: Thank you for coming
6 before the Committee on your bill. Do you have any
7 resistance, any groups or individuals that are against this
8 legislation?

9 REPRESENTATIVE JOZWIAK: No, nobody --

10 MAJORITY CHAIRMAN MARSICO: Have you heard from
11 anybody?

12 REPRESENTATIVE JOZWIAK: I have not had any.

13 MAJORITY CHAIRMAN MARSICO: How much support do
14 you have?

15 REPRESENTATIVE JOZWIAK: Well, I got 29
16 cosponsors. I know the police are okay with it.

17 MAJORITY CHAIRMAN MARSICO: Police law
18 enforcement, DAs --

19 REPRESENTATIVE JOZWIAK: Well, law enforcement.
20 I didn't talk to the DAs about it.

21 MAJORITY CHAIRMAN MARSICO: Any questions or
22 comments? Seeing none, keep working your bill.

23 REPRESENTATIVE JOZWIAK: Thank you.

24 MAJORITY CHAIRMAN MARSICO: Okay. Thanks.
25 Thanks for being here. Come on up here and join us. So

1 Representative Dan Miller is our next testifier, just
2 arrived, Member of the Committee.

3 REPRESENTATIVE MILLER: Thank you, Mr. Chairman.
4 A lot of rain out there.

5 MAJORITY CHAIRMAN MARSICO: It sure is.

6 REPRESENTATIVE MILLER: Thank you again,
7 Chairman, for the opportunity to address this honorable
8 Committee this morning. I very much appreciate the
9 opportunity and the format of the hearings. It's something
10 that I think hopefully can be replicated in other
11 circumstances and in other Committees, so I thank you very
12 much for your leadership in allowing this type of
13 discussion to occur.

14 I thought it would be important in someone who's
15 been part of all the discussions so far to try and talk
16 about a little bit of a different angle than perhaps we
17 have heard so far. And I thought it's important for us to
18 kind of be clear with what I think was the Chairman's
19 intent or just at least narrowing the discussion as to
20 bills that would relate specifically to this Committee.

21 Obviously, there are a bunch of other items that
22 relate to the discussion of school safety broadly and, to
23 some degree, gun-related matters as well. So, for example,
24 with it, I do believe that the General Assembly should look
25 to assist school districts with school safety-related

1 infrastructure improvements. That makes a lot of sense,
2 and I hear a lot of need, but I don't think it's actually
3 something that would come up through this Committee.

4 Similarly, I do think that the State should look
5 at, especially given our constitutional mandate regarding
6 education, whether or not we can help with school resource
7 officers, school police officers that local school
8 districts may want and think are necessary, but again, I'm
9 not quite sure that that would fit here.

10 And clearly, there are a variety of mental health
11 issues that people have talked about in relation to school
12 safety broadly, and I think those are warranted
13 conversations as well, proportionate perhaps, you know, to
14 the facts surrounding them. But again, there are some
15 elements that do touch our Committee in relation to mental
16 health, and then there are some that do not. So it has
17 been my attempt to try and focus on issues that I thought
18 would directly relate to the discussions of bills that
19 would likely come through this Committee in some way or
20 another.

21 There are issues, of course, that have come up in
22 a variety of ways back home. I think we've all been
23 hearing from people who have talked about what we can do
24 and what we should be doing in relation to school safety
25 and in relation in particular to gun matters. I do think

1 it's important for us to think about the constitutional
2 requirements of this question. So in order to start that
3 discussion on the constitutional question, I think it's
4 important for us to clarify at least generally the
5 boundaries for where government action in this realm has
6 been allowed and where it has not been allowed.

7 And I would say that I do appreciate the emails
8 that I think we've all been receiving regarding some of
9 these questions. However, I do come across some people who
10 say, well, the Second Amendment says what it is, and
11 therefore, you should not be regulating in any way or
12 infringing it in some way that people see. While I
13 appreciate their opinion, I would note that that is not
14 consistent with law, and that we have been in some ways
15 regulating aspects of the Second Amendment since it was
16 written.

17 What I thought was interesting to kind of refresh
18 a bit was in relation to the *Heller* case, which I think a
19 lot of people are familiar with as sort of the
20 establishment of several things that almost apply to both
21 sides of the equation, whether you are someone who is
22 looking for perhaps more gun control types of issues or
23 whether you're someone who has been waiting for a clear
24 statement that says that the right to bear arms is an
25 individual right. The *Heller* case is instrumental.

1 So I'll quote Justice Scalia in it where he said,
2 "Like most rights, the Second Amendment right is not
3 unlimited. It is not a right to keep and carry any weapon
4 whatsoever in any manner whatsoever and for whatever
5 purpose." For example, concealed weapons prohibitions have
6 been upheld under the amendment, and he goes on, but he
7 references examples such as mental health, felons, and
8 different ways that we have in different times regulated
9 aspects of the Second Amendment.

10 So the Court's opinion should not be taken to
11 cast doubt on longstanding prohibitions obviously, as it
12 goes on in relation to the mentally ill, and he also
13 references weapons that are used in common use at the time,
14 which is, from my understanding in particular was very
15 interesting and something that kind of relates to a
16 discussion about what is a common-use weapon of the time.
17 And then he goes on to talk about the prohibition against
18 carrying dangerous and unusual weapons. Those are key
19 terms that I think in relation to a legal discussion as to
20 where the boundaries of infringements on the Second
21 Amendment can go.

22 Obviously, the *Heller* decision has its pluses and
23 minuses depending on your perspective, and it did of course
24 nullify a D.C. handgun ban. It nullified a trigger lock
25 requirement. And obviously, it said that the Second

1 Amendment is not unlimited.

2 And understanding that we obviously had a myriad
3 of suggestions that we've discussed previously and
4 introduced in the Legislature that arguably may infringe on
5 someone's right and arguably may reduce the likelihood of a
6 violent act occurring, I would note the emphasis on
7 reducing the likelihood.

8 And let me be clear that I think, like most
9 Pennsylvanians, I do not think that there will be a law
10 that we will pass which will eliminate with all certainty
11 something horrible happening. That is a high note and an
12 impossible bar in my opinion for us to reach. In my time
13 in the Legislature I know of no perfect bill that has ever
14 been authored. And while I appreciate the comment that
15 criminals don't follow the law, the problem that we are
16 having is that many of the mass shooting incidents are
17 involving law-abiding people who no longer become law-
18 abiding, and they have a weapon that has a lot of
19 capability and that sometimes could be altered in some
20 other ways as well.

21 Therefore, I believe that, given that reality
22 that we're facing where we are finding -- I mean, let's be
23 honest. Back when we were looking at gun violence, people
24 were considering handguns still a massive problem. The
25 reality of it is that a typical handgun is not the weapon

1 of choice for the mass shootings that have really brought
2 the national spotlight to us. It is the capability of
3 these semiautomatic and AR-15s that really have taken what
4 could be a one-on-one tragedy situation and made it a one-
5 on-20 or one-on-30 until the incident at one point or
6 another is ended.

7 So things have changed in relation to how the
8 weapons are used. I made a comment in a previous hearing
9 where I talked about how, as a Public Defendant, I don't
10 recall ever having a long rifle used in a criminal act.
11 Clearly, those things are changing. Times are changing.
12 But, again, if we look at what is a common-use weapon,
13 which was just mentioned by Scalia, and if we look at what
14 is a dangerous and unusual weapon, I think that provides
15 some degree of boundary for us to consider.

16 So here is what I would suggest. I believe that
17 background checks need to be universal across the board, so
18 any transfer, any firearm at any time. And I would note in
19 particular that I probably am going to a degree where some
20 of you do not, but, you know, listen, I also talk about
21 family transfers in my mind. And, you know, I personally
22 have loved ones in my family. Half of my family are big
23 hunters. I know they have a fantastic collection of
24 firearms and rifles, many of which carry very sentimental
25 value, some that were brought home from World War II and so

1 forth, and ideally, they would like to distribute those
2 types of weapons to grandchildren and so forth to
3 appreciate the family heritage.

