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COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES

HOUSE JUDICIARY COMMITTEE

HARRISBURG UNIVERSITY, AUDITORIUM ROOM 1454  
326 MARKET STREET  
HARRISBURG, PA 17101

TUESDAY, MAY 22, 2018  
9:30 A.M.

PUBLIC HEARING - PENNSYLVANIA'S FIREARM LAWS AND PUBLIC  
SAFETY

BEFORE: HONORABLE RON MARSICO, MAJORITY CHAIRMAN  
HONORABLE TODD STEPHENS  
HONORABLE JERRY KNOWLES  
HONORABLE TEDD NESBIT  
HONORABLE BECKY CORBIN  
HONORABLE STEPHEN BLOOM  
HONORABLE RICK SACCONE  
HONORABLE TARAH TOOHL  
HONORABLE KATE KLUNK  
HONORABLE HAROLD ENGLISH  
HONORABLE BARRY JOZWIAK  
HONORABLE PAUL SCHEMEL  
HONORABLE SHERYL DELOZIER  
HONORABLE JOE PETRARCA, MINORITY CHAIRMAN  
HONORABLE BRYAN BARBIN  
HONORABLE MADELEINE DEAN  
HONORABLE TIM BRIGGS

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COMMITTEE STAFF PRESENT:  
THOMAS DYMEK  
EXECUTIVE DIRECTOR, REPUBLICAN RESEARCH  
DEPARTMENT

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CHAIRMAN MARSICO: Welcome to today's public hearing, House Judiciary Committee. We have members coming in late, and then some will have to leave because of other commitments today. Today's a session day. So we know you all understand that. So we thank the members that are here and all of you.

So over six days in April this committee held an unprecedented series of hearings along the topic of public safety and Pennsylvania gun laws. At those hearings I invited any member of the House of Representatives to come forward to outline their proposals, ideas and concerns on this very, very serious issue.

I was very pleased and the members of the committee very pleased to see that 37 members participated in those hearings. The result was a unique exchange of ideas and viewpoints. It quickly became clear to me and this was no surprise - was clear to me that it's very difficult to find common ground in Pennsylvania on the topic of firearm - firearms laws.

And yet, that was my goal. I know we all are united in protecting Pennsylvania from harm. We also know we are united in protecting our citizens' constitutional rights. So while we won't agree on

1 everything, it is my hope through those hearings and  
2 today's hearing to identify good legislation that the  
3 House can support which will better protect  
4 Pennsylvanians from violence but also respecting the  
5 constitutional rights of us all.

6                   Today we are continuing that dialogue.  
7 I've invited several of the most well-known advocacy  
8 groups to join us and to offer their viewpoint on the  
9 issue of public safety and Pennsylvania's firearm laws.

10                   I'm also very pleased that so many are  
11 here and agree to offer their input to this committee.

12                   I just want to take a moment or so -  
13 just a few comments about the murders at Santa Fe High  
14 School in Texas last week. Tragically, it no longer  
15 seems shocking to hear about school shootings, and that  
16 is a call to action for all of us, or while we are  
17 still learning the facts about Santa Fe, the Sante Fe  
18 murders, what I've learned so far illustrates the  
19 difficulties of stopping this violence.

20                   Santa Fe High School was a hardened  
21 target. It won a statewide award for a safety plan for  
22 active shooters. They have two armed school resource  
23 officers onsite. One of those officers was critically  
24 injured when he confronted the shooter. The shooter  
25 did not use an assault weapon. He carried a shotgun

1 and a handgun. Those firearms had been legally  
2 purchased.

3           As far as I know right now, while the  
4 shooter was obviously disturbed, to say the least, he  
5 did not show the kinds of red flags that might have led  
6 to involuntary health commitment. The shooter didn't  
7 have a prior criminal history. And law enforcement had  
8 not missed any possible tips about this violence.

9           These hearings are not confined to  
10 school shooting incidents. We are also talking about  
11 safety in our homes, our communities, our  
12 neighborhoods. But I mention these thoughts on extreme  
13 difficulties we as a community are facing and  
14 addressing the issue of public safety with amending our  
15 state's firearm laws.

16           I just want to remind the members or  
17 testifiers or those who are attending this hearing of  
18 one more thing. I am grateful to everyone who made the  
19 first set of hearings a success by having an honest,  
20 civil discussion. No one traded insults with the  
21 public or those having listened attentively and shared  
22 their input with their elected members afterwards. I  
23 expect to have that same kind of discussion today.

24           As part of that, I want to reiterate  
25 something I said at the conclusion of the hearings in

1 April. For practical reasons I have not been able to  
2 give nothing but to find at these hearings to everyone  
3 who might wish to share their viewpoint with us, but I  
4 do welcome broad public input. For anyone who would  
5 like to send written testimony, please send it to my  
6 Capitol office in Harrisburg for that testimony for all  
7 members to read.

8 So with that, I just want to also  
9 acknowledge and thank Harrisburg University for their  
10 generous hospitality today. I appreciate you having us  
11 here.

12 With that I'm going to ask the members  
13 to introduce themselves. Let's start down on my far  
14 left.

15 REPRESENTATIVE STEPHENS: State  
16 Representative Todd Stephens from the 151st District in  
17 Montgomery County.

18 REPRESENTATIVE KNOWLES: Jerry Knowles,  
19 the 144th District, which encompasses a portion of  
20 Berks, Schuylkill and Carbon Counties.

21 REPRESENTATIVE NESBIT: Tedd Nesbit, 8th  
22 District, Mercer and Butler Counties.

23 REPRESENTATIVE CORBIN: Becky Corbin,  
24 155th District in Chester County.

25 REPRESENTATIVE BLOOM: Steve Bloom,

1 199th District, Cumberland County.

2 MR. DYMEK: Tom Dymek, Committee  
3 Executive Director.

4 CHAIRMAN MARSICO: Ron Marsico, Chair,  
5 Delaware County.

6 CHAIRMAN PETRARCA: Joe Petrarca,  
7 Democratic Chair.

8 REPRESENTATIVE BARBIN: Bryan Barbin,  
9 representing Cambria County.

10 REPRESENTATIVE SACCONI: Rick Saccone,  
11 representing southern Allegheny and north Washington  
12 Counties.

13 REPRESENTATIVE TOOHL: Tarah Toohil.  
14 Good morning. 115, Luzerne County.

15 REPRESENTATIVE KLUNK: Kate Klunk,  
16 southern York County.

17 REPRESENTATIVE ENGLISH: Good morning.  
18 Hal English, Allegheny County.

19 REPRESENTATIVE JOZWIAK: Barry Jozwiak,  
20 Berks County.

21 CHAIRMAN MARSICO: Chairman Petrarca for  
22 the remarks.

23 CHAIRMAN PETRARCA: Thank you, Chairman.  
24 I, too, want to thank the testifiers  
25 from two weeks of hearings two weeks ago on gun



1 violence. I thank the members for sharing their  
2 thoughts on this very important topic.

3 I also thank the testifiers here today.  
4 This is - this is obviously an issue that is very, very  
5 important to a number of people on all sides of this  
6 issue. I think we have to find a way to deal with what  
7 is happening in our communities and in our schools in a  
8 protective way and also protect the rights of  
9 law-abiding gun owners. And hopefully, we can work  
10 through that and consider all viewpoints and opinions  
11 and maybe do something or not do something to make  
12 sense for the people of Pennsylvania.

13 Thank you.

14 CHAIRMAN MARSICO: Thank you.

15 Our first testifier this morning is  
16 Scott Foulkrod, Associate Professor Philosophy and  
17 Legal Studies here at Harrisburg University.

18 Scott?

19 PROFESSOR FOULKROD: Good morning.

20 Welcome to Harrisburg University. I'm  
21 really glad to have people come here to have this  
22 hearing today. I know this is welcome back, of course.

23 Representative Marsico, I'm glad you  
24 helped and brought them here on behalf of University  
25 President and the Board of Directors also. He wanted

1 me to extend a welcome to you.

2 I teach courses in - obviously, based on  
3 my title, I teach courses in law and philosophy, but I  
4 think, more importantly, for this hearing I teach  
5 courses required of all freshman, which starts with  
6 identity, sense of self, moves out to self and other  
7 relationships, brings out further to an individual's  
8 position within the community, what they can do for the  
9 community, what the community does for them, and then  
10 develop a reasonable policy around those. It's  
11 entitled The Creative Mind. And this course is  
12 required of all freshmen and it goes for the entire  
13 first year that they're here. It really is intended to  
14 help their critical thinking in a university setting.

15 When we got the policy this spring,  
16 certainly we had a plan on which policies we were going  
17 to cover. But with the number of school shootings and  
18 with the folks who were - who are the age of our  
19 freshmen class being affected by this, this was  
20 obviously on the radar. And a lot of the responses  
21 were very emotional from both sides, which you've seen.

22 Representative Marsico framed this from  
23 both sides and obviously the critical thinking a good  
24 reason to narrow this down as one of the issues. You  
25 called the Santa Fe School a hardened target already,

1 which is the issue that's on people's minds. Are they  
2 soft targets and hard targets?

3                   But one of my students brought this up.  
4 I kind of took the leash off of what we were going to  
5 do this semester. And they wanted to do some research  
6 and present on this topic specifically. I said go  
7 ahead. And the debate started very emotionally on both  
8 sides, whether they were pro Second Amendment or  
9 whether they were pro strict gun legislation. And so  
10 it started with - you know, and they're 18, 19 years  
11 old. Of course, they're going to start with very  
12 impassioned positions on this. Well, what they ended  
13 up with was a look at - and I encouraged this. Let's  
14 look at science. This is a science and technology  
15 university. Let's look at the data. Let's do some  
16 research and look at where these issues are. And  
17 obviously, you're already doing that. But I would  
18 encourage you to look at not just the data that's  
19 coming to you but actually to go out and find the  
20 experts in these fields, whether it's neuropsychology  
21 or social sciences, scientific experts, and - because  
22 the people who are coming to you often are those who  
23 have an agenda, who have thoughts. What I've seen -  
24 you know, I've practiced law for 20 years, and I've  
25 seen firearms - the experts in the world who can inform

1 you and help guide you. And why not do that? Why not  
2 form a commission to go out and find these experts who  
3 will help you narrow these issues?

4                   When you have 320 million legal guns in  
5 this country and you see how many are responsible - I  
6 mean, those guns are in the hands of those responsible  
7 for these acts, you know, it's statistically very tiny.  
8 And yet it impassions us because of the evil involved  
9 in it. That's a word that's not used so often nowadays  
10 because you don't - in today's scientific-minded world,  
11 we don't look at evil incarnate. But I asked my  
12 philosophy class one time to define evil, and they said  
13 - well, this is after a semester of thinking about it,  
14 but they said, well, it really comes down to  
15 intentional harming of the innocent and, you know,  
16 whether that be children or whether that be animals who  
17 can't protect themselves, whatever.

18                   And so I take that and I look at it and  
19 that's really the difference between the dramatics such  
20 as this volcano that we're looking at in Hawaii. It's  
21 really not going to affect that many people. Well, the  
22 difference between something that, over the large  
23 scale, really does - if we were going to take away  
24 those kinds of threats, the automobile would have been  
25 banned a long time ago. But we still make efforts to

1 carve out narrow safety exceptions to free speech and,  
2 in this case, perhaps the Second Amendment. And while  
3 it's important to protect the Second Amendment, it's  
4 also important for us to perhaps look at the science  
5 and data that would really help us narrow down why the  
6 folks who are doing this are doing what they're doing.  
7 And that's why I said look at the experts, the  
8 neuropsychologists, who are already looking at somebody  
9 - you know, you're saying that this - the shooter at  
10 Santa Fe did not have any kind of flags go up.

11 I was speaking to a grade school  
12 administrator recently who said that when they identify  
13 issues with students, they have to go to the parents to  
14 have them release the student, just to sign a release  
15 just to have them look at the student and to be  
16 evaluated, diagnosed and treated. If they don't sign  
17 off on that because of the stigma perhaps of the child  
18 being labeled as having a mental health issue, then  
19 there's nothing the school administrator can do about  
20 it. And that kind of clear behavioral issue that led  
21 to this was also leading to their separation from the  
22 fellow students. And that then - then you bring up the  
23 whole issue of bullying, which has come up in a lot of  
24 these school shootings.

25 This is obviously a multi-pronged issue.

1 It's not just related to firearms. It's related to  
2 mental health and it's related to things like science  
3 and data and research in helping it. I encourage you  
4 to do that, to look at that - that data, to go find the  
5 experts in this rather than just have folks come to  
6 you. There are many folks in this auditorium today who  
7 would like to come to you and give you all the  
8 statistics that they could - for instance, one of my  
9 students found an inverse correlation between legal gun  
10 ownership and gun violence, and I looked at the  
11 students who want some serious gun legislation. I said  
12 how can you argue against this. They said you can't.

13                   But then I looked at them and looked at  
14 the other side and said how can you argue against  
15 trying to do the hard, hard research and work to go  
16 find the experts to tell you who - how can we craft  
17 some minimal exception to the Second Amendment that  
18 that's actually going to make a difference? Can you  
19 imagine a world where for those who are in support of  
20 the Second Amendment actually want to look for this  
21 narrow exception to help the other side, empathize with  
22 the other side and those who want some kind of gun  
23 legislation to actually look at themselves and say we  
24 need to keep this as narrow as possible because we  
25 understand what the other side is doing.

1                   Again, I keep reiterating, and I'm going  
2 to end my remarks now, to look at the science of this.  
3 I have a colleague who's encouraged me to ask people to  
4 look for developing a culture of responsibility when it  
5 comes to firearms. When parents, for whatever, are  
6 allowing their children to take their firearms to do  
7 something, there isn't that culture of responsibility.

8                   So thank you for coming here. And if  
9 you have any questions?

10                   CHAIRMAN MARSICO: Thank you.

11                   Questions from members?

12                   Representative Jozwiak, a question?

13                   REPRESENTATIVE JOZWIAK: Thank you.

14 Good morning.

15                   Thanks for your testimony. You hit on a  
16 subject that I think is important. You mentioned that  
17 it's not just a gun issue. It's a mental health issue.  
18 So as we've been hearing some of these hearings, I'm  
19 becoming under the opinion that the HIPAA rules today,  
20 that is an issue that presents equally. No - somebody  
21 who's disturbed are prevented from - from letting law  
22 enforcement know about it unless they're going to  
23 absolutely say I'm going to go out there and shoot  
24 somebody.

25                   So what do you think we can do with the

1 HIPAA rules? Can we get those relaxed on the federal  
2 level?

3 PROFESSOR FOULKROD: So we have policies  
4 in place that prevents us from developing policies that  
5 will help us with - to prevent these gun shootings.  
6 Yes, I think we should.

7 If there's a policy that keeps us from  
8 looking at those who may be a threat - I mean, the man  
9 who shot up the school in Florida, I mean, how many  
10 times has he been in touch - engaged with those who've  
11 been reporting him, with law enforcement. And I think  
12 at some point, especially after the fact - I mean, if  
13 somebody has committed an act, if somebody has engaged  
14 with the Secret Service, then it's on their radar and  
15 done some illegal act, perhaps that's where you carve  
16 it out, where you say we need an exception here so we  
17 can just open this up and study it, study each of these  
18 people who have committed these crimes, these heinous  
19 crimes and say let's look at everything about them.

20 Are they on psychoactive drugs, pharmaceuticals? Are  
21 they - have they been treated? Have they been  
22 diagnosed? Have they not? Then why? What is the  
23 relationship with their fellow students or what was it?

24 These need to be done as case studies by  
25 those who know how to do a case study and compare the



1 data. Again, this is a very narrow, demonstrative -  
2 you know, this is a very narrow, small group compared  
3 to all of society, and yet it's forced on society, too.

4 CHAIRMAN MARSICO: Any other questions?  
5 Seeing none, well, thank you, Professor,  
6 Appreciate your time.

7 Next testifying is Shira Goodman,  
8 CeaseFirePA.

9 MS. GOODMAN: Good morning.

10 Thank you, Chairman Marsico, Chairman  
11 Petrarca, members of the committee, for holding these  
12 hearings and the hearings in April. My name is Shira  
13 Goodman. I'm the Executive Director of CeaseFirePA.  
14 We are a statewide gun violence prevention  
15 organization. We work with mayors, police chiefs,  
16 faith leaders, community organizations and individual  
17 Pennsylvanians to take a stand against gun violence.

18 I submitted lengthy testimony, which I  
19 will not read, but I will hit on a couple key points,  
20 if I may, and then take questions.

21 I'd also like to say, and this may  
22 surprise some of the folks in the room, that despite  
23 what the professor said, I actually think you have  
24 called on many of the experts. Although I don't always  
25 agree with Mr. Price and Mr. Stolfer, I hope that they

1 would say the same, that we experts all on this issue  
2 and can give you a lot of the data that you need, and  
3 so are the people that you have called today.

4           I think between the hours of hearings  
5 you had in April and the hours you've taken today you  
6 have good bills in front of you that accomplish what  
7 the Chairman asks for, which is how can we address the  
8 issue of gun violence and gun deaths in Pennsylvania  
9 while respecting what is a robust right to bear arms in  
10 this State.

11           You have some - several good bills that  
12 have been introduced by members of this committee, by  
13 your colleagues in the Senate and the House, and many  
14 of you have signed on. And so I think that we can  
15 achieve that, and I urge you that we don't need another  
16 Commission. We've had commissions. We've had  
17 hearings. It's time to look at these bills and take  
18 votes and send them to your colleagues in the House.

19           So just for a little bit of context, in  
20 2015 in Pennsylvania there were 1,485 firearms deaths.  
21 533 were homicides and 932 were suicides. I know that  
22 it came up in the April hearing that some people  
23 believe it's not fair or it's somehow misleading to  
24 include suicide deaths when we talk about gun violence.  
25 I actually disagree with that, and I'll tell you why.

1                   Guns are lethal, as you know. And  
2 suicides that are attempted by firearms are much more  
3 likely to be fatal than attempts by other means. Put  
4 simply, those who use firearms in suicide attempts have  
5 a much lower chance of survival. Approximately 85  
6 percent of attempted firearm suicides result in death.

