



**Statement of J. Thomas Manger,
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before the
Committee of the Judiciary
of the
United States Senate

December 6, 2017

HEARING:

Firearm Accessory Regulation and Enforcing Federal and State Reporting to the
National Instant Criminal Background Check System (NICS)

Chairman Grassley, Ranking Member Feinstein, distinguished Members of the Committee, I am Tom Manger, Chief of the Montgomery County (Maryland) Police Department and President of the Major Cities Chiefs Association, representing the largest police agencies in America and the ten largest in Canada. As the officials responsible for public safety in every major urban area, we know first-hand about gun violence. As the sole representative of local law enforcement today, I speak for the men and women who run toward the gunfire and not away from it. I speak for those protect the victims of gun violence, and I speak for officers who have died by gun violence.

We commend Chairman Grassley for holding this hearing because we recognize that political sensitivities and controversy can be difficult at times like this. But recent tragedies show that this is a time for leadership and courage, and the Chairman has responded. For American law enforcement, we truly thank Chairman Grassley for ordering the hearing today.

Ranking Member Feinstein we applaud your unwavering support for victims of gun crimes and your relentless pursuit of measures to curb gun violence in America. Today I will describe how we strongly support your proposed legislation.

On behalf of American law enforcement, let me say It is our greatest hope that Democrats and Republicans can come together and adopt measures to protect the public from harm – because public safety should not be a partisan issue. Perhaps today will be a step in the direction of strong bipartisan leadership.

National Trends:

Gun violence continues to be the number one threat for homicides in the major cities I represent. Worse yet, our nation has witnessed a number of devastating mass murders such as the shooting in Sutherland Springs, Texas by a mentally disturbed subject; the massacre of more than a thousand shots fired on the public in Las Vegas, Nevada; and not long ago, the tragedy in Charleston, South Carolina by a white supremacist who should not have had access to guns. Before these mass murders, previous cases from Arizona and Virginia serve as bloody reminders that the current system is just not working.

We need to come together to protect the public. A device that results in a military attack, equivalent to full automatic firing – must be stopped. Bump stocks and similar devices have no legitimate sporting or hunting purpose. Likewise, the screening process for individuals looking to purchase a firearm or ammunition has had many loopholes for far too long and NICS must be strengthened.

Bump Stock Accessory Devices

Las Vegas, NV

On October 1, 2017, attendees of a music festival in Las Vegas, Nevada experienced a horrific hail of gunfire - 1,100 rounds in a matter of minutes. The worst mass murder in the history of our Nation – and it was attributable the devastating number of rounds fired. Stephen Paddock fired more than a thousand rounds because of a device that you must prohibit – the Bump Stock.

Paddock was able to stockpile twenty-three firearms, ammunition, and a variety of high-capacity magazines with the ability of holding 100 rounds each in his suite at the hotel. The firearms found in his room were four DDM4 rifles, three FN-15 rifles, one AR-15 rifle with forward front grip, one .308-caliber AR-10 rifle, one AK-47 rifle, at least one custom made LMT rifle, and a handgun.

Twelve of those guns were outfitted with the Bump Stock accessory that you are considering today. Paddock was able to fire approximately 90 rounds every 10 seconds into the crowd below. This deadly device has only one purpose – it enables a gunman to fire rounds at a speed equivalent to that of an automatic firearm without removing their finger from the trigger. While it is illegal for private citizens to possess fully automatic firearms, Bump Stocks are legal under current federal law.

The sole and pointless purpose of the Bump Stock is to accelerate the rate of fire to equal fully automatic firepower - exactly what Congress attempted to stop with previous legislation that bars fully automatic weapons. To prevent such horrific mass murders in the future, Major Cities Chiefs strongly support Senator Feinstein’s proposal to ban Bump Stocks and similar devices. We appeal to Senators from both parties to join with Senator Feinstein and make S. 1916 a bipartisan effort to prevent another tragedy like the massacre in Las Vegas.

How can this device be justified for sporting or hunting? The assailant in Las Vegas left 58 dead and over 546 injured within a ten-minute time frame. Major Cities Chiefs are calling upon Congress to act now and give to ATF the authority to stop the carnage which results from a military rate of fire.