4 Now, I'm bringing up an example. I don't expect
5 this to really occur in my family. But by the same token,
6 when my loved one who has an issue on the behavioral health
7 arena is 20, for example, under the existing law, he can
8 get every one of those firearms that were willed to him
9 without a background check. And that obviously is
10 something that I find to be concerning. In my opinion, it
11 should be every transfer of the firearm across the board.

12 I'd also note that that includes ways that we
13 have defined elements of our background system to mental
14 health arena that isn't working as well as we'd want it to
15 be. There's no doubt to me -- I know Representative
16 Stephens had referenced issues with 302's. I did 302's as
17 a Public Defender. You know, there's a lot there. I'm not
18 talking about the expansive issues that he talked about in
19 his bill, but just in 302's and those types of commitments,
20 we have to be sure that we have a system that is working
21 across the board.

22 The second thing I would suggest is I would
23 prohibit any device that increases the rate of fire of a
24 semiautomatic weapon. So, to me, we are getting tied to a
25 definition. And when I look at Scalia's language regarding

1 a dangerous weapon, machine guns have found to be those
2 types of weapons, so how close to a machine gun are we
3 looking to go? In my opinion, I think any slide along that
4 path is to a dangerous proposition. Obviously, we're aware
5 of how many -- what has become almost the number one --
6 well, I think 48 percent of all shootings of police are
7 done now with a weapon, either an AR-15 or something
8 similar. The more that we increase the firing rate of
9 these weapons, the more dangerous I believe they become,
10 the more ripe they are for supervision in some way or
11 another.

12 And listen, I would support -- I think it was
13 Representative Kampf in relation to the magazines. You
14 know, in my opinion, anything we can do -- I mentioned
15 something along the lines of saying how we can reduce the
16 likelihood. You know, I know that we talked to several law
17 enforcement officers who have talked about how quickly
18 these incidents can occur and how quickly they may end and
19 the length of time in its entirety. To me, I'd rather at
20 least have the chance of delaying anything that could go --
21 whether it means changing out a magazine or something that
22 could have with a -- it somehow jamming in those incidents.
23 I would support anything along those lines.

24 And then I would also note in something that I
25 don't think has been brought up at least while I was here

1 with it, listen, I'd raise the age. I'd raise the age of
2 all firearms to 21. And, you know, I took a look at the
3 five worst school shootings, for example. The average age
4 of -- without getting into the numbers, the percentages,
5 was a bit over 20. To me, I would put an exception that
6 applies to the military usage or military personnel, given
7 the training that they receive with it, but I would
8 otherwise say that, like handguns, you should be 21 to own
9 any firearm.

10 Now, I would also note that I do support aspects
11 of where Representative Stephens' bill is seeming to go, as
12 well as aspects of the domestic violence bills, which I do
13 think would find some pretty good support. But I'd also
14 say this. If we were to pursue any of these bills, there
15 are a couple things that I think make sense to do, and that
16 would of course be that you'd have to put in some type of
17 grandfather clause, for example, in relation to, you know,
18 magazines or something else along those lines. You know,
19 obviously, we're in a situation where the majority of gun
20 owners are responsible and know what they're doing with it.
21 That being said -- and I think we need to respect that. I
22 think a grandfather clause is a way to do that.

23 I'd also oppose any effort to create a gun
24 registry in any way for it. I also believe that we have to
25 invest in the background system. I think that there are

1 times when we get delays, and I appreciate some of the
2 information that's been shared regarding that system. We
3 need to make sure that it encompasses everything we want it
4 to encompass, and that it doesn't unduly restrict
5 somebody's right to purchase because of any sort of failing
6 in the system for how it operates.

7 I'd also say that we've heard comments regarding
8 due process. So if you're doing anything with
9 Representative Stephens' bill or anything in relation to a
10 domestic violence bill with it, you're doing anything that
11 relates to where aspects of the *Heller* case was going,
12 which is a complete ban for certain people in constituent
13 situations. If you're going that route, one is I think
14 obviously the *Heller* decision told you that there's a limit
15 to where you can go, and the second thing about it is that
16 you have to include some aspect, a real aspect of due
17 process that comes into play.

18 So I do not believe in firearms being taken from
19 an individual regardless of their diagnosis who is not
20 afforded a real right to due process. That takes us down a
21 path that I find to be a bit concerning. So I believe that
22 you need to have a fully functioning due process system
23 that's put into place.

24 I would note, though, that in relation to some of
25 the suggestions at the Public Defender's Office perhaps can

1 fill the gaps. As, again, a former Public Defender, I
2 would raise concerns with that as a solution. The majority
3 of Public Defender's Offices and Public Defenders that I'm
4 aware of are massively overwhelmed and overworked and
5 under-supported, so I am concerned, especially in some of
6 our larger counties -- well, I think it works both ways --
7 but I am concerned whether or not they could functionally
8 complete that role in a way that people would see fit.

9 Listen, I'm not an expert in firearms. The last
10 time I fired anything was in the Army. That was a long
11 time ago. I do believe that the suggestions that I kind of
12 outlined briefly there are in line with *Heller*. Again, I
13 think we understand *Heller* to be the law of the land. You
14 have the individual right, and it generally sketched out
15 where Legislatures can go in relation to infringing upon
16 that right.

17 I do think that it's important for us -- what I
18 love and I would urge this Committee to do and I appreciate
19 very much the opportunity with it is I think we should have
20 more discussions about what are constitutionally
21 prescribed. The challenge I think that comes up -- and I
22 mentioned this before -- is just on issues of the Floor of
23 the House. You know, I have faith in this Committee, like
24 I would in every court scenario, that even if I come down
25 on a different decision in relation to the

1 constitutional of something with it, that there are
2 Members of this Committee who put a real consideration into
3 the meaning of that analysis. Sometimes, I feel that on
4 the Floor of the House with it, that is not what occurs
5 when somebody makes a motion for constitutionality. There
6 tends to be very little debate and, you know, each side,
7 myself being guilty of it as well, tends to just go, well,
8 who made the motion, and that tells you the answer.

9 There are shared concerns I think that many of us
10 have, regardless of the political spectrum, where you are
11 on the political spectrum for it. The thing that I think
12 unites us with it is that the government, in order for it
13 to infringe on a right like this, needs to meet a standard.
14 And while the *Heller* case perhaps is a little bit unclear
15 as to whether or not it's a higher scrutiny or an
16 intermediate level, it's sure not a rational-basis scrutiny
17 when it comes to infringing on rights like this, so it
18 requires us to be very tailored I think into what we
19 believe would be helpful to the solution.

20 I am concerned. I have a child as well in the
21 system, like many of you, grandchildren, everyone else,
22 loved ones, and nobody wants to see a tragedy come into
23 play. But what I think is a frustration for many people is
24 they only see action after something horrific comes into
25 place. And while again we cannot rule out or promise that

1 anything we do would solve all incidents and eliminate all
2 risk, I think that we have to realize that we continue to
3 have a problem in this country in finding the appropriate
4 balance, and I think action is required for us in moving
5 forward.

6 Thank you very much, Mr. Chairman, for your time.

7 MAJORITY CHAIRMAN MARSICO: Well, thank you,
8 Representative Miller.

9 I just want to recognize Chairman Petrarca has
10 joined us and Representative English, Representative
11 Knowles, Representative Barbin. Representative Pyle is
12 here also.

13 So I want to turn it over to questions if anyone
14 has any questions or comments. Representative Saccone.

15 REPRESENTATIVE SACCONI: Thank you, Mr. Chairman.
16 Thank you, my colleague from Allegheny County.

17 I agree. This is more of a comment. But I think
18 it's important. We talked about it last week, too, during
19 the testimony. I agree that to infringe on a
20 constitutional right, the standard should be very high. I
21 also think that we have to make sure that whatever solution
22 we're proposing to that infringement is effective. And I
23 think sometimes we get up in trying to do something because
24 I've heard that said in much of the testimony in the last
25 week and not really focusing on whether that something is

1 effective or not.

2 As I've said last week, we banned high-capacity
3 magazines and AR-15-style rifles for 10 years from 1994 to
4 2004. And at the end of those 10 years, Department of
5 Justice did a study and found it had absolutely no effect
6 on crime. So, you know, again, going out and trying to ban
7 things I don't think is an effective solution, and it
8 infringes upon the rights of law-abiding citizens, millions
9 of us who own those arms and want to use them and have a
10 constitutional right to do that. So, again, I don't think
11 that's an effective solution.