7                   Second, the accessibility of guns in the  
8 United States facilitates firearm suicide. And we know  
9 that access to - easy access to a firearm, firearms in  
10 the home, actually increase the risk factors for  
11 suicide. And the decision and the action of suicide  
12 are often impulsive. A quarter of survivors of suicide  
13 attempts report later that they made their attempt  
14 within five minutes of their decision to do so. Half  
15 did so within 20 minutes and three-quarters within an  
16 hour. So I firmly believe, as do many I've heard  
17 testify today, that we need to account for those  
18 suicide deaths when we talk about gun violence in  
19 Pennsylvania. We also need to talk about domestic  
20 violence. We also need to talk about accidental  
21 shootings. We also need to talk about crime that  
22 plagues many of our cities.

23                   Men in Pennsylvania are much more likely  
24 to die by guns than women. And black and white men  
25 experience firearm deaths in very different ways.

1 Middle-aged white men who live in rural and suburban  
2 areas in Pennsylvania are much more likely to die by  
3 firearms in a suicide while younger, African-American  
4 men who live in urban areas are much more likely to die  
5 in homicides, all of which is to say that we have a  
6 problem which we recognize and need to address it.

7           We also have, as I said early, a very  
8 robust and strong right to bear arms. We have a system  
9 that does not require license or registration prior to  
10 purchase. There's no waiting period prior to purchase.  
11 There's no training requirement to purchase. There's  
12 no limit on the number of firearms and ammunition you  
13 may purchase. We have open carry without a license  
14 except in Philadelphia. There's a relatively  
15 permissive process for obtaining a concealed carry  
16 license. We have no child access prevention laws, no  
17 safe storage requirements. We don't require an owner  
18 to report if his or her gun goes missing. And we allow  
19 the private sale of long guns without a background  
20 check. There are gaps here that we can address, to  
21 deal with, and to reduce the level of gun violence and  
22 gun deaths we experience.

23           There's some key policies that we  
24 outlined in our testimony that we would urge you to  
25 look very strongly at and to vote out of this

1 committee. The first is what's known as emergency risk  
2 protection order. I believe it was introduced by  
3 Member Todd Stephens, who signed on by the - of the  
4 members of this committee. It's also known as the Red  
5 Flag Bill. We've been talking about this bill for a  
6 number of years. It's gotten a lot more attention  
7 since the Parkland shooting. And I believe that three  
8 states have actually enacted it since the Parkland  
9 shooting.

10                   This addresses part of the problem that  
11 you, Representative Jozwiak, just asked about. What do  
12 you do when a mental health professional doesn't - it  
13 doesn't rise to the level of a mandatory reporting, but  
14 somebody knows that something is wrong, that somebody  
15 is in crisis. This creates a civil process very much  
16 modeled on our temporary restraining order process in  
17 the domestic violence context, where somebody who would  
18 not yet be prohibited because of their mental health  
19 history could temporarily, temporarily be blocked from  
20 getting a gun or temporarily have guns removed. We  
21 don't have anything like that right now.

22                   So right now in Pennsylvania if your  
23 mental health history has risen to the level of an  
24 involuntary commitment or being declared incompetent,  
25 you lose your gun rights permanently. Now, many of

1 those people will never become a harm to themselves or  
2 others and they've now lost their rights permanently.  
3 So you may be surprised to know that Representative  
4 Stephens can tell you that CeaseFire Committee has  
5 worked with him in the past on how do we get those  
6 rights restored.

7                   On the other hand, it's underinclusive.  
8 What about the young man who comes back from college  
9 having failed classes, having a bad romantic  
10 relationship, feels like everything is spinning out of  
11 control, but he's never been to a therapist, has never  
12 been to a guidance counselor, has not been declared  
13 incompetent, but somebody knows something is wrong and  
14 this person - there are guns in the home or he can go  
15 buy a gun. He may be very much a danger to himself or  
16 others.

17                   I met a father in Allentown that this  
18 exact situation happened to. His young son came home,  
19 told his father he was in crisis. They made an  
20 appointment to go together to a therapist that  
21 afternoon. By the time the father got home from work,  
22 the young man had gone to a gun store, bought a handgun  
23 and shot himself. You don't get a second chance. We  
24 could do something about that.

25                   The states that have enacted this law

1 have found it works, not only to prevent homicides or  
2 mass shootings or murder/suicides, but especially to  
3 prevent suicides. Connecticut has had a law in place  
4 like this for years. They allow law enforcement to do  
5 this. It has prevented suicides. I have a lot of data  
6 on - in my - in my paper.

7                   If we can do something that works, that  
8 is proven to work, we should do that. And again, it is  
9 temporary. People can get their gun rights back, which  
10 is important. It is a right that we should not take  
11 away forever. People can get the help they need.  
12 People can get through a crisis and should be able to  
13 resume their normal life.

14                   I would encourage you to look at that  
15 bill. It has bipartisan support. A lot of states are  
16 doing it. There's good data to support it. I think  
17 it's exactly the kind of bill that Chairman Marsico is  
18 asking for.

19                   The Senate has passed out Senate Bill  
20 501 in a domestic violence context unanimously. I  
21 don't know about other areas, but it's rare that  
22 firearms and domestic violence-related bills pass  
23 unanimously from those bodies. So what that does is it  
24 requires surrender of firearms when permanent  
25 Protection from Abuse Orders are issued.

1                   Now, we all know that under federal law  
2 if you have a final Protection from Abuse Order you  
3 wont be able to buy a firearm, but there is no good  
4 procedure in place for making sure if a Judge hasn't  
5 ordered it, that you don't have access to a firearm in  
6 your home already. This closes that loophole. It  
7 would also make surrender mandatory and within 48  
8 hours, not 60 days, as we currently have it. It  
9 protects victim and it protects law enforcement  
10 officers, who know that the most dangerous time is  
11 after an Order has been served.

12                   I think, although Mr. Prince may  
13 disagree with me, that most people in this room believe  
14 that there are some people who have forfeited their  
15 firearms rights, including domestic abusers. This  
16 keeps guns away from the hands of people we've already  
17 identified as dangerous.

18                   We have a background check system in  
19 Pennsylvania that's working very well. Unlike many  
20 states, it requires background checks for the private  
21 sale of handguns. And we're a point-of-contact state,  
22 so we have PICS, which I know it's often under attack,  
23 but I've also read the testimony every year from the  
24 Pennsylvania State Police, who continue to say that  
25 they have more records than the next database, that



1 they use it for more things, that the Charleston  
2 loophole that allowed the shooter at the AME church to  
3 get his gun would not have happened here in  
4 Pennsylvania. And so I urge you to maintain the PICS  
5 system. And I urge you to consider House Bill 1400,  
6 which extends background checks to the private sale of  
7 long guns.

8 I would also urge you, because I know  
9 that this has come up a lot in the wake of the school  
10 shootings, to look at ways to make our kids safer that  
11 do not involve introducing more guns into our schools.  
12 I know that the Senate has drafted Bill 383. It was a  
13 tightly fought bill. Teachers oppose it. Parents  
14 oppose it. Students oppose it. Teachers unions oppose  
15 it. Many administrators oppose it. Very few people  
16 think that arming non-security personnel in schools  
17 will make our schools safer. And in fact, a Joint  
18 State Government Task Force after Sandy Hook saw the  
19 same exact thing.

20 So I urge you not to be reactionary and  
21 say that is the way to go. We should have more money  
22 for our schools if they want armed officers, school  
23 resource offices or security guards. They should be  
24 able to make that decision at the local level. We  
25 should look at the security assessments. There should

1 be funding to do that. But we also need to look at how  
2 do we keep guns from the hands of those people that  
3 we've identified are likely to harm themselves or  
4 others.

5                   One way we also know, and it was alluded  
6 to earlier, often these children are young people who  
7 shoot up their schools got the guns at home. Do we  
8 have child access prevention laws? Are adults being  
9 held accountable? Do adults know that have children in  
10 their lives who are in crisis have an obligation to  
11 temporary remove those guns. We need to look at the  
12 adults as well

13                   In the last five years that I've worked  
14 at CeaseFirePA I think I've been invited twice to  
15 testify before this committee. Once was July of 2013,  
16 following Sandy Hook. I sat with Francine Wheeler and  
17 Nicole Hockley, who are two parents who lost their  
18 children. There wasn't a dry eye here.

19                   Since that time, this House and Senate  
20 have passed many bills. You've passed redemption to -  
21 that allow governors to sue cities to try and do their  
22 own things. You have held hearings on both mandatory  
23 training and on the bills, which we know will not deter  
24 further actions but are about punitive and people have  
25 varying views on those.

1 I think it's time for you to take action  
2 on some of these bills. I could have come here and  
3 said we need license and registration. We need to ban  
4 assault weapons. We need to ban high capacity  
5 magazines. We need to do all those things. Instead, I  
6 talked to you about bipartisan bills, compromised bills  
7 that I think we can work on with gun owners, with those  
8 who would protect gun rights, and get something done to  
9 save lives in Pennsylvania.

10 It has been five years. I was on a  
11 leave of absence. I requested not to be working this  
12 week. After Santa Fe, I was so angry I demanded that I  
13 would testify. I came back on the payroll to do this.

14 You have the opportunity. Right after  
15 Sandy Hook I met Mrs. Casey and she told me that she  
16 said to the Senator you're one of a hundred people who  
17 can do something. You're 27 people out of 203 who can  
18 do something, and I urge you to take a vote to come  
19 together to find a way to do it, to save lives in  
20 Pennsylvania.

21 CHAIRMAN MARSICO: Thank you.

22 Questions? Comments?

23 REPRESENTATIVE BARBIN: I have a  
24 question.

25 CHAIRMAN MARSICO: Representative

1 Barbin.

2                   REPRESENTATIVE BARBIN: Thank you for  
3 your testimony. The one thing that I didn't hear when  
4 you were suggesting the bills that we could vote on a  
5 bipartisan basis was in the school context what should  
6 we be doing to identify mental health illness as a  
7 possible start, because what we have heard from a prior  
8 testimony was that there are HIPAA requirements that  
9 are interfering with that. That's a federal issue. We  
10 can't waive HIPAA at the state level. What is it that  
11 we can do to make a short-term benefit to public school  
12 safety on mental illness grounds?

13                   MS. GOODMAN: So thank you.

14                   I do want to again point out that those  
15 who are dealing with mental illness are much more  
16 likely to become victims of violence and perpetrators.  
17 And I know it often gets inflated, that that is a  
18 mental illness issue. And especially in these school  
19 shootings, people - there always seems to be somebody  
20 knew something, somebody had gotten some kind of  
21 treatment or somebody had been identified as a problem  
22 but hadn't gotten the treatment.

23                   So I think part of it is HIPAA. I think  
24 the Extreme Risk Protection Order bills. I think the  
25 bill, as drafted here, talks about parents and family

1 members and law enforcement and know that there are  
2 suggestions that guidance counselors be included. I  
3 don't - I do not know how that impacts the rules of  
4 reporting, that those people and therapists and  
5 licensees are already charged with. I think we have to  
6 look at that because certainly psychologists and  
7 psychiatrists have rules when they are supposed to  
8 report. But this might not lead to that level because  
9 of the HIPAA rules and the hope of treatment. But I  
10 think we should look at those HIPAA rules and opening  
11 them up and making sure that people who know something  
12 have to say something. But there are others besides  
13 the people bound by those rules who often know things.  
14 That could be parents. That could be teachers who are  
15 not still bound by HIPAA. That could be friends,  
16 family members, coworkers. Those people don't have the  
17 same HIPAA obligations. So I think it's worth looking  
18 at, but I also think there are ways that we can look at  
19 what other states have done and who they allow as  
20 reporters in the Extreme Risk Protection Order bills.

21 CHAIRMAN MARSICO: Representative  
22 Saccone?

23 REPRESENTATIVE SACCONE: Thank you, Mr.  
24 Chairman.

25 Thank you for your testimony. I

1 encourage everyone who's testifying today, I hope you  
2 stay long enough to hear both sides of the argument,  
3 because oftentimes we don't - we get the advantage of  
4 hearing both sides, but oftentimes I see testifiers  
5 leaving and they don't hear the other side. And that's  
6 the whole point of this, is so we can hear each other's  
7 point of views.

8                   And I know we're going to hear testimony  
9 - you said about the PICS system, but I'm sure we're  
10 going to hear testimony later about why the PICS system  
11 really isn't working and why we need to either make  
12 changes or opt out of that.

13                   And I also just want to add briefly that  
14 I am a teacher. I've stood in front of a classroom now  
15 for two decades. I'm fully trained in firearms use.  
16 Used in law enforcement and in the military, carried a  
17 weapon in harm's way. Wouldn't you like a person like  
18 me in a classroom to be there to defend people when  
19 it's going to take 10 to 15 minutes for police to  
20 arrive or you have three sheriffs standing outside, as  
21 we had that incident, doing nothing, while people  
22 inside are being killed. I think it's the option of  
23 having teachers armed is a viable option. And it is an  
24 option. It could be an option. So I think we need to  
25 consider those - those aspects of it. Thank you.

1                   MS. GOODMAN: Thank you, Representative  
2 Saccone. I appreciate your service as a teacher and as  
3 a Representative. And you know, I know personally from  
4 our conversation how trained you are.

5                   I have grave concerns about the bills in  
6 their current form that do not seem to require ongoing  
7 training, safe storage, who - that explain who would be  
8 allowed to do that. And I worry about the average math  
9 teacher who's teaching my kids who may also have a gun.  
10 We've also seen even one of the Parkland teachers who  
11 was carrying a gun left his gun unsecured in a public  
12 bathroom, and somebody found it and shot. And both of  
13 them are - thankfully, nobody was hurt, but both of  
14 them are now being charged. So I think that there's a  
15 lot of danger fraught in there. And although I believe  
16 that there are many people who are well-trained,  
17 law-abiding gun owners who I probably would feel very  
18 safe around, I'm not sure that that includes the vast  
19 majority of our teachers.

20                   CHAIRMAN MARSICO: Representative Dean?

21                   REPRESENTATIVE DEAN: Thank you,  
22 Chairman, for hosting last month's hearings and today's  
23 hearings. And thank you, Shira, for your service and  
24 your advocacy.

25                   I wanted to touch on just two things

1 quickly. But before I do that, in terms of arming  
2 teachers, my basic comment there is, regardless of the  
3 expertise of the Representatives, I'm a mom, I'm a  
4 grandmom. And I think we get so much more of our kids  
5 in terms of the fear that they have to invest in  
6 themselves every day. Do we want to add to that that  
7 your teachers are armed, they're ready, they have guns,  
8 or I don't know where their guns are? We have so much  
9 of our teachers every day - while we don't fully, fully  
10 support them, we're asking our teachers to now, in  
11 addition to making sure you know your area of  
12 discipline, whether it's mathematics or science or  
13 literature, make sure you go to the gun range and be  
14 ready to shoot up a classroom. It's an absurdity I'll  
15 never understand.

16                   The two things that you talked about,  
17 I'm interested if you could give us a little more  
18 detail on this, the Emergency Risk Protection Order.  
19 And I was thinking about it in terms of the background  
20 check system. You were talking about the Charleston  
21 Loophole. Sadly, tragically, the Charleston case  
22 reveals both of those because I believe the shooter in  
23 Charleston, close friends knew he was in grave danger,  
24 had not been - there, too, did not have a mental health  
25 history, but they knew he was in grave danger. Can you



1 speak to that, how sadly that case reflects the value  
2 of both of these systems?

3                   And then the other piece of it is much  
4 of this talks about, of course, these horrific mass  
5 shootings that we now see are on the increase. What do  
6 you think is the most important thing we should do  
7 regarding the day-to-day loss of life?

8                   MS. GOODMAN: Thank you for all those  
9 questions, Representative Dean.

10                   First, I agree about the teachers. And  
11 you know, we did have a letter that was read on the  
12 Senate floor from teachers of Sandy Hook who said that  
13 this would have been the last thing they wanted in 2012  
14 was to have guns in the classroom.

15                   Second, as to the background checks, so  
16 the Charleston Loophole under federal law, if a clear  
17 no does not come back from the background check system,  
18 the seller has the option after three days to proceed  
19 with the sale, what's called a default proceed.  
20 Pennsylvania - the PICS system does not allow that.  
21 They have a 15-day process where they wait for a clear  
22 yes. And then there is also an appeals process.

23                   So in the Charleston case, he had a gun  
24 - on his background check and a prior - prior  
25 information had not gotten back in time to the seller

1 and a default proceed occurred.

2           He did have a friend who noticed that he  
3 was behaving erratically, strangely, talking in a  
4 dangerous way, and took his gun away temporarily. And  
5 then where he said he was in trouble for having the  
6 gun, having taken the gun. Under the Extreme Risk  
7 Protection Order bill I think - and Representative  
8 Stephens can correct me, I think it's more about direct  
9 family members. I'm not sure if a friend would have  
10 been able to do that. But the bills were modeled after  
11 the Santa Barbara shooting. If you remember, a gunman  
12 on campus had shot up part of his campus then hit some  
13 people with a car, then shot himself. His parents  
14 actually had called the police for a well check on  
15 their son. They didn't have enough evidence to take  
16 him into custody or to commit him. And a few weeks  
17 later he did commit that shooting. This was a - this  
18 would have been a different procedure that those  
19 parents could have used. They could have gone through  
20 the simple procedure and got him on a no-buy list and  
21 temporarily removed his firearms.

22           The third question about what you do  
23 about everyday shootings. We have a lot of guns  
24 because of loopholes in the system that make it easy to  
25 get a gun for people who shouldn't. We - in 2012 you

1 passed the Brad Fox Law that makes punishments for a  
2 stalker if you're a stalker. And I think that has a  
3 good effect and that's important. I think we should be  
4 tracing the handgun. We should know where they come  
5 from. Some of that is done between ATF and local  
6 jurisdictions, but the information isn't shared. So  
7 for example, I'm sure you've heard that the Governor of  
8 New Jersey isn't blaming Pennsylvania for all of our  
9 crime guns that end up at New Jersey scenes because  
10 they are logging where they're guns are traveling. It  
11 would be good to know how far our crime gun's traveling  
12 geographically, how long to - to - from the time of  
13 purchase until the time of crime, how long are they out  
14 there, who is getting them, how are they moving, are  
15 there certain bad dealers.

16 I have asked the governor's Office.  
17 I've asked the Attorney General to do some of that  
18 mapping, to get that data public so we would have data  
19 exactly as the professor had suggested so we would know  
20 where to focus resources and policies.

