Written Testimony
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House Committee on Veterans' Affairs
Subcommittee on Disability Assistance and Memorial Affairs

Hearing on "Correcting VA's Violations of Veterans' Due Process and Second Amendment Rights"

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Good afternoon, Chairman Luttrell, Ranking Member McGarvey, and Members of this Subcommittee. Thank you for the opportunity to share my story with you this afternoon.

My name is Master Sergeant Michael Washington, U.S. Marine Corps, retired. I am proud to be a veteran. I served as an infantry platoon sergeant and counterintelligence agent for a combined 23 years in active duty and reserve service. I led an infantry platoon in combat during Operation Desert Storm and I also served deployments in Bosnia, Afghanistan, Iraq, and Africa. And, for the last three decades, in my civilian life, I have been a firefighter, including 25 years with the Seattle Fire Department. After obtaining a master's in social work, I now work as a mental health counselor specializing in veterans and first responders—many of whom are also veterans.

On June 14, 2008, I learned that my son, Sergeant Michael Washington—who had followed me into the Marine Corps just as I had followed my own father—had been killed in combat in Afghanistan while serving with the 2nd Battalion, 7th Marine Regiment. Despite the severe casualties taken during their deployment, the 2-7 has lost more Marines here at home to suicide than on the battlefield.

When my son was killed, my world stopped. I didn't know how to cope with the news, let alone feel the loss. I tried to keep it together and follow the example that had been set for me: drinking instead of talking.

From there, my own PTSD from my deployments began to surface and my marriage began to fall apart. When the pain became too much, I began to think about killing myself. At first, that meant riding my motorcycle through red lights. But I didn't want another first responder to have to pick me up off the street. Eventually, I found myself on a bridge.

On the edge of that bridge, with my eyes closed, waiting for a final feeling that would push me forward, I heard my son's voice. He said to me: Your story doesn't end here. You have work to do. Don't do this, Dad. This is not how it ends.

That was all I needed to go home, start to open up to others, seek mental health assistance from the Department of Veterans Affairs (VA), and head down a path that helped me get better. But if I'd had easy access to a gun, I wouldn't have ever had that chance.

I wouldn't have gotten better. I wouldn't have remarried or gotten to spend time with my grandchildren. I also wouldn't be able to be here with you today. And I wouldn't be able to do the work I do now to help *others* get better—work that I do to honor and in memory of my son.

I am testifying here today on behalf of the Everytown Veterans Advisory Council. We are a group of military veterans that advocate for responsible gun ownership and gun safety in order to prevent gun violence and save lives. Today, the Veterans Advisory Council is made up of 40 veterans from across the nation. I appreciate the chance to testify at this hearing and to provide important context for the Subcommittee when it comes to veterans, firearms, and mental health.

The crisis of veteran suicide deaths.

No one is immune to gun violence, including veterans. As veterans, we know that all too well—because our nation is experiencing an epidemic of veteran suicides, and most of these suicides involve firearms. In 2022, there were 6,407 veteran suicide deaths — an average of more than 17 per day. Guns were used in 73.5 percent of those deaths—a proportion that increases year after year.[1] According to the VA, at least 1,548 of those veterans who died by suicide in 2022 had been diagnosed by the VA with a mental health or substance abuse disorder, and that number is likely an undercount.[2]

Every suicide death of a veteran who served and sacrificed for the United States is a tragedy, and the loss of 17 veterans a day to suicide should be an urgent call to action. We should be doing everything in our power to stop this epidemic, and that means we must do something about access to firearms in moments of crisis. This is the most important investment we can make, because every dollar spent on mental health services, peer-to-peer support, and substance abuse counseling is moot if a veteran in crisis has attempted suicide with a firearm.

Access interventions for preventing gun suicide: background checks.

The background check system is the best tool we have to prevent access to a firearm—blocking gun sales from licensed dealers to individuals who are not allowed under the law to have firearms in the first place. But the background check system is only as strong as the information it contains, and if information is left out, those who can't have guns are able to pass a background check and purchase a firearm.

For 30 years, until last March, the VA had provided information on certain veterans who are legally barred from having guns to the FBI's National Instant Criminal Background

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[1] U.S. Department of Veterans Affairs, "2024 National Veteran Suicide Prevention Annual Report, Part 2 of 2: Report Findings," at p. 4 (Dec. 2024), available at https://www.mentalhealth.va.gov/docs/data-sheets/2024/2024-Annual-Report-Part-2-of-2_508.pdf.

[2] Id. at p. 33, Table 6. This is the number the VA reported of veterans who died by suicide in 2022 who had received health care at a Veterans Health Administration (VHA) facility in 2022 or 2021 and who had been diagnosed by the VHA with mental health or substance use disorders. The number does not include veterans who may have been diagnosed with mental health or substance use disorders but who did not receive care at a VHA facility in either 2022 or 2021.