12 The other thing is the universal background
13 checks, as I mentioned last week. We've had universal
14 background checks on handguns in Pennsylvania since 1934,
15 no private sales. You have to have a background check on
16 every sale of a handgun, and yet you are more than 20 times
17 more likely to be killed by a handgun than you are by a
18 rifle, which we don't have universal background checks on.
19 So, again, putting universal background checks on long guns
20 is not an answer to this. We know that that doesn't work
21 either.

22 We have banned the private sale of that, and I
23 think that being able to pass that to my son or grandson or
24 my family member, knowing that in the law I am still
25 responsible -- if I do a private sale and I don't do a

1 background check -- now, I'd do a background check if I do
2 a private sale. It's my choice just to cover my own
3 liability. But if I don't, I am liable for how that gun is
4 used under the law, so you're definitely taking a risk if
5 you don't because you're still liable for how that gun is
6 used. If it's used in a crime and I do a private sale, I'm
7 still liable for that. I have to make sure that the person
8 I'm selling it to is lawfully allowed to own a gun, is not
9 mentally defective, and those type of things.

10 And the last part about raising the age, look,
11 you know, there's other factors, other variables, and the
12 one that comes up most is we send our young people off to
13 war to fight, carry weapons in harm's way at actually 17
14 years of age. They come back from that and they're not
15 allowed to own a rifle? They're not allowed to protect
16 their families? They're not allowed to protect their
17 homes? It doesn't make sense to me that we would prohibit
18 someone who's trained and has served their country from
19 protecting themselves or their families or their homes when
20 they come back from war.

21 I guess I'll end with that. Again, I want to
22 have solutions. I want to do things. I want to make
23 changes, but I want to make changes that are going to work,
24 not that are going to be an obstacle to law-abiding
25 citizens who faithfully carry their weapons and use their

1 weapons, you know, without incidents. And there are
2 millions of us, and many of us thwart crimes with those
3 weapons, and those statistics don't get reported much for
4 whatever reason, but they're out there thwarting crimes or
5 preventing crimes sometimes without ever having to fire a
6 shot, just being able to be there armed and stop a
7 situation. So those citizens, those law-abiding citizens
8 should be able to carry out their constitutional right.
9 Thank you.

10 REPRESENTATIVE MILLER: My friend, I thank you,
11 as always. You know I always appreciate our conversations
12 and things with it. I would note I do think that you can
13 address the military side of it. I would agree with you
14 that -- I was 19 when I enlisted. There is obviously a
15 training that people go through. I do think there's a way
16 to carve out exceptions in relation to that particular --
17 unfortunately, as you know, not unlike your family, most
18 families are not involved with the military, so I do think
19 there's a way for us to deal with it.

20 And, again, the only other thing I would say to
21 you, my friend, and we'll move on is we have to consider
22 what we can do -- if the issue was just criminals getting
23 access to guns, different scenario. The problem that I
24 think we're seeing, especially with some of these shooters
25 is these guns are legally purchased and then the problem

1 happens. And that's where I think we have to debate a
2 little bit. So thank you.

3 MAJORITY CHAIRMAN MARSICO: [inaudible].

4 REPRESENTATIVE: Thank you, Mr. Chairman.

5 And thank you, Representative Miller, for your
6 testimony. And I'm glad that you bring the Constitution
7 into this and particularly the *Heller* decision. So of
8 course the right to bear arms is solidly within the Bill of
9 Rights. They're enumerated rights. There's been a lot
10 more cases written by the Supreme Court in regard to First
11 Amendment rights, right to free speech. They are similar.
12 In many cases, the Court talks about the significant degree
13 of scrutiny the Court must have been examining any of the
14 enumerated rights. So we're talking about rights that are
15 laid out in the Bill of Rights.

16 In the *Lopez* decision, which I'd cite you to --
17 and you're probably familiar with it as well -- in the
18 *Lopez* decision, the Court brings out the issue of gun
19 rights and time, place, and use, just like with speech.
20 And in that decision, the Court, similar to the *Heller*
21 decision but I think with greater clarity, says that if
22 there's to be any restriction, any restriction of a Second
23 Amendment right, an enumerated right under the
24 Constitution, then it must be scrutinized very carefully,
25 and it must directly be comparable to the benefit.

1 So a lot of the proposals and many that you laid
2 out, you know, I would make the argument do not actually
3 bring about the outcome that you would seek. And
4 Representative Saccone already outlined some of these.
5 Last week, we heard testimony on the gun show loophole.
6 Well, nearly no crimes are actually committed with weapons
7 that have been legally acquired through private
8 transactions. Talk about bump stocks. Bump stocks
9 increase the rate of fire, not that I'm not shot with a
10 bump stock but you can actually accomplish the same thing
11 with a rubber band, so are we going to outlaw rubber bands?
12 A bump stock has only been used in one criminal offense
13 that I'm aware of.

14 Magazine capacity, as Representative Saccone
15 talked about, most of the magazines in the mass shooting
16 events actually are discharged from the weapon before they
17 expend all the rounds. It didn't make any difference
18 really whether the magazine had a capacity of 9 or 20.

19 And many other of the solutions that are offered,
20 you know, they're solutions insofar as that it's doing
21 something, but is it doing something that will actually
22 bring about any result other than to put further barriers
23 in the place of individuals that, you know, responsibly and
24 legally use firearms? Criminals don't really care too much
25 about background checks. They're not acquiring their

1 weapons in that means. Almost all the mass shooting
2 events, the individuals have acquired their -- with some
3 exceptions, very few have acquired their weapons either
4 illegally or they've used them, you know, without
5 permission of the actual owners. There are a few
6 exceptions.

7 Talk about rate of fire or using Armalite rifles,
8 AR rifles, it's the same device as a common semiautomatic
9 pistol. It's the exact same weapon; one just has a longer
10 stock and a longer barrel. At a longer distance it would
11 be of greater accuracy, but nearly all these events are at
12 a short distance. Actually, a lot of mass shooting events
13 like the Virginia Tech event utilized handguns.

14 So I acknowledge your efforts in trying to find a
15 solution, and I think the purpose of these hearings is to
16 try to find solutions. But I would make the comment that
17 the solutions that are being offered are ones that really
18 would not have an impact on the problem that's identified.

19 So thank you.

20 REPRESENTATIVE MILLER: And thank you,
21 Representative. You know, I mean, I'm sure you're aware.
22 There are different levels of scrutiny. There's three
23 levels of scrutiny generally that are in a constitutional
24 analysis. I made a reference to say that the *Heller*
25 decision and my reading of it seems to say that a rational

1 basis test is not appropriate for those types of
2 restrictions with it. I do think there is a debate as to
3 whether or not it's a strict scrutiny or an intermediate
4 level. I would admit to you that some of my suggestions
5 may fit more under one than the other, but I don't think
6 that -- I'm not so sure the law is as settled as perhaps
7 maybe some of your references may seem in relation to that
8 question either.

9 Obviously, the background checks with it, you
10 know, we go over how many thousands each year are stopped
11 for felonies, intentionally or not, mistakenly or not who
12 go forward to purchase weapons with it. The background
13 system to me is, in essence, a large success with
14 application problems in some areas, but it clearly has
15 stopped a bunch of citizens who we as a society have deemed
16 that they've lost the right in some way or another to that
17 firearm, again, something that historically has always been
18 part of our law. So I would agree with some improvements
19 for it, but I consider the background system to be a
20 success.

21 The issue, of course, is -- and, again, by all
22 means, I was the one who stepped forward with others to
23 talk and not everybody does and everybody has the right.
24 The problem that comes up with it is kind of the question I
25 was going over there with Rick is that we have two big

1 issues in my opinion with it is, yes, there are mental
2 health components that are totally different than what
3 we've ever talked about before. While mental health --
4 again, the overwhelming majority of mental health people
5 with it are not violent to anyone. They're not violent to
6 anyone. That's not going to be the issue. Clearly, as you
7 referenced some familiarity with these mass shootings,
8 there's no doubt that there is a component of it for almost
9 all, so there is a component for it. And again, there's a
10 lot there and I don't want to try and stereotype it, but we
11 know that that's an issue.