21 CHAIRMAN MARSICO: Representative  
22 Jozwiak, do you have a question?

23 REPRESENTATIVE JOZWIAK: Yes, sir.  
24 Thank you, Mr. Chairman.

25 I have two questions. I have a problem

1 with the Red Flag Bill. There's no due process here  
2 for people. You can - the police just walk in - I'm a  
3 former law enforcement officer. So the police just  
4 walk in, take the guy's guns or the woman, and it's  
5 temporary. It's just one year.

6                   So what happens to the guy or the person  
7 that they're taking the guns from when they remove his  
8 gun? What happens, the process, for that persons?

9                   MS. GOODMAN: So my understanding, sir -  
10 and again, I think Representative Stephens is the  
11 author of one of these bills, is that police officers  
12 can't just go in and take the gun. There has to be a  
13 petition to a court with evidence presented. That may  
14 or may not be ex parte. If it's ex parte, it would  
15 only be - I think that it's about ten days. Some of  
16 them go as far as three weeks, and then both sides will  
17 come in and petition for either an extension of the  
18 Order or a relinquishment of the Order and a return of  
19 firearms.

20                   We do this in a temporary Restraining  
21 Order process when we believe somebody is a danger to  
22 themselves or others. I don't think that that system  
23 is abused any more than there's other false reporting  
24 of crimes or accusations made. I think that this is a  
25 serious situation that Connecticut has found where

1 they've identified people at risk of suicide, has found  
2 at-risk - when they removed guns they found people had  
3 about seven guns in their home. And this has prevented  
4 some suicide attempts. I - you know I would ask  
5 Representative Stephens, if you would, to comment on  
6 the due process protection.

7                   And I think, unlike many of the other  
8 bills, I'll just add that Representative Stephens has a  
9 provision for public defenders. So somebody would be  
10 represented free of - free of charge.

11                   CHAIRMAN MARSICO: Representative  
12 Stephens, do you want to explain your bill?

13                   REPRESENTATIVE STEPHENS: Sure. Thank  
14 you, Mr. Chairman.

15                   As Shira indicated, the bill has a  
16 number of due process protections built into it. She's  
17 exactly right in that the police are not going to make  
18 this decision unilaterally. A law enforcement member  
19 or family member can petition the judge and provide  
20 information indicating that an individual is a threat  
21 to themselves or others. And only upon reviewing that  
22 information will the Judge be able to issue an Order to  
23 temporarily force someone to surrender their guns. And  
24 then we'll have a full hearing.

25                   And eventually in the bill - and

1 certainly there's an opportunity for amendments and  
2 we've heard a lot of feedback and we are making some  
3 changes to the bill as it's currently written to  
4 incorporate many of the thoughts and build careful  
5 considerations that many groups have provided. But one  
6 of the things that we are - we are working to do is we  
7 were aware that there were some concerns that if an  
8 individual was the subject of one of these orders, if a  
9 hearing - we wanted to provide a quick hearing. And so  
10 we do put a pretty short timeframe in there where  
11 they're guaranteed to have a hearing. And we actually  
12 even have in the bill that the hearing can't be  
13 continued without their consent because there was  
14 concern that the respondent might not have ample  
15 opportunity to go ahead if they wanted to have a  
16 psychiatric evaluation or present evidence or gather  
17 witnesses, things like that. So we really - we really  
18 took the landscape in terms of these rights, in terms  
19 of the timing, towards the respondent and gave them  
20 more authority in the timing of that - that ultimate  
21 hearing.

22                   And at that hearing again, they would  
23 have the right to counsel. Unlike many other states, I  
24 actually included in the bill that the Public  
25 Defender's Office would represent this individual if

1 they could not afford an attorney.

2           The petitioner also has the right to  
3 counsel. And the District Attorney's office would have  
4 the option of helping out in that regard. My thought  
5 there was that I wanted both people to have the  
6 opportunity to have legal representation, participate  
7 in the proceedings all - again, both petitioner and the  
8 respondent. You know, they certainly will be given the  
9 opportunity to cross examine witnesses, present any  
10 evidence they'd like, and then obviously the Judge  
11 would make a determination.

12           And that - that order then to surrender  
13 their guns would last for no more than a year. Again,  
14 this is a temporary - a temporary provision to address  
15 a temporary condition. And you know, when I compare  
16 and contrast that with the current 302 process, which  
17 is really devoid of any due process protection, we try  
18 to make sure that we built into this bill as much due  
19 process as we could really possibly put into the bill.  
20 If anybody has other suggestions for additional due  
21 process, you know protections or provisions, we're  
22 happy to incorporate them. But when you look at the  
23 current 302 provisions which, again, acts as a bar for  
24 life, we have almost no due process protections. This  
25 has significant due process protections and, at most,

1 would deprive you of guns for a year.

2                   REPRESENTATIVE JOZWIAK: So nobody  
3 really answered my question. My question was if you  
4 take these weapons from a person, what do they do with  
5 the person? Is there anything in the bill that says  
6 the person has to go to a doctor? Is there anything  
7 that treats this person? If you're going to take his  
8 weapons for a year, are you just going to let him hang  
9 out there to go violent somewhere else?

10                   MS. GOODMAN: Well, I'm sorry, I  
11 misunderstood the question. My understanding is that  
12 he's not - you're not just taking their weapons, but  
13 they would be on a purchaser list for that time period?  
14 And the evidence will show a lot of those people do get  
15 into treatment voluntarily. They do get help if they  
16 need it. Some of them were never identified to the  
17 system before. I think that is - it's in part up - I  
18 don't think the Judge makes that Order. I believe that  
19 the family has the ability, more flexibility to help  
20 deal with the family member.

21                   REPRESENTATIVE STEPHENS: If I can just  
22 jump in there.

23                   You know, one of the things that Shira  
24 pointed out was the significant data about timeframe in  
25 which people make the decision to take their own life.



1 And this bill was really mostly about suicide, because  
2 two-thirds of all gun deaths are suicides. And so the  
3 idea is you give folks a little bit of time and space,  
4 and many people get the help that they need in order to  
5 address their situation. So they can go see a  
6 psychologist. They can go see a psychiatrist. They  
7 can go, you know, obtain the services that are crucial  
8 for them, and they no longer have the ability to make  
9 that impulsive and irreversible decision to take their  
10 own life with that firearm. And that's really the  
11 base.

12 REPRESENTATIVE JOZWIAK: So the other  
13 question I had was what's the process then after a year  
14 for this person to get their firearms back?

15 REPRESENTATIVE STEPHENS: So we were  
16 also mindful of that. And when we were developing the  
17 bill one of the things that someone from the gun rights  
18 advocacy side of the equation had presented me was all  
19 too often it's too difficult for folks to get their  
20 firearms back, and so we wanted to make it an automatic  
21 process. Upon the expiration, you know, it's not like  
22 you have to then file another petition to get your  
23 firearms back or anything else like that. You would  
24 simply go to the agency who has your weapons. They  
25 would have to run, you know, run a criminal history,

1 run a background check before giving your firearms  
2 back, but it would be done automatically, without the  
3 need for any additional legal proceedings or anything  
4 else like that. We were mindful of that.

5                   And if you or anyone else have any  
6 suggestions on how we can streamline that process,  
7 we're happy to consider them in incorporate them into  
8 the bill.

9                   REPRESENTATIVE JOZWIAK: Yeah. I know  
10 when I was the sheriff of the county, every time we  
11 collected somebody's weapons, they had to get Court  
12 Orders. It turned out that it cost more for attorneys  
13 than the weapons are worth, unless you have a lot of  
14 them. And just is a big roadblock in getting their  
15 weapons back.

16                   The second thing I wanted to talk about  
17 real briefly is I happen to agree with you on the PICS  
18 system. The PICS system in Pennsylvania is working.  
19 There's a lot of flaws with the federal system. You  
20 know, the federal system wants Pennsylvania to be the  
21 point of contact. The PICS system checks 14 -  
22 approximately 14 databases. The feds do not.

23                   But what I'm finding out is I've heard a  
24 lot of discussion about every time there's a gun show  
25 or a major gun event, that the PICS is out of service

1 or down. Well, last year the PICS was only down 67  
2 hours. They weren't down every weekend the way people  
3 are telling me.

4                   And I do like the 15-day yes or no  
5 answer rather than three-day federal answer, which  
6 means that they'll get an answer. They give you the -  
7 they give you the approval. And then if they find out  
8 later you shouldn't have a gun, who goes and gets it?  
9 The law enforcement officer has to now go after some  
10 bad guy. And that's a risk. And I would rather be  
11 sure one way or the other that they have it.

12                   So in my opinion, the PICS system is  
13 working, and I think that should never go away.

14                   Thank you.

15                   MS. GOODMAN: Thank you, sir.

16                   And I'm lawyer by training I know when  
17 the judge agrees with something I said, you say thank  
18 you.

19                   CHAIRMAN MARSICO: Well, thank you,  
20 Shira. We appreciate your time and testimony.

21                   Before I produce the next testifier, I  
22 just want the record to reflect Representative Briggs  
23 and Representative Delozier are here.

24                   The next testifier is Joshua Prince,  
25 Esquire, Firearms Industry Consulting Group, and also

1 Adam Kraut, Esquire, Firearms Industry Consulting  
2 Group.

3 Good morning, gentlemen.

4 ATTORNEY PRINCE: Good morning.

5 ATTORNEY KRAUT: Good morning.

6 ATTORNEY PRINCE: Mr. Chairman,  
7 honorable members of the committee, I appreciate the  
8 opportunity to be here today and discuss these  
9 important issues along with my colleague, Attorney Adam  
10 kraut.

11 I'm a licensed member, in good standing,  
12 of the Pennsylvania and Maryland Bars and admitted to  
13 numerous courts, including the Pennsylvania Supreme  
14 Court, the U.S. Supreme Court, the U.S. Court of  
15 Appeals for the Third and Sixth Circuit Courts, and  
16 District Courts for the eastern, Middle and Western of  
17 Pennsylvania.

18 As my Curriculum Vitae is beyond the  
19 scope of my testimony today, I have attached it as  
20 Exhibit A to my testimony.

21 Due to the extensive nature of these  
22 bills pending, the voluminous constitutional and legal  
23 issues with them, and the extremely limited amount of  
24 time that we have been provided to address these issues  
25 here today, attached to my testimony as Exhibit H is a

1 review of each bill and constitutional and legal issues  
2 that relate thereto.

3           As there are a plethora of  
4 unconstitutional provisions, pursuant to the United  
5 States and Pennsylvania Constitutions, in the pending  
6 bills, I believe it necessary to start by reciting the  
7 oath that every member of the General Assembly is  
8 required to affirm, pursuant to Article VI, Section 3.  
9 And I quote, I do solemnly swear or affirm that I will  
10 support, obey and defend the Constitution of the United  
11 States and the Constitution of this Commonwealth and  
12 that I will discharge the duties of my office with  
13 fidelity. Article 6, Section 3, then goes on to  
14 declare that, quote, any person refusing to take the  
15 oath or affirmation shall forfeit his office.

16           Yet we see numerous bills being offered  
17 with no consideration for the lack of due process,  
18 takings without just compensation, and unconstitutional  
19 delegations of authority, let alone, the right to keep  
20 and bear arms, all of which are made inviolate by  
21 Article 1, Section 25. Let me emphasize that. All of  
22 those rights are made inviolate by Article 1, Section  
23 25, of the Pennsylvania Constitution, as ratified by  
24 citizens of this Commonwealth. Worse yet, we see  
25 Governor Wolf and republican members of the General

1 Assembly discriminating against those with closely-held  
2 religious beliefs, such as the Amish, by seeking to  
3 preclude their ability to purchase firearms and  
4 ammunition through proposals such as House Bills 1400,  
5 2249, and 2251.

6                   Instead of seeking to restrict  
7 law-abiding individuals' rights, why isn't the General  
8 Assembly proposing and considering true common sense  
9 proposals?

10                   Why haven't we enacted a law that  
11 further codifies the right of school personnel to  
12 possess firearms, electronic incapacitation devices and  
13 non-lethal weapons in assuring the protection of our  
14 children, like Israel has done since its inception?

15                   Professor Eric Dietz of Purdue  
16 University, whose Homeland Defense Institute examined  
17 school shoots and compiled a report, determined that  
18 armed staff and personnel are essential to mitigate the  
19 dangers of an active shooter. While Senate Bill 383  
20 was a decent attempt, it suffers from major flaws,  
21 which is why I have drafted an amendment to it that  
22 would address all the concerns, while ensuring the  
23 confidentiality of those school personnel who are  
24 armed. A copy is attached as Exhibit B.

25                   Why hasn't this committee taken action

1 on Senate Bill 5, which has been pending in this  
2 committee since April 26, 2017, when municipalities are  
3 flagrantly violating state preemption which constitutes  
4 a misdemeanor of the first degree? How can this  
5 committee condone these acts and not take action,  
6 especially when seven individuals were prosecuted under  
7 an unlawful ordinance of the City of Erie and, as a  
8 result, incurred thousands of dollars of legal fees  
9 with no right to reimbursement?

10                   Why haven't we enacted a law that  
11 requires notification by the Pennsylvania State Police  
12 when a person becomes prohibited from purchasing and  
13 possessing firearms and ammunition under state or  
14 federal law? If our goal is to ensure that prohibited  
15 individuals are not even attempting to obtain firearms  
16 and ammunition, I cannot fathom how, regardless of  
17 political affiliation, the members of the General  
18 Assembly cannot pass such a common sense proposal. For  
19 this reason, I have drafted a proposed bill that is  
20 attached as Exhibit C.

21                   Why haven't we revised Section 6105(f)  
22 to come into compliance with the NICS Improvement  
23 Amendments Act in relation to mental health  
24 commitments, where Pennsylvania would be entitled to  
25 millions of dollars in federal funds for our

1 compliance? A draft proposal is attached as Exhibit D.

2 Why haven't we amended Section 6105.1 to  
3 provide for relief from disabilities from - for  
4 misdemeanor offenses, especially in light of the Third  
5 Circuit's en banc decision in Binderup v. Attorney  
6 General of United States, where the Court held that  
7 such prohibitions can violate an individual's Second  
8 Amendment rights. A draft proposal is attached as  
9 Exhibit E.

10 Why haven't we provided Pennsylvania  
11 State Police with the authority to issue legal  
12 determinations under the Uniform Firearms Act, like we  
13 have in relation to the Liquor Control Board laws, so  
14 that individuals can ensure their compliance with the  
15 law? A draft proposal is attached as Exhibit F.

16 If you want to talk about bills that  
17 actually protect the public and law-abiding citizens,  
18 then these are the bills we should be discussing. More  
19 importantly, if you believe individuals who have been  
20 adjudicated incompetent, committed to a mental  
21 institution or convicted of a crime punishable by more  
22 than one year are such a threat to our society to  
23 warrant deprivation of a constitutional right in  
24 perpetuity, why haven't you proposed a law that would  
25 likewise prohibit those same individuals from being



1 able to vote or from becoming reports or members of the  
2 General Assembly?

3                   We have youth that believe eating Tide  
4 Pods is an acceptable and safe after-school activity  
5 and a small number of people who knowingly break the  
6 law to commit crime, yet, we're here discussing  
7 proposals on how to further restrict law-abiding  
8 citizens' constitutional rights, rather than address  
9 the underlying issues.

10                   In closing, an attack on the right to  
11 keep and bear arms of law-abiding citizens is an attack  
12 on our Republic and our founding constitutional  
13 agreement. As written by Thomas Jefferson, the laws  
14 that forbid the carrying of arms are laws of such a  
15 nature. They disarm only those who are neither  
16 inclined nor committed to commit crimes. Such laws  
17 make things worse for the assaulted and better for the  
18 assailants. They serve rather to encourage than to  
19 prevent homicide for an unarmed man may be attacked  
20 with greater confidence than an armed man.

21                   Thank you, Mr. Chairman and members of  
22 the committee, for the opportunity to testify before  
23 you today.

24                   I will now turn it over to Attorney  
25 Kraut.

1                    ATTORNEY KRAUT: Good morning, Mr.  
2 Chairman and honorable members of the committee. When  
3 these hearings were first initially announced, I was,  
4 quite frankly, a little disappointed to see it only  
5 included House members. However, I am grateful to be  
6 here and I am glad you extended the opportunity to  
7 allow public testimony on the matter here.

8                    I, like my colleague, Mr. Prince, am a  
9 licensed member, in good standing, of a variety of  
10 courts, including Pennsylvania Supreme Court, as well  
11 as numerous federal courts. I won't bore you with the  
12 details. A copy of my Curriculum is also in Exhibit A.

13                    While in law school through October of  
14 last year, I was also the general manager of a gun  
15 store, so I see this from a variety of perspective,  
16 both as a lawyer and at times behind the counter.

17                    During my three years behind the counter  
18 there, I interacted with people from all walks of life,  
19 law enforcement officials as well as ATF. My  
20 experience allowed me to see the gun debate from a  
21 variety of perspectives. That includes the first-time  
22 gun buyers who has never owned a gun before coming in  
23 for whatever that reason may be to the law enforcement  
24 official who's coming in on official business.

25                    It seems that there's a fundamental

1 misunderstanding that many members of the General  
2 Assembly and the public have when it comes to firearms  
3 and firearms rights. The right to keep and bear arms  
4 is not granted by the Federal or State Constitutions.  
5 It's a preexisting natural right, and that recording of  
6 which can be traced back to 13th Century England in the  
7 Magna Carta.

8           The purpose of the Second Amendment and  
9 Article 1, Section 21, is to ensure that the government  
10 doesn't infringe upon this preexisting right. While  
11 the Second Amendment is often quoted and debated as to  
12 its meaning and some people have alluded there is no  
13 individual right, even though the United States Supreme  
14 Court has said otherwise, Article 1, Section 21, makes  
15 it explicitly clear. The rights of the citizens to  
16 bear arms in defense of themselves and the State shall  
17 not be questioned.

18           Looking through the bills that are in  
19 front of this committee, it would appear that a number  
20 of them violate our State Constitution. For example,  
21 SB17 seeks to deny citizens the right to assault  
22 weapons and high capacity magazines, all while  
23 violating a number of constitutional provisions,  
24 including due process and the takings clauses. And  
25 let's be clear here, the term assault weapons is a term

1 of art that's concocted and it has confused the public  
2 and garnered support for the banning of a particular  
3 class of firearms. We see this overwhelming sign being  
4 employed by various groups within weapons of war.