Appeals from Houston and Las Vegas

At our recent meeting in Philadelphia, the Acting Director of ATF who has testified today advised all the Chiefs that ATF does not now have the authority under Federal law to bar this device and new legislation is required to do so. I have submitted for the record a letter from Houston Chief Art Acevedo who supports S 1916 and notes that bump stock legislation is “common sense” legislation to protect the public.

Today I am also entering into the record a letter from Sheriff Joe Lombardo of Las Vegas, in which he likewise calls for action by Congress to give ATF authority to take action against the Bump Stock device and prevent further tragedies. In the aftermath of the worst mass homicide in our history, Sheriff Lombardo has appealed to Congress to empower ATF to protect the public. Surely the Committee can find a bipartisan way forward to protect the public from another tragedy of this magnitude.

National Instant Criminal Background Check System (NICS)

Sutherland Springs, Texas Case Study-November 2017:

The tragedy in Texas exemplifies a broad systemic weakness in NICS. On November 5, 2017, 26-year-old gunman Devin Patrick Kelley entered the First Baptist Church in Sutherland Springs, Texas. There he murdered 26 individuals and injured 20 others. Like the Las Vegas shooter, Kelley also died at his own hand after a self-inflicted head shot. This shooting is the deadliest mass shooting by one person in the state of Texas, and the fifth-deadliest mass shooting in the United States to date.

Kelley entered the church wearing tactical gear and carrying an AR-15 pattern Ruger AR-556 semi-automatic rifle. He walked up and down the aisles of the church firing in the pews. Law enforcement later reported for evidence they found 15 empty AR-15 rifle magazines capable of holding 30 rounds each at the scene. Two additional firearms were later found in Kelley’s vehicle; a Glock 9 mm and a Ruger .22-caliber.

As this hearing has demonstrated, Kelley should have been barred from the purchase of firearms or ammunition because of his mental health history and prior criminal convictions. He was charged with assaulting his wife and with fracturing his toddler skull. Kelley openly made death threats against the superior officers who charged him and was caught sneaking various firearms onto the Air Force base where he worked. When he was dismissed from the Air Force with a bad conduct discharge, the Air Force failed to record this conviction in the FBI's National Crime Information Center (NCIC) database which is used by the National Instant Criminal Background Check System (NICS) database. Surely a textbook example of a prohibited person – but NICS failed more than just a record of conviction.

Mental Health and Domestic Violence

This case raises a broader question for the Committee – Does the current NICS law adequately cover mental health and domestic violence? Kelley was admitted to a mental healthcare facility in New Mexico after his threats against others and himself. He escaped from that facility, and was apprehended and brought back until being taken for court-martial. It was later found that he used computers at the facility to order numerous weapons and tactical gear.

Testimony today has explained the loopholes and failures in NICS, allowing a prohibited person to purchase multiple weapons. Despite his military courts-martial and discharge, and despite his documented history of mental illness, Kelley was able to purchase four guns at licensed gun dealers in Colorado between 2014 and 2017.

That's why we strongly support Senator Cornyn's proposal to strengthen NICS. The "Fix NICS Act of 2017" is a major step to strengthen communications between the FBI's background check system and reporting Federal and State agencies regarding both criminal and mental health records. We support comprehensive efforts to ensure that Federal agencies and States will produce NICS implementation plans and correct current deficiencies that result in persons being cleared who should not be allowed to purchase firearms.

Today we thank Senator Cornyn because this measure represents the beginning of a process to strengthen NICS, not the end of it. Much more can be done to strengthen the criminal and mental health provisions of NICS to ensure that every State reports comprehensive and consistent information. Recent tragedies should help to inform Congress on how to strengthen procedures, reporting, and also the definitions that were intended to protect the public from those who perpetrated recent mass shootings.

Support from Houston and Las Vegas

Houston Chief Art Acevedo strongly supports the measure introduced by his Senator from Texas. Chief Acevedo goes further to call on Congress to expand background checks. Sheriff Joe Lombardo of Las Vegas also calls on Congress to swiftly adopt this long overdue measure to strengthen NICS. These and other law enforcement executives join me in calling for swift passage of the legislation.