12 Then the other part about it is that we are -- if
13 somebody was just coming at you for lost and stolen, it's a
14 different issue. The problem that we're finding is that
15 some people are killing a lot of people with relative ease,
16 that the last shooter clearly bought the gun legally. And
17 we know there's a bunch of failures that came up out of
18 that shooting across the board.

19 My only belief is that we have to do everything
20 we possibly can to eliminate some of those failures and to
21 find ways to identify and work in some constitutionally
22 with those who have a greater risk in our system. The vast
23 majority of gun owners with it are overwhelmingly
24 responsible for it. I think that's true. But it's hard to
25 balance that out as someone -- I grew up 15 minutes from

1 Sandy Hook. It's hard to balance that out when you talk to
2 a parent who had, you know, 21 kids or whatever taken out
3 or whatever the situation may be at a school.

4 But thank you.

5 MAJORITY CHAIRMAN MARSICO: I just want to remind
6 the members we have this room until 12:00. Then, we have,
7 let's see, four more Members to testify. I want to
8 recognize Representative White. I think Barry has a
9 question, though, a quick question. Yes, go ahead.

10 REPRESENTATIVE JOZWIAK: Thank you. And thanks
11 for your testimony. And I heard you say you were in the
12 Army. Thanks for your service. I'm a veteran myself.
13 It's important.

14 A couple questions quickly, answers, you talked
15 about the mental health arena, the 302's. Are you talking
16 about voluntary or involuntary or both?

17 REPRESENTATIVE MILLER: Involuntary.

18 REPRESENTATIVE JOZWIAK: Involuntary?

19 REPRESENTATIVE MILLER: Yeah.

20 REPRESENTATIVE JOZWIAK: Not voluntary.

21 REPRESENTATIVE MILLER: I'm sorry. I'm
22 interested in both. The 302 system, 303's and subsequent,
23 yes, you're talking more on the involuntary side.

24 REPRESENTATIVE JOZWIAK: So you're telling me
25 that if somebody's suffering from a little depression one

1 time in their life and they go to a doctor, they're
2 restricted?

3 REPRESENTATIVE MILLER: No, no, no, no.

4 REPRESENTATIVE JOZWIAK: I mean --

5 REPRESENTATIVE MILLER: Well, what --

6 REPRESENTATIVE JOZWIAK: -- the involuntary
7 ones --

8 REPRESENTATIVE MILLER: So --

9 REPRESENTATIVE JOZWIAK: -- they go. I mean,
10 they're 302'ed, but voluntaries --

11 REPRESENTATIVE MILLER: Um-hum.

12 REPRESENTATIVE JOZWIAK: -- you know, I don't
13 know that we ought --

14 REPRESENTATIVE MILLER: Yes, it's a tough --

15 REPRESENTATIVE JOZWIAK: -- to be restricting
16 them.

17 REPRESENTATIVE MILLER: Listen, my friend, you're
18 totally right with it. And this is where aspects of I
19 think Representative Stephens' bill in particular needs to
20 be a little bit flushed out. What we don't want to do of
21 course is to have -- if you have someone who is battling
22 depression and a gun owner, are you more or less likely to
23 go talk to your psychologist, psychiatrist, therapist in
24 some way if you believe that you're going to, without due
25 process, have something taken away from you. I'm concerned

1 about aspects, and this is why I generally believe that
2 Representative Stephens is on a good path for us to pursue.
3 There are some questions that I would have still in that
4 matter, so I think I agree with you, legitimate questions
5 to be asked.

6 REPRESENTATIVE JOZWIAK: Yes, I don't think
7 restricting people that go for help, I think if you
8 restrict that, you'll stop them from --

9 REPRESENTATIVE MILLER: That's right.

10 REPRESENTATIVE JOZWIAK: -- going for help.

11 REPRESENTATIVE MILLER: Yes.

12 REPRESENTATIVE JOZWIAK: So that's a fine line
13 there. On any device that increases the rate of fire on
14 semiautomatic rifles, that kind of thing should be an ATF
15 regulation more than a State law. We don't need 50 laws
16 around the country. ATF can control that. Do you agree
17 with that or --

18 REPRESENTATIVE MILLER: I know that you're a
19 staunch supporter of Federal intrusion in State issues.
20 I'm just kidding. Listen, if the Federal Government were
21 to make action with it, my friend, I would understand it,
22 and there is an idea for uniformity across. I would get
23 that. The only balancing act I would share with you is
24 that I personally am unwilling to wait. I would vote to
25 move it in that direction as a State. If the Federal

1 Government does, then that's fantastic.

2 REPRESENTATIVE JOZWIAK: Okay. I have other
3 questions. We can talk --

4 REPRESENTATIVE MILLER: All the time.

5 REPRESENTATIVE JOZWIAK: -- off the record here.

6 MAJORITY CHAIRMAN MARSICO: Okay. Well --

7 REPRESENTATIVE JOZWIAK: I can tell you this one
8 thing, though. You've mentioned about the thousands of
9 people that got rejected through background checks. Last
10 year, the State Police conducted 1,055,449 background
11 checks, 15,000 about were rejected.

12 REPRESENTATIVE MILLER: Wow. Okay.

13 REPRESENTATIVE JOZWIAK: So it's a very limited
14 number. So thank you, Mr. Chairman.

15 MAJORITY CHAIRMAN MARSICO: Thank you. Thanks,
16 Dan.

17 REPRESENTATIVE MILLER: Thank you.

18 MAJORITY CHAIRMAN MARSICO: I appreciate it.

19 Next Member to testify is Representative Frank
20 Farry. Welcome, Representative.

21 REPRESENTATIVE FARRY: Thank you, Chairman.

22 Obviously, there's a lot of discussion on both
23 the firearm component and the mental health component. I'm
24 going to talk about two bills being passed along or the
25 cosponsor memos for both of those bills. The two bills are

1 in draft form, but I'm kind of taking a bit of a different
2 approach on trying to enhance school safety, and that's
3 based on my background as a first responder.

4 For those that don't know, I'm a longtime
5 volunteer fire chief, and I've actually actively
6 participated in active shooter drills at our high school,
7 at a university in my community as well.

8 The first bill I'm going to talk about is
9 actually on page 2, and that was actually recommended by
10 our high school principal, and I've been working with Tom
11 on it -- and I appreciate his help -- and that is to model
12 a tip line after Colorado's Safe2Tell. If you Google
13 Safe2Tell, use the number 2, you can learn a lot about
14 Colorado's tip line. And that tip line is not just a phone
15 number; it's also web-based and it's also an app.

16 So when I met with the students at our high
17 school to get their thoughts on things, they really
18 appreciated they could actually have an app where they can
19 push the button, they can go to the tip line, and they
20 could provide information of somebody's tweeting out things
21 or posting on Facebook, you know, a potentially dangerous
22 act. And this tip line wouldn't be just specific to
23 schools. It would obviously be any threats to the public.

24 Tom has been talking to the State Police, and
25 we're trying to work with the stakeholders on trying to

1 develop this tip line, but obviously, there were some
2 failings in Florida. Tips were passed along; they didn't
3 end up with the right people or they weren't followed up
4 on. This tip line would go to the State Police and then
5 would be referred to the proper local authorities or
6 obviously handled by the State Police themselves if
7 appropriate.

8 The second bill is actually an emergency
9 preparedness grant program, and it's a spinoff of what a
10 veteran was talking to me about in our schools, and that's
11 the use of tourniquets. In first responder training,
12 there's been quite an evolution. When I joined my fire
13 department almost 29 years ago, you know, I joined to
14 extricate people from cars and run into burning buildings.
15 Now, we're treating opioid overdoses as volunteer first
16 responders, and we're training for mass casualty incidents
17 such as school shootings. And it's been quite an evolution
18 over those almost three decades.

19 Ironically, the day after the Parkland shooting
20 was our weekly training night, and we were training with
21 EMS on triaging patients, plugging bullet wounds, applying
22 tourniquets. We actually carry tourniquets in all of our
23 first-in bags and all of our fire apparatus, and that's not
24 just for shootings. You could have a struck pedestrian,
25 you have somebody struck on a bicycle, you know, and we

1 have to quickly get a tourniquet on their limb to save
2 their life.