5           In additional to constitutional  
6 concerns, SB17 will also deny people, especially those  
7 who are disabled or of limited size or skill, the  
8 ability to adequately defend themselves within their  
9 own homes. For some reason, the magic number for  
10 legislators is ten. No one needs more than ten rounds  
11 to defend themselves is one of the hallmark battle  
12 cries of those seeking to tighten restrictions. Yet,  
13 there are plenty of reasons a person may need more than  
14 ten rounds.

15           We continue to see home invasions where  
16 there's multiple intruders. There are plenty of  
17 incidents that have been reported in the news, such as  
18 the woman down in Georgia who had three individuals  
19 break into her home at 4:00 a.m. All three of those  
20 individuals were armed. Perhaps the gentleman in  
21 Oklahoma who defended his home against three intruders  
22 during a home invasion with an AR-15 may make an  
23 excellent case study. Let's not forget the heroic  
24 15-year-old who defended his 12-year-old sister in  
25 Texas with an AR-15 against two intruders. And then

1 maybe we should ask the woman who shot an intruder five  
2 times and did not fully incapacitate him. What if she  
3 had a gun that was limited to ten rounds and faced  
4 multiple intruders? Would ten have been enough for  
5 her?

6           The practice of law has led me to see  
7 the gun debate through an even broader lens. I've had  
8 to inform countless clients that they're no longer able  
9 to own a firearm because of a non-violent offense they  
10 committed decades ago. I've also had to advise  
11 individuals that they would be likely be prosecuted for  
12 making purported false statements on a form required to  
13 purchase a firearm, all because they were never  
14 informed at any point that by pleading guilty to an  
15 offense they would lose their right to keep and bear  
16 arms.

17           It seems that a number of attorneys,  
18 district attorneys and even judges don't have any idea  
19 as to what offenses lead to loss of firearms. Worse  
20 yet, the guilty plea colloquies don't inform people  
21 that they're actually going to lose their rights. And  
22 then perhaps even more egregious, their options for  
23 relief are often limited, expensive and offer no  
24 guarantee for the restoration of that right. Being  
25 stuck in such a position limits the ability of a person

1 to choose a firearm for self defense.

2                   Now, we've heard a lot of testimony this  
3 morning already, and I think there's one thing that we  
4 can probably all agree on in this room, regardless of  
5 where we sit on the gun issue, and that's the  
6 protection of our children. If that's the case, then  
7 why are we not doing things like allowing teachers and  
8 administrative staff and school resource officers to be  
9 armed who wish to do so. I'm not saying we should  
10 mandate it because I understand that people may not be  
11 comfortable with that. Why are we not making schools  
12 hardened facilities? Is this just merely because  
13 there's a part of the answer we don't like even though  
14 it may be the best answer? Why are we not teaching  
15 firearms education in schools anymore? We teach our  
16 children about sex and we teach our children about  
17 drugs because we, as adults, understand that kids are  
18 going to engage in those activities whether we want  
19 them to or not, but we give them the skills and the  
20 tools to make informed decisions about that.

21                   Why are we not teaching kids how to  
22 handle guns safely so if they find themselves in a  
23 situation where one is they have the skills and  
24 knowledge to act appropriately and leave the situation  
25 safely.

1           Before this committee stands a plethora  
2 of bills that have been drafted in an attempt to say we  
3 did something. These come at a time when emotions are  
4 high, and understandably so. However, this committee  
5 and the General Assembly should not advance legislation  
6 based merely on emotion. It should be passed after  
7 careful debate based on logic and reasoning.

8           These are the end of my prepared  
9 remarks, but I did want to touch on a few things other  
10 individuals have mentioned earlier.

11           Mr. Foulkrod had mentioned a culture of  
12 responsibility. And that seems to be something that  
13 walks as a whole within our society. And I don't think  
14 that's anything they can legislate back into it. I  
15 think that's going to have to start in the homes. And  
16 I think we, as parents, as family members, we need to  
17 start ensuing that into our communities, our families.

18           Ms. Goodman had mentioned straw  
19 purchasing. That - I was at a NICS conference at FBI's  
20 headquarters last summer, I believe it was. FBI  
21 prosecutes - or the U.S. Attorneys prosecute  
22 approximately one percent of straw purchases across the  
23 board, one percent. It's illegal. There's a law  
24 against it. They don't prosecute it.

25           We had an incident where there was a

1 teacher, that was an individual who turned out to be  
2 prohibited, let the trooper know, and the trooper  
3 shrugged his shoulders, and out the door he went.

4                   It's being done at gun shows. I worked  
5 at a gun show. I was trying to find pictures, a  
6 screenshot of it. I must have called the PICS over the  
7 course of two-and-a-half hours, I'd say at least 25  
8 times before I was able to get to an operator. And I  
9 sat on hold for another hour. So there are some issues  
10 with PICS. I'll let Mr. Stolfer - I'm sure he's going  
11 to expand on that. But having the experienced it, I  
12 did want to let you know there are some issues with  
13 PICS.

14                   And Representative Stephens, your bill -  
15 you mentioned that there will be the automatic return  
16 of firearms upon the expiration. Part of the issue to  
17 some degree - I don't know if you're aware, part of the  
18 issue would be for the NICS to be updated as to the  
19 person no longer being prohibited, that's not an  
20 instant process. So you know, you've told me today if  
21 my Order was up and I went to go get back in I would be  
22 denied.

23                   REPRESENTATIVE STEPHENS: Along those  
24 lines, I'd love to sit with you and come up with a  
25 solution to address that. Maybe it's submitting



1 information, you know, in advance of the expiration of  
2 the order so that there's an opportunity for that to be  
3 entered or some other solution, but I'm happy to work  
4 with you to try to ensure that those folks, upon the  
5 expiration of that Order, are able to, you know, obtain  
6 their firearms again.

7 ATTORNEY KRAUT: Okay.

8 I just wanted to make you aware of that.

9 And I'll just leave you with this  
10 thought. The laws you make are only going to be as  
11 good as the willingness of people to obey them.

12 Thank you.

13 CHAIRMAN MARSICO: Thank you, gentlemen.

14 Members, please make sure your  
15 microphones are turned off when you're not speaking.

16 So Attorney Price, you have mentioned in  
17 your comments and your written testimony about Senate  
18 Bill 5.

19 ATTORNEY PRINCE: Yes.

20 CHAIRMAN MARSICO: Are you familiar with  
21 House Bill 671?

22 ATTORNEY PRINCE: I am.

23 CHAIRMAN MARSICO: Okay.

24 You mentioned that we did pass that bill  
25 in the committee twice, last session and this session.

1 And it's sitting in the Senate. In fact, that bill was  
2 in the Senate before Senate Bill 5 was even reproduced.

3 ATTORNEY PRINCE: And House Bill 671  
4 does not provide all the protection Senate Bill 5 does  
5 and it is not consistent with what was previously  
6 passed and held unconstitutional by the Pennsylvania  
7 Supreme Court, not because of the context of the  
8 legislation but the way in which it was added to a  
9 bill. The protections by House bill 671 are not  
10 sufficient. Senate Bill 5 does provide the requisite  
11 protections, and I do address it in my Exhibit H, where  
12 I review both bills.

13 CHAIRMAN MARSICO: You do realize you  
14 only mentioned Senate Bill 5.

15 ATTORNEY PRINCE: Correct. But I  
16 believe that's the only true answer currently pending  
17 before the General Assembly.

18 CHAIRMAN MARSICO: That's your opinion.

19 ATTORNEY PRINCE: Yes, and that's what  
20 I said.

21 CHAIRMAN MARSICO: Okay.

22 So Representative Dean, a question?

23 REPRESENTATIVE DEAN: Thank you, Mr.  
24 Chairman. And gentlemen, thanks for being here today  
25 and participating.

1           A couple of things. Number one, you are  
2 part of a consulting firm and you bill yourself as a  
3 Firearms Industry Consulting Group.

4           Is that correct?

5           ATTORNEY PRINCE: That is correct.

6           REPRESENTATIVE DEAN: Okay.

7           Firearms Industry Consulting Group.

8           I want to dispel a myth that you've  
9 cited which is that these bills are brought up hastily  
10 and in emotion. I'm sure there's deep emotion around  
11 this country and in this room about the loss of life in  
12 this country from gun violence, but you need to know  
13 that these bills have been brought up session after  
14 session after session after session, many of them. So  
15 this is something that the legislators on both sides of  
16 the aisle have been trying to do for a long time.

17           So my basic question is, what do you  
18 want to do to save some lives?

19           ATTORNEY KRAUT: Well, we can start by  
20 looking at what the problems are. It seems like a lot  
21 of people are pointing at guns as being the issue.  
22 We've heard mental health mentioned. Personal  
23 responsibility is another one.

24           There's some things that you just can't  
25 legislate. You can't legislate the actions of an

1 individual. You can impose penalties on them. We've  
2 heard about mandatory minimums, things that are  
3 deterring us some point of the law so it can - some  
4 from deterrent factors. But as far as -.

5 REPRESENTATIVE DEAN: I would interrupt  
6 you and ask you to concretely tell this room that is  
7 eagerly awaiting your words what do you want to do to  
8 save lives. You've quoted the Constitution -

9 ATTORNEY KRAUT: Sure.

10 REPRESENTATIVE DEAN: - and the  
11 constitutional right to bear arms, both the  
12 Pennsylvania Constitution and the United States  
13 Constitution.

14 ATTORNEY KRAUT: Yes.

15 REPRESENTATIVE DEAN: Many of us on the  
16 other side of this honor the Second Amendment. That's  
17 not what this fight is all about. This is actually a  
18 fight about saving lives. What do you want to do to  
19 protect that other constitutional right, which is the  
20 right of life, liberty and the pursuit of happiness?  
21 When our children are not safe walking into their  
22 school, when they are slaughtered as babies, when  
23 people going to church are no longer safe, when  
24 children in neighborhoods that are racked with poverty  
25 are also fearful of the guns they hear at night, what

1 do you want to do to protect that right?

2 I mean it, specifically, concretely, are  
3 you in favor of background checks? Should we close  
4 that loophole here in Pennsylvania?

5 ATTORNEY KRAUT: What loophole are you  
6 referring to? Are you talking about -?

7 REPRESENTATIVE DEAN: The private sale  
8 of -.

9 ATTORNEY KRAUT: Can you point to a  
10 single example of where a private party -?

11 REPRESENTATIVE DEAN: No, wait a second.

12 ATTORNEY KRAUT: May I?

13 REPRESENTATIVE DEAN: No. The  
14 questioning is from me to you, if you don't mind.

15 CHAIRMAN MARSICO: Guys, hold on a  
16 second.

17 Like I said earlier today in my  
18 introductory remarks we will have a civil,  
19 professional, respectful dialogue. And I'm hoping that  
20 you listen to that again. And I would rather not have  
21 applause either. I respect this is a very emotional  
22 issue, but let's just calm down a little bit.

23 Okay?

24 REPRESENTATIVE DEAN: Mr. Chairman,  
25 you're absolutely right, and I apologize.

1 I'll ask you just simply, specifically,  
2 concretely, what do you want to do to save lives?

3 Thanks.

4 ATTORNEY KRAUT: Well, it sounds like we  
5 have a little bit of societal problem. You point to a  
6 couple of different places. You speak about inner  
7 cities. You speak about schools. You speak about  
8 churches. And we talk about individuals who come that  
9 have problems.

10 We can start by talking about the  
11 schools, if you would like. Schools currently - most  
12 of them - and it's been a while since I've been to a  
13 grade school or a high school, so bear with me here. I  
14 know when I was in high school anybody was able to just  
15 walk into the school. I know shortly I left high  
16 school they started to do things like locking the front  
17 door at least and if you were a student you would get  
18 buzzed in. Same with people, you had to check in with  
19 somebody. So depending upon the schools, and I don't  
20 know all the details, some have systems in place that  
21 at least keep people from just walking right in.

22 And then the question becomes do you put  
23 armed individuals in the schools, meaning teachers.  
24 And I know you're not in favor of that proposal. You  
25 can put school resource officers there, retired

1 officers. Do you have a dedicated police officer  
2 there? There's really - I don't think there's a  
3 clearcut answer as to the best way to do - we're all  
4 going to disagree on that.

5                   Churches are certainly free to take up  
6 their own security measures, and they do. In fact, Mr.  
7 Prince spoke at a seminar that he can tell you about  
8 where a number of churches in the area came together to  
9 talk about security plans for their places of worship.  
10 So there are things that can be done that don't  
11 necessarily require laws to do it. It requires  
12 community response to look at and evaluate what's going  
13 on within the community and how can we fix it. What  
14 can they do as far as their own private facilities or  
15 the public schools for instance. It doesn't  
16 necessarily require a law. And quite frankly, a law is  
17 only as good as the people that follow it.

18                   REPRESENTATIVE DEAN: Then I guess we  
19 shouldn't have any laws. There shouldn't be laws  
20 against murder. There shouldn't be laws against  
21 anything. No law against that because some people  
22 simply won't follow it.

23                   I wanted to point out an area of  
24 agreement that you and I have, and that is education,  
25 education about the handling of guns. I utterly agree

1 with you.

2 ATTORNEY KRAUT: Thank you.

3 REPRESENTATIVE DEAN: And I also agree  
4 with you that this might be what we're up to, which is  
5 hardening our schools, making our schools more like  
6 prisons, if we, legislators, and if the Federal  
7 Government fails to act to protect our families.

8 Thank you, Mr. Chairman.

9 ATTORNEY PRINCE: I just want to respond  
10 to one thing. And I am not going to put this out  
11 publicly because I do have grave concerns about other  
12 potential attacks on our children. But it goes well  
13 beyond our schools. It is not just a matter of arguing  
14 our schools. There are other related activities that  
15 need to be protected. And that is a debate that should  
16 happen behind closed doors, so that individuals who are  
17 likely to carry out those types of approaches, attacks,  
18 are not informed of those possibilities and ways in  
19 which to carry out their terrorism.

20 CHAIRMAN MARSICO: Representative  
21 Stephens?

22 REPRESENTATIVE STEPHENS: Thank you, Mr.  
23 Chairman.

24 Thanks again for your testimony. I know  
25 you mentioned some areas of concern. I don't think -



1 and maybe I missed it when I was going through it. I  
2 didn't necessarily see my bill addressed in your  
3 materials. I could have missed it. Again, I was  
4 paging through it pretty quickly. But if you have, you  
5 know, some thoughts on ways that we might be able to -  
6 or concerns that you had, we would certainly hear them  
7 because, you know, I'd like to try to address them if  
8 we can.

9 ATTORNEY PRINCE: Sure.

10 I believe the Extreme Risk Protection  
11 Order review is on page eight of Exhibit H.

12 REPRESENTATIVE STEPHENS: I think, if I  
13 remember correctly, those were two other bills. My  
14 bills is House Bill 2227, and those were Senate Bill 18  
15 and House Bill 2109.

16 I think mine's pretty unique in its  
17 approach. We tried to incorporate things from several  
18 other states that have adopted them and also, as I  
19 mentioned, had some preliminary conversations with some  
20 folks on both sides of the issue, trying to incorporate  
21 many of their thoughts. I'm interested to hear what  
22 else would you do?

23 ATTORNEY PRINCE: I believe there's a  
24 number of concerns when we look at the constitutional  
25 issues, both under the U.S. and Pennsylvania

1 Constitution, when it comes to due process. And in  
2 fact, that's part of the reason why, when we look at  
3 the federal law, it specifies that a prohibition only  
4 results after the individual is provided notice of a  
5 hearing, provided a hearing and an opportunity to be  
6 heard. Because we acknowledge that due process  
7 mandates that notice and opportunity to be heard before  
8 stripping someone especially of a constitutional right.

9           Also there's a grave concern over the  
10 process to those ex parte hearings. I understand that  
11 your bill would suggest that public defenders be made  
12 available for those who are low income. What about  
13 those who are not low income? And quite honestly, in  
14 my experience, especially where public defenders are  
15 provided under Section 303 of the Mental Health and  
16 Procedures Act, I have yet to see a public defender  
17 actually defend that individual who is being subject in  
18 those proceedings. Generally it is as stipulation  
19 that, yes, this individual can be involuntarily  
20 committed for up to 21 days. So while I don't want to  
21 discredit the Public Defender's Office and it's not a  
22 statement on public defenders across the Commonwealth,  
23 there is as concern over the amount of cases they have  
24 to handle and their ability to adeptly handle those  
25 cases, especially when you're going to be placing these

1 additional obligations on them.

2                   As an attorney I can tell you that to  
3 represent an individual in this type of situation,  
4 you're potentially looking at thousands of dollars.  
5 You mentioned the possibility of going out and getting  
6 a psychological evaluation. Generally, that's going to  
7 cost \$2,000 for an MMPI testing to be performed by a  
8 psychologist. It's generally going to take one to two  
9 days. That means that individual will be out of work  
10 for one to two days while that testing is performed.  
11 Also, that that individual can go into a proceeding  
12 where there's already been an ex-parte order issued  
13 against him or her. That is of grave concern when we  
14 start to look at constitutional rights, which again,  
15 under the Pennsylvania Constitution, are acknowledged  
16 to be inviolate.

17                   REPRESENTATIVE STEPHENS: Has the Court  
18 - and this is your area of expertise. Has the Court  
19 opined on the constitutionality of the current ex parte  
20 proceeding regarding PFAs and, frankly, 302s?

21                   ATTORNEY PRINCE: They have not with  
22 regard - to my knowledge, with regards to ex parte  
23 PFAs. They - just recently the Western District of  
24 Pennsylvania, in a case I litigated, Alton Franklin  
25 versus Sessions, et al., held that because of the lack

1 of due process provided under section 302 of the Mental  
2 Health and Procedures Act, it is not sufficient to  
3 trigger a federal prohibition because of the absence of  
4 that due process.

5 REPRESENTATIVE STEPHENS: But that's  
6 only in the Western District. In the Middle District  
7 and the Eastern District the standard of the 302 being  
8 a lifetime trigger is in place absent those due process  
9 protections.

10 ATTORNEY PRINCE: It's my understanding  
11 that that's the position of the US government. It is  
12 hard to fathom how that is a correct interpretation  
13 based on the court's determination that it doesn't meet  
14 the requisite due process analyses.

15 REPRESENTATIVE STEPHENS: Yeah, I don't  
16 disagree with you. I'm not quarreling with - with that  
17 contention that the 302 procedure is devoid of due  
18 process. It probably should be incorporated when  
19 you're talking about a lifetime deprivation of a  
20 constitutional right. I do understand that. And  
21 frankly, we had that in mind when we were drafting my  
22 bill.