Check System (NICS) under longstanding federal law and with strong due process protections in place. These are veterans who the VA has determined are “mentally incompetent” — not solely because the VA may appoint a fiduciary to manage their benefits, as some have suggested, but “because of injury or disease.” These injuries and diseases include diagnoses for major depressive disorder, panic disorder, schizophrenia, bipolar disorder, and more. As Congress has required, these veterans go through a comprehensive process that provides them with many due process safeguards: notice and the right to a hearing, the right to present evidence and witness, and the right to have legal representation, as well as a high standard of proof. For any veteran who contests the VA’s determination, he or she has the right to appeal any decision through both the VA and the courts.

Since last year, however, it’s no longer enough that the VA makes a determination that a veteran is mentally incompetent due to a serious mental disorder for the VA to alert the background checks system. As of March 2024, Congress has temporarily blocked the VA from alerting NICS unless the VA takes the additional step of confirming that a court has also found that such a veteran is a danger to themselves or others. But Congress didn’t give the VA any funding, resources, guidance, or even time to set up a process to do so. As a result, since last March there has been a growing number of veterans with serious diagnosed mental disorders who NICS has not been alerted about—and this is the exact cohort of veterans who are at increased risk of suicide. In other words, the VA and veterans are now down a critical tool to help reduce suicide deaths due to Congress' decision to change how, and under what circumstances, the VA is allowed to provide information to NICS.

Congress made this change even though the VA’s existing system already had many due process safeguards and even though that information sharing has long been important for suicide prevention efforts. Congress should look at the effect this change is having on the risk of veteran suicide—before Congress decides whether to continue it at all, and certainly before Congress makes it permanent or seeks to expand it. And if Congress is going to continue to restrict the VA from providing this information to NICS without an additional step of court review, then Congress and the VA must figure out how to make sure this additional step is taking place — every single time these mental incompetency determinations are being made, as a matter of routine process.

That will take time and resources, but you have to do it. Because turning a blind eye and requiring the background check system to ignore what the VA knows about veterans with serious mental health diagnoses *is* undermining our collective efforts to reduce veteran suicide deaths. I worry that may already be happening since the change Congress made last March, and I hope this Subcommittee can quickly get the data to find out if that’s the case.

Other access interventions: a continuum.

In addition to background checks, there are other practical and proven interventions that can prevent firearm suicide. Like the continuum of force I followed in the military, we can think of these interventions on a continuum of intervention.

The continuum of intervention, which is set in motion by asking whether someone in crisis has access to a firearm, has five steps of escalating action:

Step One: Firearms should be stored unloaded, separate from ammunition, and locked in a gun safe, lockbox, or some other device. This is a cornerstone of responsible gun ownership—whether someone is, for example, a veteran or a parent or a hunter. Secure firearm storage creates time and space between someone in crisis and a firearm, and this time and space can be enough to get help.

Step Two: When guns are stored in a secure storage device, someone in crisis can "give the keys" to that device to a family member or friend or even another veteran. This creates even more time and space between someone in crisis and a firearm by temporarily limiting access without removing ownership of the firearms.

Like "giving the keys," in Step Three, gun owners can—voluntarily—store their firearms outside their homes at, for instance, a gun dealer or even with an eligible family member. Several states and localities have developed gun storage maps to help increase public awareness of out-of-home storage options. Then, when the crisis has passed, the gun owner can regain possession of their firearms.

Step Four can be taken in states that allow individuals who know they are at risk for suicide are empowered to add themselves voluntarily and confidentially to a "do-not-sell" list. At present, these states include Utah, Washington, Virginia, and Delaware. Such a list prevents them from being allowed to purchase a gun in the future. And when the person is no longer at risk or is no longer in crisis, they can take themselves off the list. This step allows individuals to exercise personal freedom to keep themselves safe and alive.

Finally, Step Five is available in the 21 states—red, purple, and blue—and Washington DC that have enacted Extreme Risk laws. These laws allow certain individuals to petition a court to issue an order, on the basis of evidence and with other strong due process protections in place, that temporarily removes firearms from someone who is determined to be a danger to themselves or others. Law enforcement is the common petitioner in all 22 jurisdictions, but many allow others who may be the first to recognize that someone is in crisis, like immediate family members and medical professionals, to do so as well.

Conclusion.

Veteran suicide is a public health issue—not a political one. I know both parties understand that. President Trump, in his first term, and President Biden both took steps to help reduce veteran suicide, including firearm suicides. It's more important now than ever that we continue to do this work, and to do it together.

Thank you again for the chance to speak with you this afternoon, and I look forward to your questions.