3 What this grant program would do is it's
4 threefold. And again, it's in draft form and I'm meeting
5 with the stakeholders to get their thoughts on it, but it
6 would be a grant program and of course we're going to have
7 to find the funding for it, but it would provide school
8 districts with a trauma bag that's specific to controlling
9 bleeding, so a lot of that's basically a cotton ball that
10 expands. You plug it in the bullet wound. It would expand
11 and help reduce the bleeding or stop the bleeding,
12 tourniquets and the training necessary to apply them.

13 The keys are going to be how much you locate them
14 in a school. You put one bag in the nurse's office it's
15 not going to do you much good if the shooting's in E wing
16 of the school, so they're going to have to be throughout
17 the school very similar to AEDs and the way fire
18 extinguishers are. And this is a preparedness plan. Let's
19 hope there's never a school shooting again, but we also
20 have to be realistic that there will be another one coming
21 down the pike. If this equipment was in the school in
22 Parkland and the staff were trained on the application of
23 these tools, maybe some of those lives could have been
24 saved in Parkland.

25 And I think we also -- I mean, it's morbid to

1 talk about this, but we have to put the right tools in
2 people's hands to save lives, and the proper application of
3 a tourniquet, the proper controlling of bleeding, it
4 doesn't take a lot of training. It would be a couple-hour
5 course. There would be a need to have a refresher course.
6 The program would include a train the trainer, so whether
7 it's local EMS providers, the school nurse, or whatever it
8 may be.

9 We could set up the training program in a very
10 simplistic way. The Department of Health is working with
11 me in the preparedness wing to help develop this program.
12 So both these bills are in draft form. I don't have bill
13 numbers yet because we're trying to work with our
14 stakeholders to get the language right. I'm not sure what
15 Committee they're going to be assigned to, but these are
16 two programs that I would certainly hope that we would have
17 support for both in the House, Senate, and obviously from
18 the Administration as well.

19 MAJORITY CHAIRMAN MARSICO: Any questions or
20 comments?

21 Well, thanks for bringing these bills to our
22 attention. Thanks for being here.

23 REPRESENTATIVE FARRY: Thank you, Chairman.

24 MAJORITY CHAIRMAN MARSICO: I'd like to recognize
25 Representative Nesbit, a Member of the Committee that has

1 joined us.

2 And also, anyone else? No? Okay.

3 Representative Brian Sims is here with us this morning.

4 Thank you for being here. You may begin.

5 REPRESENTATIVE SIMS: Thank you, Chairman
6 Marsico, Chairman Petrarca, Members of the Judiciary
7 Committee, for the opportunity to address you today on the
8 pressing issue of gun violence, and I will do my best to be
9 brief or at least talk very fast.

10 I also want to take a moment to thank the
11 Chairman for approaching this often divisive topic in a
12 bipartisan and cooperative manner. It is a needed first
13 step towards implementing responsible reforms, and it is
14 unfortunately infrequent that we approach the issues
15 affecting our constituents this way, and it's my hope that
16 others will strive to emulate this work. I would urge you
17 to schedule a vote on the proposed reforms as soon as
18 possible.

19 Mr. Chairman, it seems with increasing frequency
20 we witness another incomprehensible tragedy unfold where
21 innocent lives are lost, families are destroyed, and
22 communities are forever changed by what used to be
23 unthinkable violence. What was once considered abnormal
24 has become ordinary and routine. And though these acts of
25 violence dominate headlines, it cannot be forgotten that

1 thousands of shootings take place each year.

2 In the city that I represent, there is a shooting
3 every six hours, every six hours. From 2006 to 2016, 2,629
4 people were killed by firearms and many thousands more were
5 wounded. But we're not helpless. We can work together
6 towards ending this violence.

7 Our Forefathers enshrined in our Founding
8 Document certain rights and protections that are
9 inalienable and afforded to every American. Many of them
10 have stood the test of time and they remain as our guiding
11 principles and ideals that inform our work as legislators.

12 As was mentioned earlier, throughout our history,
13 we've developed commonsense laws to deal with these
14 freedoms in a safe and often responsible manner. Notably,
15 every person in this room is afforded the right of free
16 speech. We utilize this right every day. We all have our
17 own ideas, beliefs, and values. We can do this even when
18 we are diametrically opposed, as we so often are. We are
19 protected even when we criticize our government.

20 This freedom is not a protected right for many
21 around the world. It is uniquely American, and while the
22 freedom of speech is unwavering, it is of course not
23 unlimited. We've established rules to ensure the safety of
24 the public. You can hold a position that is offensive to
25 many, but you cannot endanger a crowded theater, for

1 example, by yelling "fire." We can and must apply this
2 same commonsense logic to the rights and freedoms granted
3 in our Second Amendment.

4 There is no panacea for stopping gun violence,
5 but that is not an excuse to prohibit us from not trying.
6 We can make a difference through comprehensive reforms.
7 Many of our colleagues have already discussed a number of
8 those measures, and I believe we need to implement them in
9 the Commonwealth.

10 Like many who have appeared before me and before
11 you, I think that it is fundamentally critical for our
12 efforts in mitigating gun violence in Pennsylvania that we
13 must strengthen and expand our background check system. We
14 should act without delay to close the gun show loophole by
15 passing House Bill 1400. And additionally, I believe every
16 sale of a firearm should be subject to a background check,
17 not just voluntarily. Long guns are just as deadly as
18 handguns.

19 One measure that I've introduced myself is House
20 Bill 1115, which would subject the sale of ammunition to be
21 regulated in the same way that firearm sales are currently
22 regulated. As it stands now, Pennsylvania is the Wild West
23 when it comes to ammunition sales, and I believe it is time
24 for those laws to catch up to today's realities.

25 Mr. Chairman, under my legislation, only a

1 licensed dealer may sell ammunition. It does not create a
2 separate license for ammunition sales but rather allows a
3 business to use its existing license to sell both firearms
4 and ammunition. When a person wishes to purchase
5 ammunition, the licensee would have to contact the PICS and
6 the Pennsylvania State Police would conduct a background
7 investigation. A person who is prohibited by State law
8 from possessing a firearm would also be prohibited from
9 purchasing and possessing ammunition.

10 Moreover, my bill would allow individuals to
11 apply for a PSP ammunition purchase authorization, which,
12 if approved, would last for four years and allow an
13 individual to purchase ammunition during that time period
14 without the need to get a background check for every
15 ammunition purchase. The purchase authorization would be
16 revoked by the PSP upon the occurrence of an event which
17 would disqualify a person from otherwise purchasing a
18 firearm.

19 I've introduced this measure because I personally
20 feel it is common sense. Ammunition is what makes firearms
21 deadly. I believe the purchase authorization ensures that
22 legal and responsible firearm owners are not unduly
23 burdened or inconvenienced.

24 The PICS system, as was noted earlier, blocked
25 over 15,000 prohibited purchases in 2016 alone. House Bill

1 1115 would add an extra level of protection to ensure that
2 prohibited individuals are not a danger to the public even
3 if they were to obtain a firearm illegally.

4 Further, we should prohibit the use and
5 possession of bump stocks or any mechanism that effectively
6 converts semiautomatic to otherwise illegally fully
7 automatic weapons. And while, no, that would not include
8 the banning of rubber bands, I think that it would be
9 common sense to ban the use of rubber bands to make a
10 semiautomatic weapon an automatic weapon.

11 I also strongly support Representative Boyle's
12 proposal to prohibit high-capacity magazines. We should
13 provide our constituents the security of extreme risk
14 protection orders outlined in Representative McCarter's
15 legislation as well.

16 There are additional bills that I support that I
17 believe deserve this General Assembly's consideration and
18 passage. However, I know timing is a factor in these
19 hearings, and so I will conclude my remarks.

20 I want to reiterate my appreciation to the
21 Chairman, my authentic appreciation to the Chairman for
22 doing this and to Members of the Committee for allowing me
23 this opportunity to testify. And with that, I would
24 happily take any questions you have.

25 MAJORITY CHAIRMAN MARSICO: Thanks for providing

1 your testimony.