23 So I guess if the ex parte provisions  
24 regarding the PFA Act had been upheld as  
25 constitutional -.

1                    ATTORNEY PRINCE: They haven't been  
2 upheld as constitutional. They haven't been  
3 challenged. Again, you're talking about tends of  
4 thousands of dollars that an individual or entity would  
5 have to put forth to actually challenge these types of  
6 provisions.

7                    REPRESENTATIVE STEPHENS: So they  
8 haven't - I mean, look, if they haven't been - they  
9 haven't been struck down and they've been in place for  
10 many, many years, certainly, you know, thousands and  
11 thousands of individuals have been subject to them.

12                    I guess I'm trying to understand upon  
13 what legal authority, you know, you make that statement  
14 that -.

15                    ATTORNEY PRINCE: The Constitution.

16                    REPRESENTATIVE STEPHENS: No, I get it.  
17 And I understand you're entitled to your opinion about  
18 what the Constitution says. But I think someone who's  
19 been elected a judge in the Commonwealth of  
20 Pennsylvania, do they happen to agree with your opinion  
21 as it relates to that ex parte proceeding?

22                    ATTORNEY PRINCE: There has never been a  
23 challenge because it's a limited period of time.  
24 There's only ten days for an actual hearing to be held  
25 on the underlying PFA. So there is no real opportunity

1 for someone to mount a full-blown challenge because by  
2 the point in time the challenge would be determined, it  
3 would, in essence, be moot.

4 ATTORNEY STEPHENS: And presumably you  
5 could seek to get an injunction to prevent the  
6 imposition of that disability immediately.

7 Right.

8 I mean you have that - you have the  
9 ability to seek that relief.

10 Do you envision any scenario where an ex  
11 parte proceeding could, for the slightest period of  
12 time, limit the right to keep and bear arms?

13 ATTORNEY PRINCE: The U.S. Supreme Court  
14 has acknowledged that, in the absence of a hearing  
15 being provided pre-deprivation, there are occasions  
16 where a post-deprivation hearing is sufficient.  
17 However, it must be held in a very close proximity to  
18 the ex parte order and you must obviously provide the  
19 other individual, the person who's being aggrieved by  
20 it, the opportunity to be heard and to provide a  
21 defense. So I acknowledge the U.S. Supreme Court has  
22 even stated that there are occasions but they have  
23 limited those occasions whereby someone can be  
24 temporarily denied an even constitutional right,  
25 provided that there are mechanisms in place for a

1 timely hearing.

2                   REPRESENTATIVE STEPHENS: If you don't  
3 mind, I mean, if you want to get me that site maybe,  
4 that would be terrific. And we can try to make sure  
5 that we are staying within the confines of that, you  
6 know, juris prudence as it relates to  
7 constitutionality. And then that may be one way to  
8 address those constitutional concerns that you raise.  
9 It seems like that might be the right direction to  
10 start looking at what parameters the Court has already  
11 laid out.

12                   ATTORNEY PRINCE: The concern is  
13 obviously vindictive use of these processes. And I  
14 handled a case out in Cambria County where an  
15 individual had over 300 firearms taken in relation to  
16 an ex parte PFA.

17                   When the hearing was held on the final  
18 PFA, the Judge was so incensed by the lack of any basis  
19 for not only a final PFA, but even for the issuance of  
20 the ex parte PFA, it vacated both and ordered the  
21 firearms to be returned. However, then the Court  
22 directed that the Respondent, who was found not to have  
23 done anything wrong, had to pay the fees of the  
24 Sheriff's Department for going out and taking his 306  
25 guns, and there were thousands of dollars being

1 assessed against him for having done nothing wrong.

2                   Thankfully, we had a judge where, when  
3 we addressed the constitutional issues before him,  
4 said, no, this is wrong and directed the sheriff to  
5 return all the firearms at no cost to the Respondent.

6                   REPRESENTATIVE STEPHENS: Well, one of  
7 the provisions in my bill does require - or does  
8 provide for penalties for those who would provide false  
9 information. And I know - certainly I appreciate your  
10 support for mandatory minimum sentences. That's been  
11 my bill for the last several sessions. I also did the  
12 bill to increase the penalties for those who are  
13 illegally possessing firearms, things along those  
14 lines. So I share your feelings in that regard. And I  
15 think that would be applicable here if we provide for  
16 some strong penalties for those that would abuse this  
17 approach, I think we can deter that type of conduct and  
18 ensure that people are not being wrongfully ensnared  
19 with, you now - with these provisions.

20                   So again, I'm happy to work with you to  
21 make sure that there are robust penalties for those  
22 that might abuse this approach for some ulterior  
23 motive. Happy to work with you in that regard.

24                   ATTORNEY PRINCE: I look forward to it.

25                   REPRESENTATIVE STEPHENS: Thank you.



1                    CHAIRMAN MARSICO: Within this time - we  
2 have time for one more question. Representative  
3 Saccone?

4                    REPRESENTATIVE SACCONE: Thank you.  
5                    Thank you for your testimony. The  
6 question that was posed, what can we do to save lives,  
7 and one of the comments was that our children are being  
8 slaughtered as babies. I mean, we've pinpointed the  
9 instrument. That's the problem in this case, guns.  
10 But if you want to use that logic, then I say we can  
11 ban those abortion scalpels and we'll save 30,000 lives  
12 a year.

13                    So what we can do, though, do you agree  
14 to have drill assessments for all of our schools?  
15 Because every school is different. There's no cookie  
16 cutter - there's no cookie cutter solution to our  
17 schools being hardened one way or another. Some  
18 schools have - certain techniques they've already  
19 applied. Some might not need them. We need to look at  
20 each school independently to see what the thread is and  
21 what it needs to make that school safer.

22                    ATTORNEY PRINCE: Absolutely. I  
23 completely agree that we need those threat assessments.  
24 I believe there are organizations - I believe one is  
25 Independence Today, RocoTactical that has experience

1 doing it not just for schools but also for churches and  
2 other court facilities. They've done some phenomenal  
3 work with I believe the Chester County Courthouse. So  
4 there are those organizations that stand ready here in  
5 the Commonwealth already to provide those threat  
6 assessments for schools.

7           And I know there was a comment made  
8 about the recent shooting and the fact that the school  
9 was hardened there. I'm not so sure how hardened it  
10 was when we have an individual able to walk in with  
11 those firearms without being checked. Why aren't we  
12 going to clear backpacks? Why aren't we having metal  
13 detectors in the schools? Why aren't we taking those  
14 precautions to prevent these types of attacks, as well  
15 as having armed either teachers or resource officers  
16 that are available to respond to situations.

17           As I said in my testimony, Israel has  
18 been doing it since its inception and has been doing it  
19 very well. We could take some great advice from Israel  
20 on how they have ensured that there aren't these types  
21 of approaches, attacks in Israel. And we know that in  
22 Israel they're under constant attack.

23           ATTORNEY KRAUT: The NRA also does have  
24 a program that's provided free to schools who opt to  
25 utilize it for exactly that kind of assessment. So

1 that is another option. Obviously, it's up to the  
2 school to seek it out, but options do exist.

3 CHAIRMAN MARSICO: Thank you, gentlemen,  
4 for your time and testimony.

5 I'd like to recognize Representative  
6 Schemel who's joined us.

7 Next to testify is Marybeth Stanton  
8 Christiansen, Moms Demand Action, and also Sarah  
9 Higginbotham, Everytown for Gun Safety.

10 Welcome. You may begin when you're  
11 ready.

12 MS. CHRISTIANSEN: Good morning.

13 I am Marybeth Christiansen. I am a  
14 volunteer for Moms Demand Action for Gun Sense in  
15 America. Moms is an all-volunteer organization. We  
16 are nonpartisan. We are single issue. We are  
17 grassroots. We are dedicated to ending the epidemic of  
18 gun violence in America.

19 With close to five million members  
20 across the country and 14 active chapters in  
21 Pennsylvania, we are the largest gun violence  
22 prevention organization in the United States. And I am  
23 the volunteer state legislative lead for Moms Demand.

24 I am also a responsible gun owner. I  
25 want to thank Ron Marsico for these seven hearing dates

1 on firearms and public safety. I've seen throughout  
2 the seven hearing days, and it's been confirmed again  
3 today, that any discussion of the right to bear arms  
4 and the right to be safe is a hot button one. Common  
5 ground and joint solutions often get lost in heated  
6 rhetoric and emotion. So Chairman Marsico, I sincerely  
7 thank you for scheduling these hearings and invite all  
8 points of view to be heard. And I know we can find  
9 common ground.

10 I've lived on both sides of this debate.  
11 I was born in Southwest Philadelphia into a family who  
12 had virtually no exposure to guns. My only experience  
13 with guns was an armed home invasion of my godfather  
14 and two armed robberies of my uncle's corner grocery in  
15 south Philadelphia.

16 I moved to college in Washington, D.C.  
17 I was educated at Catholic U on the Brookland campus.  
18 It was the site of frequent shootings and for four  
19 years I lived in a room, first floor, with bars on my  
20 windows. We had a sexual assault on my floor my junior  
21 year and D.C. cops in my lobby for the four semesters  
22 after that.

23 But then I left D.C. and moved to  
24 Carlisle for law school and I married into a very  
25 large, very extended family of central Pennsylvania

1 hunters. I came to understand and respect and  
2 eventually enjoy the sportsman tradition, and my  
3 husband and I raised our three adult children as  
4 responsible gun owners.

5                   So I've lived this issue. And one thing  
6 I've known for certain is that Second Amendment  
7 advocates and gun safety advocates have more in common  
8 than we care to admit and certainly more in common than  
9 we get credit for. And that brings me to the work with  
10 Pennsylvania Moms and the domestic violence protection  
11 bills which are pending before this committee.

12                   Your former colleague, Tom Killion,  
13 introduced SB501 a year-and-a-half ago in the Senate.  
14 And two months ago yesterday that bill was unanimously  
15 passed by the Senate. It's before the committee now.

16                   Shortly thereafter, your colleague,  
17 Marguerite Quinn, introduced HB2060, which pretty much  
18 mirrors SB501. It meets some of the later amendments  
19 that we negotiated with the gun lobby. But that, too,  
20 is before your committee. And I'm going to just refer  
21 to the bill as 501. It's a bill that quickly disarms  
22 convicted domestic abusers and safely secures their  
23 weapons.

24                   What it requires is that within 24 hours  
25 of a criminal conviction for misdemeanor domestic

1 violence or within 48 hours of being placed under a  
2 final Protection From Abuse order, a user turns over  
3 his firearms to law enforcement, to a  
4 federally-licensed gun dealer, or in the case of a  
5 final PFA, to a designated attorney.

6                   Importantly, SB501 does not apply to  
7 those who are simply accused of domestic violence. It  
8 applies only after abusers have had their full day in  
9 Court, have exercised their constitutional rights to  
10 due process and the Court has found the abuser to be  
11 guilty of the crime of domestic violence or to be so  
12 dangerous that he must be placed under a final  
13 Protection From Abuse Order. So I agree with  
14 Representative Saccone, it's not the gun, it's the  
15 person. And here, this is a person who has been  
16 adjudicated a domestic abuser and is prohibited from  
17 holding a gun.

18                   So Pennsylvania Moms for the last year  
19 has worked with closely with the Pennsylvania  
20 Commission Against Domestic Violence to pass this  
21 critically needed bill. It's endorsed by the State  
22 Police Chiefs, the State Sheriffs, and the State  
23 District Attorneys Associations.

24                   It's not an exaggeration for me to say  
25 to this committee is of the essence to pass SB501. Why

1 the urgency? Because domestic violence in America is  
2 to a significant degree a problem of gun violence.  
3 Every year in this country there are over five million  
4 incidents of intimate partner violence. And we know  
5 that when a gun is present in these incidents, the  
6 victim is five times more likely to be killed.

7                   In an average month in our country, 50  
8 women are shot to death by their intimate partner and  
9 another one million American women alive today have  
10 been shot at by an intimate partner. We know that  
11 domestic abusers use guns to control their victim even  
12 if they never pull the trigger. Over four million  
13 American women today have been threatened with a gun by  
14 an intimate partner. And we know all too well that  
15 domestic violence drives the majority of mass shootings  
16 in this country. Nearly 60 percent of mass shootings  
17 in America over five years involve the shooter killing  
18 a former spouse, an intimate partner or a family  
19 member. And Pennsylvania reflects these national  
20 statistics. In the last ten years 1600 Pennsylvanians  
21 died from domestic violence. In 2016 alone just over a  
22 hundred Pennsylvanians were murdered in domestic  
23 incidents. The majority of them were shot. Two of the  
24 victims were - are law enforcers. So yes, time is of  
25 the essence because guns and domestic violence are a

1 deadly combination.

2 I want to depart from my remarks to  
3 reference the appendix that prior speakers submitted.  
4 On page 25 of Mr. Prince and Mr. Kraut's submission to  
5 the committee, paragraph two, the attorneys state,  
6 House bill 2060 and Senate bill 501 are substantially  
7 similar and seek to require individuals to become  
8 prohibited due to a domestic violence conviction or a  
9 Protection From Abuse Order to turn in their firearms  
10 and ammunition. This is the important part. Even  
11 though 18 USC, Section 922(g)(8) and (g)(9) already  
12 preclude those subject to a Protection From Abuse Order  
13 or domestic violence conviction from possessing  
14 firearms or ammunitions. That is accurate. It's  
15 completely incomplete.

16 As these two Pennsylvania attorneys well  
17 know, Pennsylvania has never complied with federal law.  
18 For over 20 years, since the Lautenberg Amendments were  
19 added to the Brady Law, abusers under a Final  
20 Protection from Abuse Order or who have been convicted  
21 of a misdemeanor domestic violence crime are  
22 prohibited from holding guns.

23 But that hasn't been the case in  
24 Pennsylvania. In Pennsylvania, if you're currently  
25 convicted or placed under a Final Protection From Abuse



1 Order, you need not surrender your judge - your guns.  
2 That requires a separate order by the judge. And that  
3 happens in only one of seven cases.

4           If you are convicted of the crime of  
5 misdemeanor domestic violence, Pennsylvania does  
6 require you to hand over your guns. But we currently  
7 give the abuser a 60-day grace period before he needs  
8 to turn over his guns. And incredibly, in  
9 Pennsylvania, when these abusers finally do turn over  
10 their guns, it's the abuser's decision who gets to hold  
11 that gun or guns for safekeeping, not the judge, not  
12 the prosecutor and certainly not the victim. It's the  
13 abuser's choice.

14           Now, turning back to page 25 of Mr.  
15 Kraut and Mr. Prince's testimony, they state that we  
16 have been, quote, unable to show a single occasion  
17 where an individual gained access to firearms from  
18 third-party safekeepers. So I will give you two  
19 examples. They asked for one. I'll give you two.

20           In early 2011, Tina Souders, a  
21 39-year-old mom of two boys and a nurse right down the  
22 road here in Chambersburg, asked for a Final Protection  
23 from Abuse Order from the Court, Fulton County Court of  
24 Common Pleas. The Court placed the boyfriend under the  
25 Final Protection From Abuse Order. It granted Tina's

1 request and told the boyfriend to turn in his firearms.  
2 He did. As was the boyfriend's right in 2011 and as is  
3 a boyfriend or abusive partner's right today, he  
4 decided who will get the firearms and he gave them to  
5 his sister, who promptly returned them for the murder  
6 of Tina Souders. That's example number one.

7           Example number two I'm wearing right  
8 here on this button. Michael Ayers, two years old,  
9 shot in the back by his father. Sorry. We know the  
10 family, so we get a little emotional. Michael was a  
11 toddler from Huntingdon County. In 2013 his mom,  
12 Hollie, went to the Huntingdon County Court of Common  
13 Pleas and asked that the abusive dad be placed under a  
14 Final Protection from Abuse Order. She also asked that  
15 his extensive collection of weapons be turned in, and  
16 that request was denied.

17           When it was denied, his parents, the  
18 abuser's parents stepped in and took the weapons for  
19 safekeeping because they were afraid of what might  
20 happen. Within a month the abusive dad had reclaimed  
21 the weapons and during a custody exchange shot his  
22 two-year-old son in the back, shot the mom once in the  
23 face and twice - three times, rather, in her legs. Mom  
24 survived. Michael did not. That's example number two.

25           So I would say to Mr. Prince and Mr.

1 Kraut and to all of us, shame on us. We don't know  
2 whether Michael and Tina would be alive today had  
3 Pennsylvania law been in compliance with longstanding  
4 federal law, but what we do know is that the list of  
5 victims will continue to grow unless we follow federal  
6 law and pass SB501 and quickly disarm convicted  
7 domestic abusers. And when I say the list of victims I  
8 include law enforcement on that list.

9 I'm sure you know, Representative  
10 Jozwiak, that responses to domestic violence calls are  
11 the most dangerous response for first responders. More  
12 officers are killed responding to domestic violence  
13 calls than any other call for service. And in 2016 two  
14 Pennsylvania law enforcers paid the ultimate price.  
15 Canonsburg Police Officer Scott Bashium, a 52-year-old  
16 Air Force veteran, a dad of four and a devoted husband,  
17 was murdered responding to a domestic abuse call on  
18 November 10th.

19 The following month, on December 30th,  
20 2016, Pennsylvania State Trooper Landon Weaver of the  
21 Bedford station was also murdered by gun responding to  
22 a domestic violence call. He was just 23 years old and  
23 recently married.

24 So Pennsylvania Moms urges this  
25 committee and the full House to honor these victims, to

1 act on the enforcement of the State Police Chiefs,  
2 Sheriffs and District Attorneys association, and to  
3 follow the unanimous action of our Senate.

4 Chairman Marsico, this is the common  
5 ground that you referenced in your introduction.

6 Thank you.

7 And now I'll introduce my colleague from  
8 Everytown, Sarah Higginbotham, who would like to  
9 address ERPO.

10 MS. HIGGINBOTHAM: Thank you, Chairman  
11 Marsico and committee members, for the opportunity to  
12 testify today. I submitted a sample of my testimony so  
13 I'm going to try and highlight the high points, I know  
14 you have a long list this morning, and we deeply  
15 appreciate all your time in hearing the critical issue  
16 - hearing testimony on the critical issue of gun  
17 violence prevention.

18 My name is Sarah Higginbotham and I am  
19 the Regional Director of State Affairs with Everytown  
20 for Gun Safety. I'm here also on behalf of  
21 Pennsylvania's Chapter of Moms Demand Action, which is  
22 part of Everytown.

