Testimony for 6.27.14 Law & Justice Interim Committee Hearing

My name is Judith Heilman. I've been a Bozeman resident for over 9 years. I love it here and am committed to spending the rest of my life in Montana. I worked in law enforcement in northern California for 13 years, including as Detective Sergeant in charge of the Rape, Robbery, Homicide Squad for my department. I now work for Everytown for Gun Safety, the largest gun violence prevention organization in the country.

I'm here to ask the legislature to pass a bill next year that will keep guns out of dangerous hands by ensuring the background check system has all of the records it needs to stop prohibited gun sales.

For nearly 50 years, federal law has barred several categories of dangerous people from buying guns—including felons, domestic abusers, and the seriously mentally ill. But those prohibited people can only be stopped by a background check at the point of sale, and those checks will only work if the system contains the records of those prohibited people.

As we have heard many times during these hearings, the state of Montana has reported **a total of 3 records to the background checks system for people prohibited due to serious mental illness**. That's only 3 people in the whole state of Montana that would be stopped from buying a gun due to mental illness.

This is a straightforward problem with a straightforward solution: We need a reporting law for prohibiting mental health records. Last week, Rhode Island became the 40th state in the union to pass one of these laws. Nineteen states have passed new reporting laws or amended existing ones since 2012. **Montana is now one of only ten states that has not acted to pass a law. And we are one of only 12 states that has reported fewer than 100 records total.** Since the committee last met, Everytown released a report detailing the state-by-state progress made in this area—and exploring best practices. I'm submitting a copy of the report for the record. The report shows just how much action has been taken by states around the country—and what the bottom-line impact has been. The number of prohibiting mental health records submitted to NICS has tripled since 2011. And with more records in the system, more people with serious mental illness—65 percent more people—are blocked when they try to buy guns. **But Montana has still submitted only 3 records.**

I also want to take this opportunity to respond to some concerns that have been raised in this process.

- Number 1: It's critical to remember that legislators are *not* being asked to set a new standard for removing a person's ability to buy a firearm. The federal government has already set the standard in this area. Again, it's been in place for nearly 50 years. **Indeed, it's important to remember that, under *current* law, if a person with serious mental illness buys or possesses of a gun, they have committed a serious felony and may be imprisoned for up to 10 years.** That's already the law. The only lever Montana controls is ensuring that all of the right records are in the system—so that these folks never become armed.
  - What's more, the federal standard is not extreme. It only kicks in when a person is involuntarily committed or else found by a court to be a danger to self or others. It does not cover people who seek care voluntarily and it does not include people held only for short-term or emergency treatment. Indeed, a group of prominent public health researchers, psychologists, and psychiatrists from around the country—a group called the Consortium for Risk-Based Firearm Policy—recently recommended maintaining the mental health prohibition in its current form.
- Number 2: It's critical to keep in mind that there are robust safeguards in place to ensure that personal records stay private. Federal law makes it clear that records may not be disclosed for any purpose other than for a point-of-sale background check or for the issuance of a firearms permit (like a concealed weapon permit). And when the information is disclosed, only the people who run the background checks system can see it; a gun dealer will never know why a prospective buyer is

denied. So we should take comfort. And we can also take action in our new law: When the state sends this information to the system, **it does not need to send details about a given commitment**—but rather only needs to include the minimum amount of information to identify a person as prohibited.

- Number 3: It's important to note that this bill will include a detailed process to restore the ability to buy guns to people who are no longer prohibited by law from doing so. This committee has heard testimony about the so-called "relief from disabilities" program, and the same group of public health researchers and mental health professionals I mentioned earlier—the Consortium for Risk-Based Firearm Policy—have recently laid out best practices for that type of program. When this committee last met, my colleague Nancy de Pastino testified about the detailed standards for these laws. So it's critical to remember that this bill will **for the first time** provide people with serious mental illness an opportunity to purchase firearms again when they no longer pose a threat to themselves or others.

Finally, I want to draw attention to the performance of our neighbor states. South Dakota passed a record reporting bill earlier this year; 89 legislators voted for the bill, and only 26 voted against it. When Idaho passed its bill in 2010, 95 legislators voted for the bill, and only 7 voted against it. Officials in Idaho said this winter that they are now fully up to date in their reporting, including having gone back 20 years through paper records and submitted those older mental health commitments. Meanwhile, North Dakota officials said earlier this month that the state was only "days away" from beginning to submit mental health records to the background checks system.

We should join our neighbors and take action to keep guns out of dangerous hands by making sure all people prohibited from buying guns are accounted for in the background checks system. Thank you for your time and careful consideration of this issue.