2 With your bill, was it House Bill 1115?

3 REPRESENTATIVE SIMS: Yes, sir.

4 MAJORITY CHAIRMAN MARSICO: How many cosponsors
5 do you have?

6 REPRESENTATIVE SIMS: I believe as of this
7 morning the bill has 19 cosponsors.

8 MAJORITY CHAIRMAN MARSICO: Okay. Then you said
9 you support Boyle's bill. What was that again?

10 REPRESENTATIVE SIMS: Representative Boyle's bill
11 -- and I will see if I have --

12 MAJORITY CHAIRMAN MARSICO: Something with --

13 REPRESENTATIVE SIMS: -- the number here.

14 MAJORITY CHAIRMAN MARSICO: -- limiting magazines
15 or something?

16 REPRESENTATIVE SIMS: Yes, high-capacity
17 magazines.

18 MAJORITY CHAIRMAN MARSICO: Right.

19 REPRESENTATIVE SIMS: I know that it was
20 mentioned earlier, sir, that it wouldn't matter if a
21 magazine had a capacity of nine bullets or, say, 20
22 bullets, but I would argue that it would matter to the 10th
23 person or the 21st person that was in that room.

24 MAJORITY CHAIRMAN MARSICO: Any questions or
25 comments?

1 Representative Jozwiak?

2 REPRESENTATIVE JOZWIAK: Thanks for your
3 testimony.

4 You mentioned bump stocks. Did you ever hold one
5 in your hand? Did you ever see one? Do you know how it
6 works? Have you ever fired a gun with one?

7 REPRESENTATIVE SIMS: Mr. Chairman, I am the son
8 of two retired lieutenant colonels in the Army. My parents
9 met during the Vietnam era. I was born at Walter Reed
10 Hospital and grew up on Army bases around M6's, M4's, M3's,
11 you know, AR-15's, and Sherman tanks. And while I've not
12 ever held a bump stock, my understanding is that they take
13 an otherwise legal weapon and essentially put it in a
14 category of performance with illegal weapons.

15 REPRESENTATIVE JOZWIAK: Well, it really doesn't
16 put it into an illegal weapon category because you can get
17 licensed Federally for fully automatic weapons. Now, I've
18 fired a bump stock. It's faster than normal. It's not as
19 fast as a machine gun, and it's highly inaccurate. It's
20 like Representative Schemel said a few minutes ago. The
21 bump stock has been used one time, and that really brought
22 it to the forefront. I'd never even heard of them before,
23 so I went out and found out what they're about. I took the
24 time to do it. And really, to say you think that should be
25 prohibited, I think you should know more about it before

1 you, you know, take that position.

2 REPRESENTATIVE SIMS: Mr. Chairman, every day --
3 oh, I called you Mr. Chairman. My apologies, sir.

4 REPRESENTATIVE JOZWIAK: It's okay. I'll take
5 the --

6 REPRESENTATIVE SIMS: The promotion.

7 REPRESENTATIVE JOZWIAK: As far as the PICS
8 checks, 15,000 people were rejected, which is 1 percent of
9 the applications. A lot of those are criminals trying to
10 purchase guns. They need to be rejected, and that's good
11 they do. As a matter of fact, a PICS check does more than
12 the national check does. I'm sure you're aware of that.

13 Thank you, Mr. Chairman. That's just all my
14 comments.

15 MAJORITY CHAIRMAN MARSICO: Representative Costa.

16 REPRESENTATIVE SIMS: Mr. --

17 MAJORITY CHAIRMAN MARSICO: Oh, go ahead.

18 REPRESENTATIVE SIMS: Sir, I would simply add if
19 I could that I agree with you that those 15,000 people,
20 arguably without reviewing every case, are probably people
21 that we all would agree shouldn't be allowed to purchase
22 weapons. I would suggest then that they probably also
23 should not be allowed to purchase ammunition for weapons.
24 It's been said a number of times that a bad actor, if you
25 will, will acquire a gun no matter what we do here, so my

1 suggestion would be that during the time period that I've
2 testified here, this entire room could have ordered
3 thousands upon thousands upon thousands of rounds of
4 ammunition. And if there are people in this room that we
5 as a State have said should not be allowed to have weapons,
6 I would suggest that they should not be allowed to have
7 ammunition for those weapons either.

8 MAJORITY CHAIRMAN MARSICO: Representative Costa.

9 REPRESENTATIVE COSTA: Thank you, Chairman.

10 Thanks, Brian, for being here.

11 Just a clarification, in your testimony you said
12 somewhere around 2,000-plus people. Is that nationwide,
13 Philadelphia?

14 REPRESENTATIVE SIMS: No, in Philadelphia 2,629
15 people were killed by weapons between 2006 and 2016.

16 REPRESENTATIVE COSTA: Oh, okay. Yes, because I
17 was a little confused there. I was going to say that's a
18 lot.

19 REPRESENTATIVE SIMS: I'm afraid I don't have the
20 numbers for how many were wounded --

21 REPRESENTATIVE COSTA: Right.

22 REPRESENTATIVE SIMS: -- by weapons or by
23 firearms, but I know that it's thousands more.

24 REPRESENTATIVE COSTA: Okay. Out of the 15,000
25 background checks, do you have any statistics on how many

1 people were arrested for filing those illegal or false
2 reports to the PICS system through the PICS? Because I
3 know in our area if you do a PICS request and you lie on
4 that request, you're going to be visited by either the
5 State Police or our local police, and they do arrest you.
6 I don't know if you have those numbers or --

7 REPRESENTATIVE SIMS: I don't have those numbers,
8 and I'm glad to hear that. What I find concerning is that
9 despite those arrests that those people, as it stands under
10 current law in Pennsylvania, can still buy thousands of
11 rounds of ammunition.

12 REPRESENTATIVE COSTA: Right. Okay. Well, thank
13 you, Brian. I appreciate you being here.

14 REPRESENTATIVE SIMS: Thank you, sir.

15 REPRESENTATIVE COSTA: Thank you, Chairman.

16 MAJORITY CHAIRMAN MARSICO: Representative
17 Saccone.

18 REPRESENTATIVE SACCONI: Thank you, Mr. Chairman.
19 Thank you for your testimony, Brian.

20 The other problem with the PICS system is that
21 you get a lot of false positives on there. Over half of
22 those 15,000 are challenged, and about a quarter of those
23 are overturned. The others, you know, people just don't --
24 they don't want to go through and fight it. So we have a
25 lot of law-abiding citizens that are given false positives

1 and then they're prevented from buying a gun.

2 Very few arrests out of that. I'm trying to
3 search for that figure now. I had it before and I don't
4 have it with me here. And no prosecutions that I know of.
5 So, again, we're not following up to find the effective
6 solution, and I think that's where the solution should be,
7 not with further restricting law-abiding citizens. That's
8 where I come down on that. Thank you.

9 REPRESENTATIVE SIMS: I understand that, and I
10 respect that wholeheartedly. And as the testifier before
11 me pointed out that very few of us want great to be the
12 enemy of good at all times when it comes to legislation. I
13 think in this case what we've seen is that no action or the
14 level of inaction that has happened up to this point has
15 created a system where, you know, we're at a time right now
16 where, for example, the number of police officers killed by
17 firearms has declined steadily over the decades but the
18 number of children has increased steadily. You know, the
19 Second Amendment doesn't grant or recognize perhaps a right
20 to firearms for bravado, for culture, for heritage, you
21 know, for sport. You mentioned earlier about the use of
22 these firearms, and I would ask to you how many times have
23 you used those firearms to defend the Nation or to defend
24 the State?

25 And I understand that many of these issues were

1 fleshed out in the *Heller* decision, but just per those
2 statistics as well, if 15,000 people were identified under
3 PICS and roughly 3,500 of them appealed and were successful
4 in their appeal, we're still talking, you know, upwards of
5 10, 12, 13,000 people that we've decided as a State, even
6 after an ability to appeal, shouldn't be allowed to have a
7 firearm. I would suggest that those people should not be
8 allowed to therefore have the ammunition from those
9 firearms as well and no more.