23 We are the largest gun violence  
24 prevention organization in the country. And the  
25 Pennsylvania chapter of Moms Demand Action represents

1 tends of thousands of Pennsylvanians around the state,  
2 including 14 local chapters.

3           You've already heard from Shira from  
4 CeaseFirePA on some of the suicide statistics, so I'm  
5 not going to repeat all of them, but I will just  
6 highlight a few. In an average year, nearly 1,500  
7 Pennsylvanians are shot and killed with a firearm. And  
8 between 2012 and 2016, suicide by gun accounted for 62  
9 percent of all firearm fatalities in the state.

10           You've already heard about our avid  
11 support over the last three-and-a-half years on  
12 domestic violence legislation. And you certainly are  
13 here to support that. But I'm also - we are also here  
14 today to highlight as well the Red Flag legislation,  
15 also known as ERPO, introduced by Representative  
16 Stephens. House Bill 2227 which is another critically  
17 important policy.

18           Right now, when family or law  
19 enforcement see warning signs that someone likely poses  
20 a risk of harming themselves or others, there are  
21 certain ways that they can take action. But when it  
22 comes to restricting a person's access to firearms,  
23 they are too often powerless to act.

24           A few examples. As Shira also mentioned  
25 earlier, in my written testimony you will find both

1 research on the number of mass shootings that we  
2 studied where there were warning signs flagged. And  
3 then you've also heard about some of the higher-profile  
4 instances, the Parkland shooter and the eyewitness  
5 shooting.

6           Like federal law, Pennsylvania currently  
7 does prohibit gun possession by certain people,  
8 including those who have been convicted of a serious  
9 crime. Adjudicated mentally ill were committed to a  
10 psychiatric hospital or who were subject to a domestic  
11 violence restraining order. However, if a person shows  
12 warning signs that they are likely to use guns to harm  
13 themselves or others and they do not fall into one of  
14 those prohibited categories, they will still be able to  
15 purchase and possess guns.

16           Red flag laws, like house Bill 2227, can  
17 save lives by empowering family members, and that's  
18 really key, and law enforcement to act when they see  
19 these warning signs.

20           I'm just skipping ahead because I know  
21 you've heard a fair amount of this already. In short,  
22 by creating a new type of Court Order, usually referred  
23 to, as you've heard, an Extreme Risk Protection Order,  
24 red flag laws establish a fair process by which courts  
25 can temporarily restrict a person's access to firearms,

1 as Representative Stephens has explained. That process  
2 is modeled after the process for obtaining domestic  
3 violence restraining orders, which are currently  
4 available in all 50 states, and allow the Court to  
5 determine whether a person is likely to harm themselves  
6 or others with a firearm. And if they are, to prohibit  
7 them from purchasing and possessing firearms and order  
8 them to surrender any firearms in their possession  
9 while the order remains in effect.

10           These are two sections also in my  
11 testimony, one again on mass shootings and the other on  
12 gun suicide, and I want to come back to that again. In  
13 the aftermath of the Parkland shooting, which received  
14 so much national attention these laws, as I work in  
15 more states than just Pennsylvania, though Pennsylvania  
16 is my favorite and I appreciate the opportunity to be  
17 here, we have seen bills get - these red flag laws and  
18 get legislation get unprecedented support by both  
19 parties and, in large measure, by Republicans around  
20 the country.

21           I want to come back, while the  
22 conversation has been largely on mass shootings, to the  
23 problem of suicide. The country as a whole and here in  
24 Pennsylvania is in the midst of a firearms suicide  
25 epidemic. And I just will underscore quickly one thing

1 that Shira Goodman mentioned earlier today because it  
2 is so important. Guns are used in over half of all  
3 suicide deaths. And that's important to note. Those  
4 numbers are high for a simple reason, because guns are  
5 more lethal than almost any other method of self-harm,  
6 and people who attempt suicide with a gun are  
7 overwhelmingly likely to die. Simply put, reducing a  
8 suicidal person's access to guns can save their life.  
9 Nine out of ten suicide attempts with a gun results in  
10 death. By contrast, most people who attempt suicide by  
11 other means survive and they do not eventually die by  
12 suicide.

13                   This Connecticut study which, again,  
14 Shira mentioned that I'd like - and I'm happy to  
15 provide the committee - we didn't actually submit a  
16 copy, but we will do so, just highlight the number.  
17 The ERPO law, the red flag law, that's been there for a  
18 number of years and was the first topic, the Duke study  
19 estimated that the law had already averted 72 suicides.  
20 And in addition - this was something that was brought  
21 up earlier about what are we doing to get these people  
22 help when it comes to mental health or resources they  
23 may need. In addition, the study found that nearly  
24 half - half of the gun law cases in Connecticut led to  
25 people receiving mental health treatment they might not



1 have otherwise received. So that's a really critical  
2 part. And this can be a gateway to connecting people  
3 with the resources that they might need to get help.

4 In short the laws provide a lifetime for  
5 people in crisis and for their families, helping to  
6 avert suicide and get help to those who need it.

7 Quickly, you have the Bill's sponsor  
8 here. And I'd like to thank Representative Stephens  
9 for his dedication and his work on this. And I just  
10 want to highlight very quickly and then wrap up a few  
11 of the policy elements.

12 We take respect for the Second Amendment  
13 very, very seriously, Everytown and at Moms, and look  
14 at every piece of legislation before we support it to  
15 make sure that it does respect the Second Amendment and  
16 that the rights of law-abiding gun owners are being  
17 given due attention, rightfully so.

18 So we believe that representative  
19 Stephens's bill ensures appropriate due process and  
20 appropriate standards. Let me just highlight a few  
21 points. Final orders can only be issued after a full  
22 hearing is held at which all parties have an  
23 opportunity to be heard.

24 Temporary ex parte orders can be issued  
25 before a hearing, but only if the danger is imminent.

1 These orders only last for a short period of time, as  
2 you've heard, no more than ten days, at which point a  
3 hearing must be held before a final issue - final order  
4 is issued.

5                   Here's what House Bill 2227 will do. It  
6 will establish clear standards for who may petition the  
7 court to issue an order, what evidence must be  
8 presented in support of such petitions, and what  
9 factors the court must consider when deciding a  
10 petition.

11                   Number two, it will establish  
12 appropriate burdens of proof, that's important, for the  
13 petitioner - the petitioner must meet to justify the  
14 issuance of either a temporary or a final order.

15                   Number three, in addition to ensuring  
16 all parties an opportunity to be heard before final  
17 orders are issued, House Bill 2227 also affords those  
18 who are made subject to final orders an opportunity to  
19 request that the court terminate the order once it's  
20 issued, if they can demonstrate that they no longer  
21 pose a threat.

22                   And finally, if an order expires and is  
23 not renewed, the firearms prohibitions are lifted and  
24 they can retrieve their firearms, as has been discussed  
25 here today, as long as they're not otherwise legally

1 prohibited from having them which happens in background  
2 checks.

3                   Just a note around the bipartisan  
4 support, the wave of legislation around red flag laws  
5 that we've seen. Republicans and Democrats in at least  
6 29 states right now and your colleagues in state  
7 legislatures around the country are considering these  
8 bills. Eight states now have red flag laws. In the  
9 years since Connecticut and Indiana passed precursor  
10 laws, red flag laws have been enacted in California,  
11 Washington on the ballot, Oregon and, most recently,  
12 since the Parkland shooting, Florida, Maryland and  
13 Vermont have all been recently signed by Governors.  
14 And extra points to anyone who can name - I'll just  
15 tell you, but what those three states all have in  
16 common? They all have republican governors and  
17 longstanding traditions of responsible gun ownership.

18                   So I leave you with that thought.  
19 Again, on behalf of the Pennsylvania chapter of Moms  
20 Demand Action, I thank you all. Thank you, Chairman  
21 Marsico and members of this committee, for joining in  
22 this conversation. And we urge your support of  
23 domestic violence legislation and Representative  
24 Stephens's bill, House Bill 227.

25                   Thank you.

1                    CHAIRMAN MARSICO: Any questions or  
2 comments from the members?

3                    None. Thank you for your time and your  
4 testimony.

5                    Our next testifier is Lindsay Nichols,  
6 Federal Policy Director of Giffords Law Center, and  
7 David Chipman, Senior Advisor of Giffords Law Center.

8                    Good morning and welcome. You may begin  
9 whenever you're ready.

10                   MS. NICHOLS: Thank you, Chairman  
11 Marsico and members of the committee, for the  
12 opportunity to testify here today. My name is Lindsay  
13 Nichols. I am the Federal Policy Director for the  
14 Giffords Law Center, an organization founded by  
15 attorneys after a mass shooting at a law firm in  
16 California in 1993.

17                    We recently merged with the Gun Safety  
18 Organization, founded by former Congresswoman,  
19 Gabrielle Giffords and her husband, Mark Kelly.

20                    I have been personally with the Law  
21 Center for almost 12 years. Most of that time I spent  
22 comparing and contrasting different state laws. I want  
23 to start here today by thanking Representative Stephens  
24 for your work on HB2227. This bill, The Extreme Risk  
25 Protection Order Bill, is a relatively new policy, but

1 it's one which has spread like - really like wildfire  
2 across the country in garnering the support of a very  
3 diverse group of different constituents.

4 I'm here to urge your support for this  
5 measure because this measure fixes a very specific  
6 problem that exists in many state laws. There's a gap  
7 here that can be filled. And by filling it, you will  
8 save lives.

9 The many mass shootings our nation has  
10 experienced in recent years from Newtown to Las Vegas  
11 to Orlando to Parkland and most recently to Santa Fe,  
12 these shootings often, but not always, but often do  
13 have a common thread. Family members often saw signs  
14 and grew concerned beforehand. Sometimes they reached  
15 out to law enforcement. The person had threatened to  
16 commit violence or had threatened to commit suicide,  
17 but family members and other community members,  
18 including law enforcement officers, had no legal  
19 mechanism to respond. There was no way to prevent a  
20 person's access to guns, even temporarily. But these  
21 tragedies are preventable. These - this new policy,  
22 these Extreme Risk Protection Orders, provide this  
23 legal mechanism to do - to do so, to remove guns  
24 temporarily from a person who is shown to be at a high  
25 risk of violence.

1                   As you've already heard, eight other  
2 states have now enacted these laws, and the most three  
3 - the three most recent were signed by Republican  
4 governors. Medical groups, mental health  
5 practitioners, academics, including professors of law  
6 and psychiatry and gun policy, law enforcement  
7 officers, the gun violence survivors and survivors of  
8 suicide attempts have all supported this proposal. In  
9 March we heard the National Rifle Association post a  
10 video expressing support for Extreme Risk Protection  
11 Orders.

12                   What's clear is that the existing system  
13 isn't working. Simply in the - the process for  
14 involuntarily committing a person to a mental  
15 institution is often insufficient because these people  
16 may not have a diagnosable mental illness.

17                   I heard a call for more data earlier,  
18 more evidence. This is a policy based on evidence.  
19 The evidence shows, the research shows that the most -  
20 the best predictor if someone's going to commit  
21 violence is an actual threat that they're going to  
22 commit violence or violence in another form beforehand.  
23 The best predictor that someone's going to die by  
24 suicide is if they've threatened to kill themselves.

25                   This policy is designed to prevent - get

1 that evidence before a court and prevent those  
2 tragedies before they occur. It's based on a domestic  
3 violence system. The Protection from Abuse Order often  
4 includes a temporary deprivation of rights like your  
5 right to see your children, your right to go on your  
6 own property, the home where you live. The courts have  
7 balanced those rights with the need for immediate  
8 action when there's serious danger to a person's life  
9 and safety.

10 I've heard the opposition capitalize on  
11 this misunderstanding of what due process really means.  
12 Notice in a hearing is a great sound bite, but the  
13 courts are - take a much more nuanced approach to these  
14 kinds of issues. There's a balancing act that a  
15 person's rights get balanced with the interests of  
16 public safety and the value that additional procedures  
17 will add.

18 This bill is loaded, as you've already  
19 heard over and over again, with these kinds of  
20 procedures that the courts have upheld. There is a  
21 particular case that - in which there was a 1983  
22 challenge to the domestic violence restraining order  
23 system, the ex parte provision of it. It was in the  
24 Western District of Wisconsin in the 1980s. And the  
25 court upheld that system by doing this balancing act,

1 by balancing the procedures that were available with  
2 the need for immediate action in order to prevent a  
3 serious danger to life and safety.

4                   In this bill we have the - a very  
5 similar process based on Pennsylvania's own system.  
6 There's standard burdens of proof. The order can last  
7 no longer than a year without renewal. And on renewal,  
8 again, the petitioner, the person who wants the order,  
9 bears the burden of proof of preventing them -  
10 presenting the evidence to the court.

11                   As you've already heard, these laws are  
12 shown - have been shown effective in reducing suicides,  
13 of which Pennsylvania has many. In 2016 alone, 976  
14 people died y gun suicide in Pennsylvania. And that's  
15 just one year. That's a lot of people.

16                   And you've heard about the evidence from  
17 Duke University about the effectiveness of the  
18 Connecticut law. Sometimes a breach or a separation in  
19 the gun and the person is all it takes to avoid a  
20 tragedy. And that's what this bill would do.

21                   I urge you to support this bill and I  
22 thank you for your time.

23                   MR. CHIPMAN: Good morning and thank  
24 you, Chairman, and all the Representatives. And I'm  
25 quite impressed we're running on time for such a



1 complicated subject.

2                   My name is David Chipman. I served this  
3 nation for 25 years as a Special Agent with ATF. My  
4 whole professional life has been focused on this very,  
5 very complex issue regarding violence and particularly  
6 violence committed with guns.

7                   Today I serve as a policy advisor to  
8 Gabby Giffords and Mark Kelly. And it's a fair  
9 question to ask, how would a retired ATF guy in  
10 retirement end up working for them. There are two  
11 reasons. I was attracted to the courage of Gabby  
12 Giffords, you know, surviving an assassination attempt  
13 and being committed to this issue, the same issue I'm  
14 concerned about. And I felt it was a safe place for me  
15 to talk my truth working for a guy like Mark Kelly, who  
16 I know has served his nation in combat, had shown great  
17 courage in NASA, and was the parent of two cops - or  
18 excuse me, the son of two police officers. So I  
19 understood - you know, felt that he understood what it  
20 was like to be part of a police family and be concerned  
21 not as much about politics but why we get into  
22 policing.

23                   I became an ATF agent because it seemed  
24 like too many people were dying by guns and bombs, and  
25 I wanted to prevent that from happening. After 25

1 years, I think it's fair to say that I felt that maybe  
2 ATF really should have stood for After the Fact, in  
3 that the way that our laws are structured, elected  
4 public officials have put laws in place that really  
5 punish the guilty severely, and sometimes that deters  
6 crime. I often felt that we did have adequate  
7 resources much of the time to try and do a good and  
8 professional job, but what was missing was that type of  
9 law when you can see the bad thing coming, but you  
10 didn't have the authority to stop it. And that was the  
11 frustrating thing when really on the ground wasn't much  
12 debate. You know, family members were asking for help.  
13 Your peers in law enforcement knew something was going  
14 to happen. It was like a train coming down the road,  
15 but you just didn't have the power to do anything. And  
16 that's why I'm here to talk about Extreme Risk  
17 Protection Orders.

18 I'm not going to - you have my written  
19 testimony, you've heard a lot about this, but I wanted  
20 to talk to you specifically from a law enforcement  
21 perspective why I think this is unique and why I'm  
22 personally excited about it and my peers are. And that  
23 is first it's an Extreme Risk Protection Order. It's  
24 not a some kind of risk or maybe something bad is going  
25 to happen. This is an instance where there's

1 agreement. A lot of the due process talk I found  
2 interesting today because it's focused on the potential  
3 person who might be impacted by the action. But as a  
4 law enforcement officer, I love due process. What that  
5 means to me is I'm not having to exercise my own  
6 personal discretion, but I actually have what the  
7 decision or the action I'm going to have to take or be  
8 vetted by the courts. I'm being told by a judge what  
9 I'm about to do is okay, and it's what the community  
10 wants me to do. That's a higher level of confidence  
11 than when I have to make a split-second decision on the  
12 street. Should I do A or B? So to me, due process is  
13 a very valuable thing. And it's the kind of thing we  
14 want to talk about when we're talking about community  
15 policing. We want laws where community members,  
16 families, police and courts work together and come to  
17 the best decision they can at the time.

18                   What ERPO does for me is, is it might  
19 not present - prevent something bad happening forever,  
20 but it buys us time. It buys us time to figure out.  
21 Like there has been rightful questions, like once you  
22 take the guns away, what's going to happen to this  
23 person, are they going to get well? I don't know, but  
24 it buys us time to do the right thing. And so to me,  
25 I'm kind of a common sense guy. Like, we can't solve

1 everything today, but this just seems like it just  
2 makes total sense and we need to get this done. And  
3 that's why I'm excited to see we have Republicans and  
4 Democrats doing this. And the beautiful thing is, is  
5 like Pennsylvania doesn't have to be first. Like, it's  
6 already been done. Cops are already learning lessons  
7 learned and communities are learning lessons learned.  
8 And so we have the evidence.

9                   Will this prevent every active of  
10 violence with a gun? Of course not. But guess what?  
11 It's already prevented some people from getting hurt  
12 with a gun. It's already happened. So you know, is  
13 taking a vote - like say it's one life or two lives,  
14 and we figure out how not to inappropriately use this  
15 law, like to me that's like a low-hanging fruit.

16                   So that's why I came here to, you know  
17 offer just my personal opinion, my experience. I'm  
18 happy to ask (sic) any questions. But I took the  
19 Chairman's suggestion to also listen. So I've listened  
20 today. And I want to make one comment about another  
21 bill that's been brought here as well. Domestic  
22 violence issues are just the most complex for law  
23 enforcement, the most risky. I mean, that's the real  
24 deal. And if there is legislation here that can really  
25 - what I heard, just simply encourage the State of

1 Pennsylvania to do more aggressively what we were doing  
2 at ATF under federal law, that to me seems again like a  
3 win/win, something we should agree on. And so that's -  
4 I'll stop my remarks there and be happy to ask any  
5 questions you might have.

6 CHAIRMAN MARSICO: Are there any  
7 questions, members?

8 Representative Dean?

9 REPRESENTATIVE DEAN: Thank you both for  
10 your work and your testimony. Extend our best to the  
11 Congressman - woman and the Captain for their terrific  
12 work.