Ongoing Priority to Strengthen the National Instant Criminal Background Check System (NICS):

But the incidents that gave rise to the hearing today were only the most recent reminders of what was already known – we can and should do much more to stop these mass murders.

Charleston, SC

In June of 2015, white supremacist Dylann Roof murdered nine parishioners. The Charleston shooting exemplifies yet another loophole in NICS. In this case, the arrest and conviction were not properly recorded and interpreted by the FBI. When he testified before Congress, former FBI Director Comey stated that Roof should have been barred from a gun purchase but failures in NICS allowed the shooter to slip through the bureaucracy and acquire the guns he ultimately used to kill nine innocent persons.

The shooter was able to purchase the gun for the massacre because of the “default proceed” provision in NICS which allows the sale to go through after 72-hours even if something insufficient or inconclusive comes back on a background record check. FBI data shows that the default proceed provision has resulted in gun sales to more than 15,000 prohibited individuals in a five-year period.

Tucson, AZ

Former Congresswoman Gabby Giffords was the victim of a deranged shooter in Tucson, Jared Lee Loughner. In 2011, Loughner murdered six people and injured another thirteen. Like the recent Texas shooter, when purchasing the firearm, Loughner’s background check came up as satisfactory. But he had a documented background of mental instability and the state of Arizona prohibits the possession of firearms by anyone found to be a danger to themselves or to others. Loughner had been also been suspended from his community college for “mental problems” and they would not allow him to return to the school until he obtained a clearance of his indicated issues by a mental healthcare professional.

Congresswoman Giffords thankfully survived the incident and still speaks about gun violence today, including the issues now pending before Congress.

Blacksburg, VA

The 2016 shooting at Virginia Tech in Blacksburg, Virginia is yet another example of a mentally ill person who slipped through the process. Shooter Seung Hui Cho was declared a danger to himself and was directed into psychiatric care. While a student at Virginia Tech, he submitted numerous pieces of writing with references to violence to an extent that concerned both his classmates and his professors. With such a background, Cho was still able to then purchase two firearms necessary for his shooting of 32 people on the Virginia Tech campus because his name did not appear within the NICS database.

Universal Background Check

Today the Committee has focused on cases where NICS should have barred a gun purchase from a licensed dealer – but the Committee surely recognizes that this is incomplete and only part of the problem.

Morgantown, WV

In 2014, Jody Lee Hunt was able to buy a gun and murder four people. He had previously been convicted of a felony kidnapping and sentenced to ten years in prison for abducting a former girlfriend. This should have prevented him from being able to purchase firearms or ammunition as a background check would have been flagged with his felony conviction status, but he was able to find a 9-mm handgun for purchase through the use of a Facebook advertisement. He used the weapon to murder a business associate he disliked, a former girlfriend and her current boyfriend, his own cousin, and later himself.

As Chiefs of Police, we must ask why does Congress require background checks for only some gun purchases, but not all of them? You should not consider strengthening NICS without also considering how background checks may be expanded to cover all gun purchases. In the letter submitted by Houston Chief Acevedo regarding the recent Texas shooting, he notes that even if the killer had been barred from buying through a licensed gun dealer, he could have simply purchased the weapons elsewhere.

This is not a controversy for the majority of Americans. A 2013 Gallop Poll showed that 91% would vote for a measure requiring criminal background checks for all gun sales.

Bipartisan Leadership

I would like to close as I began – with a call for a bipartisan coalition to curb gun violence. The cases examined today represent lessons learned, but the real tragedy is that we had already learned those lessons from previous, horrible incidents. Now is a time for long overdue action and we look to you for leadership to prevent future mass murders.

Whether a rookie or a seasoned police executive, we have taken a solemn oath to protect the public for harm. Members of Congress share that duty with every officer on the street.

We ask that you make today the beginning of a bipartisan and comprehensive dialog to strengthen legislation to curb gun violence. The two measures before the Committee will take us down a path to meaningful reform and protection of the public, but they should be only the first steps toward reducing gun violence.

Speaking for the Chiefs and Sheriffs I represent from the Nation's largest cities – we will be with you for every step of that journey.