10 MAJORITY CHAIRMAN MARSICO: One last question,
11 Representative Nesbit.

12 REPRESENTATIVE NESBIT: Thank you, Mr. Chairman.

13 Representative, just a few weeks ago, I had an
14 elderly constituent at Walmart that was upset with me that
15 he had to produce a driver's license to buy shotgun shells
16 at Walmart. And when you're saying you would like to, for
17 lack of a better term, license the ammunition sales, from a
18 practical point of view, how would you see that working?
19 And would that add, you know, an additional cost, a time
20 delay? I mean, how would that actually be implemented if
21 you got your wish?

22 REPRESENTATIVE SIMS: Very simply, all that I
23 would like us to do is treat ammunition the way that we
24 treat firearms in Pennsylvania with the exact same
25 licensees, with the exact same license.

1 REPRESENTATIVE NESBIT: No further questions.

2 MAJORITY CHAIRMAN MARSICO: Anyone else? Okay.

3 REPRESENTATIVE SIMS: Thank you, Mr. Chairman.

4 MAJORITY CHAIRMAN MARSICO: Thank you,

5 Representative Sims.

6 Next to testify is Representative Krueger-
7 Braneky. I'm going to recognize Representative McClinton
8 being here. Good morning. Welcome.

9 REPRESENTATIVE KRUEGER-BRANEKY: Thank you,
10 Mr. Chairman.

11 Good morning, everyone. I'm grateful to have a
12 chance to testify to the Judiciary Committee today. The
13 issue of commonsense gun safety reform has wide support in
14 my legislative district, bipartisan support in Delaware
15 County, and growing support across our Commonwealth and our
16 country.

17 Last week, this Committee heard the first three
18 days of testimony on this issue. I was pleased to read in
19 the *Capitolwire* that the Majority Chairman is now
20 considering action on four bills. I support swift action
21 on each of these bills, including legislation sponsored by
22 Representative Todd Stephens of Montgomery County to create
23 extreme risk protection orders when a family member can
24 petition the Court to remove guns from someone who is a
25 danger to others.

1 I support House Bill 2060, sponsored by
2 Representative Marguerite Quinn, which is very similar to
3 Senate Bill 501, which unanimously passed the Senate a few
4 weeks ago. This bill requires individuals subject to
5 protection from abuse orders and convicted of a domestic
6 abuse to quickly surrender all guns to law enforcement or a
7 licensed gun dealer instead of being able to leave their
8 weapons with a family member. I am currently a cosponsor
9 of this bill and happy to support Representative Marguerite
10 Quinn's efforts.

11 Also, House Bill 175, sponsored by Representative
12 Kate Klunk of York County, to train police officers in how
13 to assess the lethal risk facing victims of domestic
14 violence.

15 And House Bill 1872, sponsored by Representatives
16 Madeleine Dean and Dom Costa, which is legislation to ban
17 bump stocks, a device attached to a semiautomatic that
18 increases a weapon's rate of fire, I am also a cosponsor of
19 this bill.

20 I was glad to read that the Judiciary Committee
21 is inclined to take action, and I'm grateful for these two
22 weeks of hearings because it is time to act. Twenty-six
23 bills have been introduced on commonsense gun safety reform
24 so far this session, some with Republican cosponsors, some
25 with Democratic cosponsors. Some of these bills were

1 introduced last session and the session before and the
2 session before that, but the only common theme is that, as
3 of today, none of these bills have yet had a vote. So any
4 action from this Judiciary Committee is welcome, and
5 getting votes on these bills represents a historic step
6 forward.

7 I want to use my time today during this hearing
8 to request the addition of one more bill to that list,
9 House Bill 1400, because I believe that without its passage
10 the other bills in this package lack their full power. In
11 particular, I believe that House Bill 1400 is an important
12 companion bill to both House Bill 2060 and S.B. 501, the
13 domestic violence bills.

14 Specifically, House Bill 2060 establishes
15 important protections for individuals threatened by
16 perpetrators of domestic violence, but there is a gaping
17 hole in the safety net. These bills would take guns out of
18 the hands of domestic abuse perpetrators within 48 hours
19 and require that the guns be relinquished to law
20 enforcement or an authorized gun dealer rather to a friend
21 or family member. We've heard too many stories in
22 Pennsylvania of women and even children who have died at
23 the hands of a domestic abuser because the perpetrator was
24 able to get the gun back.

25 By putting a provision in place that requires

1 that the guns go to someone, law enforcement or a licensed
2 gun dealer, who will not give them back when pressured by a
3 family member, we are strengthening the law. But on its
4 own, it will not keep survivors safe. As long as an abuser
5 can still purchase a rifle or other long gun from a private
6 gun dealer in Pennsylvania without being subject to a
7 background check, there is no true protection. The abuser
8 can still go to a gun show or arrange a private sale to
9 acquire a gun that the police and the courts would have no
10 knowledge of and thus circumvent the protections
11 established by House Bill 2060 and S.B. 501 if they were to
12 become law.

13 House Bill 1400 will close this loophole and
14 require a background check finally on every single gun sale
15 in Pennsylvania. Together, these bills create a more
16 secure safety net for all people threatened by domestic
17 abusers. Furthermore, House Bill 1400 will keep our law
18 enforcement officers safer. Right now, 50 percent of guns
19 used against law enforcement are long guns.

20 Two years ago, I held the first-ever policy
21 hearing on an earlier version of House Bill 1400, the
22 universal background check bill, which was organized in
23 partnership with the House Democratic Policy Committee and
24 attended by both Democratic and Republican legislators in
25 Delaware County. We heard from local law enforcement, we

1 heard from family members of victims of gun violence, we
2 heard from State Police, and we heard from public health
3 advocates through Children's Hospital. Everyone made one
4 thing clear: We need to close loopholes in the existing
5 background check system to make sure that no one who is
6 legally prohibited from owning a gun is able to buy a gun
7 in Pennsylvania.

8 Last Wednesday, an estimated 700 advocates from
9 across Pennsylvania jammed the Rotunda of the Capitol for a
10 Demand a Vote Rally. There were two busloads of advocates
11 from Delaware County and many from my district, including
12 three nuns from a convent in Aston, the Sisters of St.
13 Francis.

14 Those who gathered on Wednesday called on the
15 leadership of the Pennsylvania Legislature to finally call
16 for a vote on a package of commonsense gun bills on the
17 Floor of the House and the Senate. Let's heed their call.
18 The citizens of Pennsylvania deserve a vote, including a
19 vote on House Bill 1400.

20 These hearings are a great first step. I commend
21 both Chairmen on calling them, and I hope that we can take
22 a next step and finally have a vote. Thank you, Chairman.

23 MAJORITY CHAIRMAN MARSICO: Thank you. Any
24 questions or comments for the Representative? I don't see
25 any.

1 Well, thank you very much for coming before the
2 Committee. I appreciate it.

3 REPRESENTATIVE KRUEGER-BRANEKY: Thank you,
4 Mr. Chairman.

5 MAJORITY CHAIRMAN MARSICO: Representative Rabb I
6 believe was our next testifier. Good morning,
7 Representative.

8 REPRESENTATIVE RABB: Good morning.

9 MAJORITY CHAIRMAN MARSICO: You may begin.

10 REPRESENTATIVE RABB: Thank you, Mr. Chairman,
11 and to my esteemed colleagues on the House Judiciary
12 Committee.

13 I was invited to offer my testimony today perhaps
14 because I'm a member of the PA Safe Caucus, which seeks to
15 enact commonsense gun reform laws in Pennsylvania. But I'm
16 not anti-gun. I'm anti-violence. And violence is far
17 older and more widespread than guns, even in the U.S.,
18 where there are literally more guns than people. We live
19 in a society born of violence, violence that preceded the
20 musket. And violence of all kinds has permeated our Nation
21 before semiautomatic weapons came to be.

22 Violence is a virus rooted in hate, and hate is
23 ignorance doused with deceit. And the grand deceit that
24 has infected us is that violence, as expressed by weaponry,
25 is the highest form of power and protection there is. We

1 often mistakenly think the most just form of punishment is
2 death, bodily injury, or imprisonment. While we have the
3 highest level of gun ownership, gun deaths and injuries,
4 and largest incarcerated population in the world, and we
5 are far from safe or just.