13 One thing I was thinking about - maybe  
14 the Law Center would be a resource, too, on this. On  
15 the issue of suicide, what can you tell us about  
16 legislation, means matters legislation. I have a dear  
17 friend whose adult son bought a gun the first time in  
18 his life, just a couple weeks before he used that gun  
19 to kill himself. It was clear that he wasn't  
20 interested in it for hunting, self-protection, those  
21 kinds of things. So what can you tell us? What can we  
22 learn? What can gunshot owners learn about means  
23 matters legislation and can we get at some of the folks  
24 that are buying it, the red flags are going up there?

25 MS. NICHOLS: That's an interesting

1 question, and there are several different levels to  
2 this. I mean, I think this particular proposal that's  
3 on the table here is designed as exactly that problem  
4 in that it can be used to prevent the person from  
5 having access to guns during a very temporary period.

6           We - there's been a lot of evidence that  
7 shows that if a person has access to guns and they  
8 attempt suicide, they're much more likely to die.  
9 Eighty-five (85) percent, maybe 90 percent of people  
10 who attempt suicide with a gun die. If you look at  
11 something like poisoning, the percentage is much lower.  
12 I believe it's less than 20 percent of the people who  
13 attempt suicide by poisoning themselves actually die.

14           What that means then is - I mean,  
15 sometimes we hear the opposition say, well, they'll  
16 just try again. That's actually not true. Ninety (90)  
17 percent of the people who live through a suicide  
18 attempt don't end up dying by suicide. So just because  
19 you've tried suicide once, if you haven't actually  
20 died, chances are you're going to live. But if you try  
21 with a gun, well, you're already dead and there's no  
22 second chances. So means do matter and there's a whole  
23 body of research on that fact.

24           In fact, and this goes - this applies in  
25 this very situation. In England, for example, they

1 changed the rules about gas ovens. You've heard the  
2 phrase put your head in the oven. When they changed  
3 the rules about gas ovens, the number of suicides  
4 dropped because means, the access to what is used to  
5 commit the suicide is - they really do matter. So this  
6 bill would provide that kind of temporary removal of  
7 the means from a period when suicide is a real issue.

8                   We have heard - there have been a series  
9 of interviews of people who've attempted suicide and  
10 lived, and many of them say, well, I only decided to  
11 try this a few minutes before I acted. I believe the  
12 majority of them decided within 15 minutes of making  
13 the actual attempt that they were going to do the  
14 actual attempt. So that is the time period that is -  
15 that can make a difference as well as the actual  
16 device.

17                   REPRESENTATIVE DEAN: And at the point  
18 of purchase, something we need to work on with store  
19 owners. What kind of education can we do there?

20                   MS. NICHOLS: There are certainly  
21 warning signs that store owners need to be educated  
22 that this is an issue. They need to know that when a  
23 person comes in and something's just not quite right,  
24 they have the ability, they're under no obligation to  
25 go ahead with that sale. Some of them feel like, well,

1 it's not my job to make those decisions. We'll just  
2 assume the background check knows everything. Well,  
3 the background check doesn't know everything. So it's  
4 very important I think to educate gun store owners that  
5 they do have the ability to make the decision just to  
6 not make the sale in that case.

7 CHAIRMAN MARSICO: Any questions?

8 Nothing. Well, thank you very much  
9 again for your time and testimony. Appreciate it.

10 So the next testifier is Kim Stolfer,  
11 president of the Firearms owners Against Crime. Go  
12 ahead when you're ready.

13 MR. STOLFER: Good morning, Mr. Chairman  
14 and members of the committee. I want to thank you very  
15 much for allowing me to testify today. I appreciate  
16 the invitation. And I take this responsibility to  
17 testify solemnly because I believe, as you know, over  
18 the last 35 years of my involvement with this issue  
19 I've tried to always present the facts.

20 And for the record, my name is Kim  
21 Stolfer. I'm President of Firearms Owners Against  
22 Crime. I am also a NRA-certified firearms training  
23 counselor, former Marine, and I've trained thousands of  
24 people to shoot, and I believe strongly in truth. And  
25 I think that's one of the things that we suffer from



1 today. And I say that because in my course of being  
2 involve in this - and I'm going to depart from my  
3 testimony because it's quite lengthy and I'd like to  
4 address some additional issues that have come up.

5 I see a lot of rhetoric in the media and  
6 in public statements being made, and I see this in  
7 light of the fact that we have an extreme - we have an  
8 epidemic of violence when the alternative - the  
9 alternate is true if you look at the facts.

10 When this panel opened today the  
11 gentleman from the Harrisburg University said that we  
12 need to look at this from a factual and a time pivot  
13 standpoint. So why aren't we? Why are we talking  
14 about things that really don't exist? Why are we  
15 talking in ways that do not contribute to solutions?

16 All my life I've worked in the private  
17 sector and in the government with the Postal Service  
18 and - but my job was always to find solutions to  
19 problems.

20 I represent Firearms owners Against  
21 Crime, an all volunteer group, because we believe  
22 strongly in fixing the problems, not playing games with  
23 them. So let me give you an example.

24 In 1995 a state publication called Laws  
25 Relating to Guns has 50 pages in its publication.

1 Today, that same publication is 148 pages. So do we  
2 ever ask the question of where do the laws fail? Why  
3 do we have laws now that aren't being applied? We have  
4 laws against possessing firearms - youth possessing  
5 firearms in schools. We talked about gun-free zones,  
6 but do we realize that every school in this country is  
7 a gun-free zone, according to federal law and most of  
8 the state laws. That's a complete gun ban. We're not  
9 talking about gun owners' rights in there. And I'm not  
10 here to defend guns. I'm here to defend freedom. I've  
11 fought for that for this country.

12                   So I'm before you today to talk about  
13 things in a little bit different fashion because the  
14 National Academy of Sciences in 2004 studied every gun  
15 control measure, at that time there was over 100 of  
16 them, and they could not ascertain that one even worked  
17 in anything. So we pass these laws not cognizant of  
18 the independent consequences nor looking at the crime  
19 rate as to whether or not it actually functions.

20                   And do we really want a solution? I  
21 think all of us do, but the method to get there  
22 sometimes is obscured by politics. And to that, that  
23 does nothing for the victims of these laws. It does  
24 nothing for stopping the victims of crime.

25                   So earlier in the testimony today

1 Representative Dean asked what about solutions. How  
2 are we going to stop this? So let's ask the questions  
3 that are hard to ask, okay. Let's talk about school  
4 violence. How many of the school perpetrators of these  
5 heinous crimes, and I won't name them, were on SSRI  
6 drugs, or selective serotonin reuptake inhibitors? One  
7 of the board members of Firearms Owners Against Crime  
8 is a 38-year clinical psychologist. And he says these  
9 drugs are one of the sole motivators for violent crime  
10 and these murders in schools, and yet we don't talk  
11 about that. What do these - what do these drugs do?  
12 They forever alter the brain chemistry, forever. They  
13 lead to violent, suicidal and murderous ideation.

14                   So we talk - there was a big effort on  
15 the part of the governor to go after opioids and yet we  
16 don't track SSRI drugs, Prozac, Ritalin. They came  
17 into the market in 1988. When did the mass shootings  
18 start in earnest? Shortly thereafter.

19                   167 researchers say two things about  
20 school shootings. These are directly connected to most  
21 of the school shootings and most of the mass shootings  
22 and at the same time we should stop naming the killers  
23 because we are doing nothing more than making  
24 celebrities out of them and encouraging more. And if  
25 you want proof, there are books, numerous books, called

1 copycatters.

2                   Since Columbine, when Klebold and Harris  
3 said they wanted to start a revolution, there have been  
4 74 copycatting incidents. So we hear often in the  
5 media that the Second Amendment comes with  
6 responsibilities. Well, I have news for the media, who  
7 can't seem to figure out what kind of guns were really  
8 used in crime or in these shootings. It serves the  
9 First Amendment. So let's stop. Let's break that  
10 chain. Let's tell the media you can no longer legally  
11 identify these criminals, these murderers, in your  
12 broadcasts. And that's what the experts want.

13                   James Fox from Northwestern University  
14 says this is a clear pathway to encouraging others.  
15 This has been brought up in numerous studies, in  
16 numerous reports. If you want to stop this sort of  
17 thing, let's ask the questions that nobody really is  
18 comfortable with.

19                   And if you want to talk about crime in  
20 our streets, I've been in the courts of law. I've  
21 watched what judges do. The local police, we have  
22 police officers on a number of Board of Directors. We  
23 have local, state and federal officers in our  
24 organization. And the one thing they tell me clearly  
25 and unequivocally is the gun charges, use of a firearm

1 in a crime is one of the first things that's plea  
2 bargained away. They actually have a term for it in  
3 Allegheny County courts. It's called swallowing the  
4 gun. The police officers don't even want to bring them  
5 to the prosecutors because they don't even use them.  
6 And if you ask Detective Joe Fox, it's in my testimony,  
7 he considers it a joke. He calls the Philadelphia  
8 Justice Center the Injustice Center and says that  
9 people that really want to stop crime should put a stop  
10 on it. And he was so frustrated he wrote a letter to  
11 the editor. It's in there for you to see.

12 In Allegheny County there's two million  
13 people. The Pittsburgh Post-Gazette, working with the  
14 ATF, came up with the number of people that  
15 continuously in almost 90 percent of the time commit  
16 violent crime in that area. And that was in 2001. And  
17 out of two million people there was 150 individuals.

18 I've talked to officers in that  
19 organization and in the City of Pittsburgh and they've  
20 arrested people sometimes twice in the same night,  
21 going out, getting another gun on the street,  
22 committing another crime and being re-arrested before  
23 they face the first crime's paperwork. And then when  
24 they go to trial they drop the charges. Why do we  
25 allow that? Because, in my opinion, the courts have

1 taken to really rejecting the authority of the  
2 legislature wants to take of holding these people  
3 responsible.

4                   This is not something that's not  
5 happening. And if we want to have solutions to crime,  
6 Representative Dean, let's go out to the parks. Let's  
7 stop them from doing these - find a way, because in  
8 Philadelphia you ask about cases like Khalil Smith.  
9 You ask about the number of police officers that were  
10 killed by repeat criminals, who I have records in my  
11 computer that I can show you, all the gun charges were  
12 plea bargained away. And then I want to know why  
13 organizations come before these bodies and say we need  
14 more sacrifices on freedom. Because make no mistake  
15 about it, I'm defending freedom when I'm here. And I'm  
16 defending it because we have the freedom now. Every  
17 citizen in Pennsylvania. It's not gun owners. Every  
18 citizen in Pennsylvania has freedoms that all of you  
19 are charged with protecting. And you know that. Many  
20 of you take that with solemn responsibility.

21                   So when these groups come up here and  
22 they advocate for more laws, they're not advocating for  
23 anything that's going to be a compromise. We're not  
24 compromising anything. Basically we're talking about  
25 every citizen, 1.17 million citizens have licenses to

1 carry in this state and they're saying we want you to  
2 give up a little bit. We're going to - we're not going  
3 to take \$20 off you. We're going to take \$10 off you  
4 in a metaphorical freedom sense, and you're going to be  
5 happy. Well, we're getting to the point, Pennsylvania  
6 citizens and governors I talked to, where we want to  
7 know why. We want to know why we're not looking at the  
8 laws that failed.

9                   Representative Jozwiak talks about  
10 support for the PICS system. I make no bones about it,  
11 the system doesn't work. So far this year 16 times  
12 it's been down. Not once the national system has been  
13 down.

14                   Let's talk about the violations of  
15 rights. When an individual is denied by the PICS  
16 system for the ability to get a license to carry they  
17 get a letter, as required by law, in writing for the  
18 State Police to commit a misdemeanor one criminal act.  
19 Every time they get the letter it says for unspecified  
20 reasons. In Section 6109 it says specifically the  
21 reason must be identified. We tolerate that. Why?  
22 That's just one component of this.

23                   Now, we talked about the 15-day hold  
24 before you proceed with a firearm sale. Do you know  
25 that the Pennsylvania State Police were called out in

1 2001 by the Justice Department because it's a 15-day  
2 proceed. It's a 15-day automatically reject.  
3 Automatically reject a constitutional right.

4           We are a point-of-contact state. We  
5 have signed an agreement with the Federal Government.  
6 We're supposed to abide by that. That means that at  
7 the end of that time the Government is supposed to be  
8 able to identify that you have a right to bear arms  
9 because the State has not identified that you - we can  
10 deny you. But we do that. We accept that in the state  
11 because the State Police are doing it.

12           When a person goes to buy a firearm and  
13 they are turned down, what actually happens? If they  
14 buy a firearm and they are denied, they have to go  
15 through a challenge process. If they forfeit the  
16 challenge or they decide they don't want to challenge,  
17 they're process - and I'll give you the numbers. On  
18 average, right now 14,000 citizens are denied every  
19 year out of the nearly three-quarters of a million  
20 sales. And I'm approximating. Of that, roughly 60  
21 percent never challenge it. We realize that the  
22 procedure of the Pennsylvania State Police mean that if  
23 you didn't challenge that, that background check  
24 doesn't stop. At the end of 90 days they've lost their  
25 rights for the rest of their life. Then when they go



1 in later, thinking that everything was okay, they  
2 decided they didn't want to proceed, and they filled  
3 that form out saying, no, I was never sentenced to a  
4 crime where I could have prosecuted for, that's unsworn  
5 falsification. And I go into court routinely, and I'm  
6 a court-recognized expert on this because of the way  
7 the laws work, they're facing 12 years in prison for  
8 checking one box wrongfully that they didn't know.  
9 Unintended consequences, ladies and gentlemen, we need  
10 to look at this. We're charged with a solemn  
11 responsibility of protecting rights and freedoms. How  
12 does this further the public interest when we don't -  
13 the courts anywhere in Pennsylvania and criminals walk  
14 out of court and don't receive the gun charges?

15           You want to make society safer, let's  
16 fix that loophole. You want to talk about loopholes?  
17 I've heard loopholes thrown around here, bandied about  
18 like it's some sort of a juggling act. Shira Goodman  
19 talked about South Carolina loopholes. Let's finish  
20 with the Pennsylvania State Police. Why should we, as  
21 citizens, have to pay to exercise a constitutional  
22 right? Murdock versus Pennsylvania in Pennsylvania  
23 1943 said the power to tax is the power to destroy.  
24 Pennsylvania lost that.

25           If we charge people \$2 and \$3 for every

1 purchase, most people say what does that amount to. In  
2 fact, in the Constitution it's - especially when the  
3 national system will do it better and faster and more  
4 reliable.

5                                 Now, Representative Jozwiak said  
6 that the federal system checks - or the NICS system  
7 doesn't check as many databases. With all due respect,  
8 sir, that's wrong. And Representative Ortitay and  
9 Representative Gabler, which we all know, went down to  
10 the FBI and that was brought out, and they actually  
11 showed that they don't check more databases. It's the  
12 same. The only thing is the State Police have not  
13 submitted all the temporary PFA data. And that amounts  
14 to approximately 1,200 records per year. And that  
15 evolves. So it goes over, over and over.

16                                 Why is that important? Because  
17 temporary PFAs, if they don't identify, they can go to  
18 another state and buy a gun and the system is blind to  
19 it. Well, we're not fixing the courts. The courts are  
20 required to put unique identifiers into the temporary  
21 PFAs. So it's a component of House Bill 763 which  
22 would eliminate the PICS system, turn that money back  
23 over to law enforcement so they can go after criminals.  
24 It's something that would make Pennsylvania unique.  
25 It's an amendment. And it empowers the courts and the

1 Federal Government to check alternative databases for  
2 the temporary PFA, like PennDOT. Right now they don't  
3 do that. Department of Revenue. To get unique  
4 identifiers. Every state has a problem with temporary  
5 PFAs. We want to fix that. That's the purpose of  
6 House Bill 763. How many more people will be alive,  
7 how many more crimes would be stopped if we turned over  
8 \$70 million more dollars, some say it's \$11 million, to  
9 the state to go chase criminals, to create a special  
10 task force to go after criminals, career criminals?  
11 These are all things that we can do to make society  
12 safer. We don't need any more laws.

13                   So going back to loopholes. Charleston  
14 - the Charleston situation, the reason the person got  
15 the gun was inaccurately described. The killer in the  
16 Charleston church shooting had - he was under  
17 indictment for a drug charge. The local DA knew about  
18 it. Never informed the FBI. Why? Why wasn't he held  
19 responsible as an accessory to the crime? I want to  
20 know? I want to know why government can make an  
21 exception and not do their job?

22                   The same thing happened in Parkland.  
23 The government dropped the ball. The same thing  
24 happened in the Texas church shooting. The government  
25 dropped the ball, the Air Force. The same thing

1 happened at Virginia Tech. The Virginia State Police  
2 dropped the ball. I could go on. I've done an awful  
3 lot of research on this. Many of you have seen some of  
4 the research. Some of it's in my testimony.

5 I'm coming to you today to say that  
6 perhaps we're looking in the wrong direction. And I  
7 agree wholeheartedly with what Joshua Prince said about  
8 Senate Bill 383. It's a good idea. And it's not about  
9 arming all teachers. It's about giving people a choice  
10 to exercise their freedom and basic right of  
11 self-defense. Those very same teachers that we say  
12 aren't qualified can walk out, get in their car and  
13 have a firearm and walk to the mall. If they're not  
14 qualified in school, why are they qualified at a mall?  
15 It sets a dangerous mental precedent that somehow these  
16 people can't be trusted. If we were to look at what  
17 Ohio did, they have the FASTER Program. The FASTER  
18 program provides for specific methods of training  
19 teachers. Can't we do that? Can't we look at real  
20 ways to make people safer and create a fear of the  
21 unknown for the criminal instead of the parents when  
22 they take their kids to the bus stop? I think we can.

23 And then we have the Extreme Risk  
24 Protection Orders. And I was a mechanic all my life.  
25 I fix things. So I like to look at things, how they

1 work. And that's why I spend so much time coming up  
2 with ways to correct the problem. So let's look at  
3 this pragmatically. We're going to have an Extreme  
4 Risk Protection Order that takes the guns off of  
5 someone who is a danger to themselves or others. So  
6 are we willing to leave them access to cars, knives,  
7 gasoline? Really? Do I agree with the Mental Health  
8 Procedures Act? From a constitutional perspective, I  
9 have a problem with that. Okay. But from a pragmatic  
10 aspect, from the advice of our clinical psychologist on  
11 our board it's a far more effective way than taking a  
12 person's guns. And if you look at the process, it's  
13 not only ex parte, but there could be as much as ten  
14 days of taking their firearms. And the bills vary  
15 between the Senate bill and the two House bills.

16                   Why aren't we going to put these people  
17 in a place where they can get treatment? I heard the  
18 question asked today by Representative Jozwiak. He  
19 asked about what happens to the person once you take  
20 the guns? That was a great question. What does  
21 happen? Voluntary? You got a person who's a danger to  
22 themselves. Dr. Charles Gallo will tell you, our board  
23 member, that they're not going to voluntarily get  
24 treatment. That's a pipe dream. Law enforcement  
25 officers will tell you that, too. So if we're going to

1 use the current laws that will not only take them off  
2 the street and keep them - put them in a place where  
3 they can be evaluated and at the same time take their  
4 firearms from them, do I agree with that? No. Do I  
5 think that it's part of current law and they do have a  
6 recourse that they can get their rights restored and  
7 expunged after one year? That's a possibility. But  
8 creating a law that just takes guns is nothing more  
9 than furthering an agenda put forth by organizations  
10 that don't respect the Second Amendment. And I have a  
11 list of statements here from organizations that are  
12 coming before you today on the - that undercut their  
13 statements about the respect for the rights of all  
14 citizens.

15                   So the fact of the matter is, ladies and  
16 gentlemen, that we don't need more laws. What we need  
17 is the constitutional will to ask questions that can  
18 make us safer by going after the people in our  
19 community that are bad people that are criminals, that  
20 have been self-identified through assessments in the  
21 schools and by experts in looking at different ways to  
22 do this.

23                   So with that, I give you back the  
24 balance of my time, Mr. Chairman, and thank you.

25                   CHAIRMAN MARSICO: Any questions or

1 comments for Mr. Stolfer?

2 Representative Jozwiak?

3 REPRESENTATIVE JOZWIAK: Thanks,  
4 Chairman.

5 You referred to me on several different  
6 issues. And our end result is probably the same. How  
7 we get there is probably a little different.

8 A couple things that I think you need to  
9 know. All the prosecutions when people go into a store  
10 to buy a gun that are prohibited is controlled by the  
11 District Attorney's Office. They'll get referred to by  
12 the police department that goes and picks up the gun,  
13 which is local police, State Police. It's not just  
14 State Police.

15 Their last year was more prosecutions  
16 and convictions than ever before in Pennsylvania. But  
17 people are prohibited.

18 Now, the Pennsylvania PICS system, as  
19 you know I'm a proponent of that. I don't - I don't  
20 think at this time, in today's world, that we should be  
21 less checking on people to prohibit the bad guys from  
22 obtaining guns.

23 And here's what the PICS - the PICS  
24 checks the following things. They check the  
25 Commonwealth Law Enforcement Assistance Network known

1 as CLEAN. They check JNET, Justice Network. They  
2 check Pennsylvania criminal history records, violent  
3 juvenile records involving involuntary commitments and  
4 adjudication of incompetence. They check the PFA  
5 files, Pennsylvania wanted persons. The PICS system is  
6 as point of contact for the Federal Government. They  
7 check persons who change their names. They also check  
8 interstate criminal history records, federal and  
9 military records. They check on people who - this  
10 includes any form of persons having concealable  
11 protection orders, arrest warrants and illegal  
12 immigration violations. They check on illegal and  
13 unlawful alien records. They check on people who have  
14 renounced their citizenship, mental defectiveness,  
15 involuntary commitments, dishonorable discharges from  
16 the armed services and also unlawful users or sellers  
17 of controlled substances. That's pretty much it. I  
18 might have missed one or two. I'm not sure.

19           Last year the NICS alone, with their  
20 three day order of issuing approval to purchase guns -  
21 I'm sorry, not last year, 2016, 4,170 firearms  
22 retrievals had to be given to the ATF. People who were  
23 prohibited but weren't found in those - in those three  
24 days.

25                           Pennsylvania's 15-day window is pretty



1 much for people with names like Smith, Jones, Johnson,  
2 because they want to make sure they have the right guy  
3 to make sure they can have a weapon. Those 15 days  
4 they give an absolute yes or no, depending on who it  
5 is.

6                   The feds are restricted at three days.  
7 And that streamlines it but they have a chance of  
8 getting a permit or purchase to a prohibited person.

9                   Now, last year there was 120,000 denials  
10 put out by - and these are 2016 stats. I can't tell  
11 you if there was any prosecutions through the NICS  
12 system on that. 123 denials of people - 120,000, if  
13 there's any prosecutions at all.

14                   The PFA Orders, at any given time  
15 there's - you say 1,200. I'm thinking it's more like  
16 1,500. And the reason for that is when - when the  
17 temporary PFAs are submitted, a lot of times the  
18 Federal Government wants the name, address, Social  
19 Security number and date of birth. So if you have some  
20 people living together and they're there three, four  
21 months and one of them gets beat up, they don't know  
22 their Social Security number. They don't know their  
23 date of birth. So the Federal Government will not add  
24 those into the system. Pennsylvania does add it into  
25 the system. They don't - they don't do that. They do

1 enter those in. So that's just - that's just one more  
2 thing that gets checked.

3 Let me see. What else?

4 I did a little bit of comparison here  
5 between the Federal Government and the State  
6 Government, and I think the two of them together are  
7 doing a pretty good job. I think eliminating one -  
8 we're eliminating something we should not.

9 I think you're right when you say  
10 there's an epidemic of violence. Evil people will do  
11 evil things no matter how many laws we have. No matter  
12 how many restrictions we put in place, evil people will  
13 do bad things to people. So with that, you know -.

14 MR. STOLFER: May I respond to your -  
15 may I respond?

16 CHAIRMAN MARSICO: Go ahead.

17 MR. STOLFER: First of all, those  
18 databases you mentioned are all covered by NICS as  
19 well, flat out.

20 The other point that you raised was  
21 after 15 days the State Police automatically denies.  
22 They don't - they don't approve. If you go to 15 days,  
23 it's an automatic denial. And I can bring in any  
24 number of gun dealers, any number of experts to prove  
25 that.

1           The other thing is you talked about -  
2 I'm trying to think of a number of thoughts in my mind,  
3 so - but you mentioned the last part about we have an  
4 epidemic of violence. That's not shown by the facts.  
5 The facts are that violence - especially this committee  
6 was shown a document that showed that from 2006 to 2016  
7 that the number of firearms crime had gone down in  
8 Pennsylvania 30 percent. And those are cold, hard  
9 facts from the Pennsylvania State Police themselves,  
10 which is what they supplied at the IBCR.

11           And the other thing that you mentioned  
12 was - we talked about how the State Police handle  
13 crimes. You were at the meeting two years ago where  
14 Major Scott Price sat there and he said to me directly,  
15 sitting to my right, said up until that point they had  
16 over 500,000 criminal records they had not put in NCIC.  
17 Well, because of what Representative Gabler and what  
18 Representative Ortitay did last year, those records are  
19 now in NCIC. I'm sure you remember hearing that he  
20 said it was because of unique identifiers. The fact is  
21 unique identifiers were not a problem. And I had a  
22 real problem with those records not being in NCIC  
23 because that was a situation to take everybody in the  
24 nation less safe because those records need to be in  
25 there.

1                   And I think it's important to recognize  
2 that 36 states use the National Instant Check System  
3 now with no problems. They don't have the  
4 difficulties. They don't have the driving dealers out  
5 of business. And I'll just give you an example of  
6 something they're doing right now. The State Police,  
7 without statutory authority, are going to dealers and  
8 they want every dealer to check every firearm that  
9 comes in over their counter for either consignment sale  
10 or trade-in or application against guns known to be  
11 used in a crime or guns that have been lost or reported  
12 stolen.

13                   So the pilot project dealers are  
14 refusing to do because it puts enormous liability and  
15 risk on them. If they're going to put these firearms  
16 in and have them checked while the person's standing  
17 there, the process for a gun dealer is they have to put  
18 these guns in their day book. They have to recognize  
19 that they brought the firearm in and they did a check.  
20 Now, is that gun dealer going to return that gun to  
21 this person that's prohibited if it comes out that that  
22 gun shouldn't be in his possession? Okay. But the  
23 State Police are telling them to do that. And George  
24 Romanoff at Ace, Joe Keffer, and they appeared before  
25 this committee before, will tell you exactly that's

1 what they're doing. And it's their intent to expand  
2 this statewide. So they're putting an unfunded mandate  
3 on dealers as well as putting the liability and risk.  
4 And who wants to return a gun that shouldn't be in the  
5 possession of a criminal? And this is only part and  
6 parcel.

7                   Representative Martin Causer, you  
8 remember this probably, 2009, he had to go and get  
9 dozens of state legislators, House members, to explain  
10 to the State Police that redefining what an AR-15 is,  
11 is not within their jurisdiction. And it took the  
12 actions of the Bureau of Alcohol, Tobacco and Firearms  
13 to explain to the Commissioner at the time that what  
14 they were doing was illegal. Not only that, here's the  
15 collateral consequences of this determination. If you  
16 determine that an AR-15 is to be transferred like a  
17 handgun, then it's legitimate to be carried under the  
18 license to carry firearms because it's now going to be  
19 registered as a handgun. So these types of actions,  
20 these unnecessary and, in my opinion, ill-conceived  
21 ideas are part of the reason why the Pennsylvania State  
22 Police should go back to chasing criminals and not  
23 chasing criminal records.

24                   REPRESENTATIVE JOZWIAK: Okay.

25                   I just have one comment. You mentioned

1 the 500,000 records that weren't in the system. That  
2 comes from when the police used to roll fingerprints  
3 versus daily live scan machines? Because when you roll  
4 a fingerprint and you submit it off to the FBI, the FBI  
5 would say, well, the print from the middle, index  
6 finger, there was a smudge or wasn't good. They  
7 weren't read - that's all police departments, not just  
8 the State Police. Every police department. So of  
9 those 500,000, we don't know how many of those are  
10 disqualified. Some may not be. A lot may be. Those -  
11 the FBI never put them in their system.

12 Now, you're saying that they did now?  
13 Why would they put them in now if they weren't  
14 reprinted? That's - why wouldn't they reject it to  
15 start with? I mean, that's - I don't know the answer.  
16 I don't know if you do either, but I'd like to know  
17 that answer.

18 CHAIRMAN MARSICO: I agree with you,  
19 sir.

20 We have time for two more questions.  
21 Representative Dean?

22 REPRESENTATIVE DEAN: Just a comment,  
23 Mr. Chairman. I want to thank you for holding this  
24 hearing and the hearings that you held last month.  
25 We're at a time - and I think we're at a crossroads.

1 And I guess, sadly, these school shootings have brought  
2 us to this crossroad.

3 I remember, Mr. Chairman, you opened the  
4 first day of hearings by saying you were moved by the  
5 children of Parkland, as we all have been. We've been  
6 moved by their courage. And when we're at a point at  
7 this point in the year where 27 children have been  
8 killed in schools, we're at a crossroads.

9 The issue of gun violence is big. It's  
10 bigger than school shootings, but we're at a choice.  
11 We have to place - we have a choice to make here. Do  
12 we want to harden our schools more, harden all public  
13 places more, make every place like a prison so that  
14 when I walk my six-year-old granddaughter into  
15 kindergarten she has to worry about a metal detector,  
16 is her teacher armed, are other personnel armed, make  
17 sure the doors are hardened, her escape routes have to  
18 be clear, she has to learn how to hide and duck and run  
19 and fight? We're at a crossroads. Is that the kind of  
20 society we want or should we, as legislators, do our  
21 job to find legislation that will save lives?

22 I thank you for this hearing and I hope  
23 we robustly get these bills to the floor to save some  
24 lives in Pennsylvania.

25 CHAIRMAN MARSICO: Representative

1 Stephens?

2                   REPRESENTATIVE STEPHENS: Thank you, Mr.  
3 Chairman. Thanks, Kim, for your testimony. I  
4 appreciate it. And I know, frankly, many of our past  
5 conversations about restoration of rights and things  
6 like that helped inform some of the provisions that I  
7 included in the Extreme Risk Protection Order Bill.

8                   But one of the things in particular I  
9 wanted to connect with you on here and discuss with you  
10 briefly is the comparison between the Extreme Risk  
11 Protection Order and the 302. And I think you  
12 mentioned in your testimony that the 302 in your mind  
13 was sufficient and preferable to what I propose in the  
14 Extreme Risk Protection Order.

15                   Is that accurate?

16                   MR. STOLFER: I believe it's more  
17 protective of society as a whole because you take care  
18 of a person and the evil person can't - is a danger to  
19 themselves or others.

20                   REPRESENTATIVE STEPHENS: Sure.

21                   I guess one of the concerns - and again,  
22 I think you brought many of these to my attention, how  
23 long is an individual detained? I'm not sure. How  
24 many days is an individual detained?

25                   MR. STOLFER: Right now it's 120 hours.



1                   REPRESENTATIVE STEPHENS: So you're  
2 detaining for five days. So you're taken away from  
3 your family, your work and everything else like that  
4 for five days, unable to leave, when you're  
5 involuntarily committed.

6                   And then - and you're ultimately  
7 deprived of your gun rights forever.

8                   Right?

9                   I mean, you and I had a conversation -.

10                  MR. STOLFER: Technically.

11                  REPRESENTATIVE STEPHENS: You know,  
12 technically, you can't get those rights back without  
13 incurring the expense of Mr. Prince or any of the - any  
14 other attorney who might be willing to take your case  
15 up. And all that happens with virtually no due  
16 process, nothing.

17                  So and one of the reasons why I was  
18 drawn to the Extreme Risk Protection Order approach is  
19 because I thought it was less invasive, it didn't  
20 require you to be detained and removed from your family  
21 and work and everything else like that for five days,  
22 it wasn't as permanent in terms of your Second  
23 Amendment rights, it wasn't a lifetime ban with no  
24 ability to have them restored, and it also provided all  
25 those other due process protections that the 302

1 process seldom has.

2                   So I guess I'm - maybe you and I can  
3 talk offline at some point. I'm always willing to have  
4 a conversation with you and try to work with you on  
5 this, but it just seems, you know, from my perspective  
6 that the Extreme Risk Protection Order approach would  
7 be far preferable to the 302 approach for those  
8 reasons. And you know I don't know if you have a brief  
9 comment on that. I know the Chairman wants to wrap up  
10 the hearing, but you know, I'm happy to listen and  
11 maybe we can talk offline about it further.

12                   MR. STOLFER: I'll be happy to talk with  
13 you offline.

14                   I look at this from a citizen, if you've  
15 got a person that's a danger to himself or others, do  
16 we want them to have access to anything else to commit  
17 harm? Look at the people that abuse trucks and cars to  
18 mow down people.

19                   At the same time we talked about  
20 suicide. And it's great to talk about suicide with  
21 firearms being an issue where we could address that.  
22 But we're not looking at the underlying problem. And  
23 you look at other countries, Japan, their suicide  
24 rate's three times ours. The substitution issue, we  
25 don't talk about that. And I think that it's important

1 if we're going to talk about an issue, let's look at  
2 all the elements of it. Because if we don't look at  
3 those aspects of it, we're not really trying to fix the  
4 problem. You know what I mean?

5 I would like to see those people get  
6 help and not have any risk whatsoever. We take a  
7 firearm, but we leave them have access to knives or  
8 poison or whatever. And despite what the testimony  
9 I've heard here today, it did not talk about those  
10 aspects. There's a number of people that substitute  
11 the method.

12 So ERPO - by the way, ERPO came from a  
13 program from the Second Amendment Foundation up in the  
14 State of Washington. They're the ones who put this  
15 whole concept together first.

16 But we also have to recognize California  
17 and the YouTube shooting. They had access to the ERPO  
18 in that state and didn't use it. So it's a very new  
19 concept, and it hasn't had a chance to gel to see the  
20 side effects and the consequences. And to say that  
21 it's a great thing and it's going to work, and this is  
22 not meant personally or anything, but I think is  
23 premature. And could it be something? Maybe we could  
24 even work with you and make it something that's  
25 beneficial in the long run, but it's not the only way

1 people cause harm. And I think that we don't want to  
2 see headlines in the news, well, they came in and took  
3 his guns, but he went out and rented a truck and killed  
4 a person. Why did they not put him in a psychological  
5 ward. And that would really tarnish everybody's idea  
6 of whether this concept is worthwhile.

7 REPRESENTATIVE STEPHENS: You know what,  
8 and I certainly can appreciate some of those concerns.

9 I think this - I think the first one was  
10 back in 1999, in Connecticut, if I'm not mistaken. So  
11 we do have - you don't have to reinvent the wheel. We  
12 do have some examples, you know, Indiana, Connecticut,  
13 Oregon, Washington, California. Those states, it's  
14 been around for a little while.

15 And I do think we did hear some  
16 testimony about the substitution issue and the finality  
17 of folks that choose to commit suicide and they use the  
18 firearm and the accelerated rate of those who possess  
19 firearms and want to commit suicide choosing a firearm  
20 as the method to - and I think we can agree, you know,  
21 obviously it's irreversible in most instances. So you  
22 know, let's - let's continue to have a dialogue and  
23 see, you know, if we can't find that comon ground to  
24 make the bill work and something that you can  
25 ultimately support.

1                   But I did have a - a lot of our  
2 conversations about your criticisms of the 302 process  
3 in my head as we were drafting this - this bill. Thank  
4 you.

5                   CHAIRMAN MARSICO: Kim, thank you much  
6 for your time and your testimony. It's always good to  
7 see you.

8                   MR. STOLFER: Thank you so much, sir.

9                   CHAIRMAN MARSICO: So we have - we did  
10 extend an invitation to the National Rifle Association,  
11 but they were not able to make it today. And we have  
12 submitted testimony from Molly Gill, Families Against  
13 Mandatory Minimums.

14                   So folks, I'm going to wrap this up. I  
15 just want to thank once again Harrisburg University for  
16 their generous hospitality, thank all the members of  
17 the committee for being here today and throughout all  
18 the hearings. I want to thank the testifiers that came  
19 forward today. We have, I think, the Senate hearings,  
20 public hearings. And I just want to say one thing and  
21 that's I just hope that we find common ground.

22                   Thank you very much. This adjourns the  
23 hearing.

24                   \* \* \* \* \*

25                   HEARING CONCLUDED AT 12:19 P.M.

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