6 Historically and presently, too many of our laws
7 around criminal justice are infused with hate, fear, or
8 righteous ignorance, not healing. And we cannot ever heal
9 ourselves without first believing that we are worthy of
10 loving ourselves. And if we don't acknowledge what ails
11 us, we can never become healthy. But we have to believe we
12 are all worthy of the love that is required to heal our
13 Nation, to heal our Commonwealth, to heal our communities
14 and our families.

15 But the opposite of love is not hate; it's
16 apathy. And when we look at so many people who have chosen
17 to give up on life, on caring, so often it's people who
18 have been given up on. Society has given up on them. Our
19 government has given up on them. People who feel loved and
20 invested in are rarely the people we hear about when we see
21 the latest mass shooting or corner dispute on a hot summer
22 night where there is easier access to guns than books or
23 fresh produce or greenspace.

24 Social disengagement and trauma are the twin
25 bandits of freedom. They rob us of our potential to

1 experience joy, meaning, and connectedness to all those
2 things bigger than ourselves. And these things in their
3 totality represent the abundance that life has to offer.
4 It is what I commonly refer to as community wealth, which,
5 as a fellow State lawmaker elected to serve in one of only
6 a handful of Commonwealths, it's not lost on me. Community
7 wealth includes so many things, but in the context of this
8 hearing, it encompasses public safety, public health, and
9 social belonging.

10 When any of these three things falter, so, too,
11 does our society. And when all wither, we get what has
12 become normalized in so many neighborhoods, in cities,
13 suburbs, and small towns across Pennsylvania. We get
14 suicide by gun, the opioid crisis, criminalizing poverty
15 and mental health, and weaponized bigotry.

16 Two years ago this month, I was with some friends
17 who were helping me canvass neighborhoods when I was
18 campaigning just two days before I won my primary election.
19 It was a beautiful Sunday afternoon, and we had pulled over
20 to engage some young people on the corner of Fayette and
21 Vernon Road.

22 I'd just finished listening to a young woman who
23 was decrying how much it pained her to see children playing
24 in dangerous litter-strewn abandoned lots as we watched a
25 young man throw a piece of plastic on the street before

1 opening the door to his car. I approached him as the young
2 woman watched from a distance. I had successfully
3 encouraged him to pick up his wrapper and walk to the
4 corner and put it in a trash bin. I thanked him, and I
5 returned to the young woman and said that oftentimes it's
6 how we choose to engage people that's more important than
7 what we actually say to them.

8 She smiled and we parted ways, and my attention
9 turned to my friend, who was engaging another young man
10 outside a corner store. His name was Alex Cherry. He was
11 excitedly telling us how much he was looking forward to
12 working with his mom at the polls on Tuesday. Alex was
13 just 21, and I don't recall ever meeting a young man who
14 was so openly enthused about being part of the democratic
15 process alongside of his mother.

16 It was a beautiful moment, and I knew I wanted to
17 bring this young man into my orbit. I asked my friend to
18 get his number before walking into the corner store to ask
19 the owners if I could place a campaign poster in the
20 window.

21 Seconds later, I hear gunshots. I rushed
22 outside, and I saw my friend kneeling over Alex's bloody
23 corpse. He was shot in the head at point-blank range by
24 another young man whose gun was an extension of his wounded
25 humanity, someone who thought that what he needed to do on

1 that otherwise gorgeous Sunday afternoon, surrounded by
2 several onlookers and surveillance cameras, was to shoot an
3 unarmed person from behind just inches from my friend's
4 face.

5 Alex died instantly. His family would never be
6 the same. My friend would never be the same, nor I. The
7 murder made national news because Alex was shot in front of
8 a candidate. The press had gotten it wrong, but why let
9 the facts get in the way of a good story. After all, if it
10 bleeds, it leads.

11 The Monday before my primary, while still in
12 shock, I reluctantly held a press conference. I honestly
13 don't remember much about it other than crying throughout
14 delivering my statement. Amid their own collective pain,
15 the Cherry family embraced me, and I knew that while this
16 horror would never leave me, it also gave me greater
17 resolve to be part of the solution as a public servant.

18 My two young sons were supposed to be with me on
19 that corner. I had had the benefit of their help
20 throughout my campaign, so I gave them the day off. But
21 now my trauma is their trauma. The gunman has not been
22 found, and my youngest son still worries about my safety
23 and our family's safety.

24 I have sought therapy and started the morning
25 after this tragedy, for which I wish I would no longer be

1 recognized whenever I leave my house every single day. It
2 is a burden I bear that is light compared to the thousands
3 of families scarred by violence far more directly.

4 And while gun violence is common, it is not
5 normal. This is not about the Second Amendment, nor
6 stopping law-abiding citizens from their rights to access
7 guns, to own guns. This is about having the political will
8 and the moral courage to save the lives of countless souls
9 who simply do not have to die or live in fear or with the
10 pain that trauma inflicts on all who are wounded by
11 violence, whether those wounds are physical or
12 psychological.

13 And when people who have heard about my
14 experience ask me am I all right, I answer honestly no, but
15 I will be. I will be all right because I have chosen
16 healing over hatred, or worse, swallowing my pain. I will
17 be all right because I have chosen to speak publicly about
18 my trauma when so many men in particular believe that
19 trauma is just a fancy word for weakness. I will be all
20 right because I believe vulnerability is a form of
21 strength, and I will be all right because healing, not the
22 least of which is crying openly and unapologetically, is
23 how I will grow stronger.

24 This, too, is how we as a Commonwealth must grow
25 stronger, but we have to do it together by heeding our

1 better angels and not succumbing to our worst personal or
2 political fears. Thank you.

3 MAJORITY CHAIRMAN MARSICO: Chris, thank you very
4 much for coming forward. I'm so sorry to hear about your
5 friend. Obviously, this was very difficult for you to do,
6 but we really appreciate your coming forward with this.

7 Any questions or other comments?

8 Representative Knowles.

9 REPRESENTATIVE KNOWLES: Thank you, Mr. Chairman.
10 This is more of a comment on these hearings. And,
11 Representative Rabb, my heart goes out to you. I can tell
12 that this was very difficult for you to do this, and I
13 thank you for coming before the Committee.

14 Mr. Chairman, I want to commend you and Chairman
15 Petrarca for having these hearings. You all know that I am
16 a very strong supporter of the Second Amendment and the
17 right to bear arms. That is very obvious in the votes that
18 I've taken since I have been here. I share the same
19 concerns that were expressed by Representative Saccone in
20 terms of punishing law-abiding citizens. I am more than
21 receptive to listening to all of the legislation that has
22 been proposed, as I think we all should be.

23 What I want to make comment on, Mr. Chairman, is
24 some of the emails that I've been getting with people on
25 both sides of the issue, extremists on both sides of the

1 issue. You know, I've got people who are emailing me and
2 telling me that I should be ashamed of myself and scolding
3 me for being a part of these hearings. That's ludicrous.
4 And then on the other hand I'm hearing from people who
5 don't think there should be any gun laws.

6 So I think that we are doing what's right here,
7 and, Mr. Chairman, again, I want to commend both of you
8 because it's a bad day for Pennsylvania when we stop
9 talking to each other and listening. Now, based on what I
10 know about many of these bills, they're probably something
11 that I wouldn't even consider. But having said that, I
12 have a responsibility to sit and listen, and that would not
13 have been possible if the two Chairmen would have done
14 that.

15 So I would just ask people who are sending those
16 emails to think about what they're doing. Thank you very
17 much, Mr. Chairman.

18 MAJORITY CHAIRMAN MARSICO: Well, thanks for
19 those comments, Representative.

20 Any other questions or comments?

21 So we're pretty good here on time. Tomorrow,
22 we're going to meet, reconvene tomorrow at 9:00, the
23 Majority Caucus Room. We have 9:00 till 11:00 and we have
24 eight testifiers. So, once again, everyone, thanks for
25 being here, and I appreciate your attendance and your

1 support of this. Thank you.

2

3

(The hearing concluded at 11:50 a.m.)

1 I hereby certify that the foregoing proceedings
2 are a true and accurate transcription produced from audio
3 on the said proceedings and that this is a correct
4 transcript of the same.

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