

Good morning, my name is Major Martin L. Henry III and I am Director of the Bureau of Records and Identification for the Pennsylvania State Police. Accompanying me today is Sergeant William C. Palmero, the Supervisor of our Criminal Records Section within the Bureau of Records and Identification. The Bureau's Criminal Records Section is tasked with maintaining the central repository of criminal history records information and with responding to all legitimate requests for criminal history as provided for under Title 18, Section 9121. The repository was created and is maintained in accordance with Pennsylvania's Criminal History Record Information Act (CHRIA), contained in Chapter 91 of Title 18 (Crimes and Offenses). This Act also directs the Pennsylvania State Police to disseminate criminal history data to criminal justice agencies, non-criminal justice agencies, and individuals upon request.

In order to provide background and perspective for comment on Senate Bill 1039, I believe it will be useful to acquaint you with the Pennsylvania Access to Criminal History (PATCH) system, which was designed to better enable the public to obtain criminal history record checks. Non-criminal justice agencies or individuals may access Pennsylvania criminal history record information either by mail or submitting a request online to PATCH. The information provided by the requestor will be checked against the criminal history database maintained by the Pennsylvania State Police Central Repository. A PATCH inquiry provides the requestor with an immediate "no record" response if none of the provided information "hits" on information in the database. If the subject's information

does "hit" on something in the database, the requester receives a "request under review" response. A "request under review" response does not necessarily mean that the individual has a record, but that a manual review is necessary. A manual review requires personnel to physically locate files and conduct research into the record. Depending on what is uncovered, this research and investigation could take a few minutes or possibly a few weeks. For instance, in the case of many criminal histories, the law requires that our personnel redact information from the history prior to dissemination. In other cases we may have to conduct in-depth research in order to ascertain a final disposition for an arrest recorded on a criminal history. Tracking down unreported dispositions can be very time consuming and often involves contacting the relevant county courthouses, district attorney, or police agency. Upon conclusion of the review, the status will be updated to show "no record" or "record". All "record" responses will then be mailed to the requester at the address provided by the requester. Additionally, the subject's criminal history record may also be updated, as appropriate.

Comment [JM1]: Please check this word throughout the document. There are some that are "requester" and some that are "requestor"

During 2010, there were approximately 1,200,513 criminal history inquiries received by the Pennsylvania State Police. Of those, the PATCH website received approximately 1,065,791 requests; while there were 134,722 requests submitted through the mail. In that same timeframe, the Pennsylvania State Police Criminal Records Section processed and disseminated 93,116 criminal history requests that required manual review. During the period January 1 through October 31, 2011, there were approximately 1,043,180 criminal history

inquiries received by the Pennsylvania State Police. Of those, the PATCH website received approximately 948,056 requests; while there were 95,124 requests submitted through the mail. In that same timeframe, the Pennsylvania State Police Criminal Records Section processed and disseminated 76,201 criminal history requests that required manual review.

Currently, the Pennsylvania State Police Criminal Records Section has a manual review backlog of between 5,000 – 6,000 requests, which has resulted in delays in disseminating the requested criminal histories. The current response time is approximately 21 days. Any increase in the number of requests for criminal histories that are submitted would logically have a proportional increase in the number of “hits” that are generated and submitted to Pennsylvania State Police for manual research and review. Presently, our Criminal Records Section is operating at their maximum level and would not be able to absorb any additional workflow without increasing the response time for the dissemination of criminal histories.

Employers can opt to use PATCH, or any number of pre-employment screening companies and other sources for background checks. PATCH will provide information on prior criminal convictions for “finger-printable offenses” that are contained within the Pennsylvania State Police Central Repository. Those offenses are generally limited to misdemeanors and felony *convictions* resulting from crimes that occurred in Pennsylvania. The information does *not* include

criminal convictions from other states, nor does it include information relating to misdemeanor or felony arrests for which a final disposition was not reported to the Central Repository. It should be noted, there is a system in place to challenge any information arising from a PATCH check that a subject believes is inaccurate. A subject who contests a criminal history is requested to supply his fingerprints to the central repository. Based on a fingerprint comparison, the questioned criminal history is either found to be bona fide or inaccurate. Information found to be inaccurate or erroneous is immediately corrected or purged from the person's history assuring accurate criminal history record information. This is an important element that appears to be missing in open source checks done apart from PATCH.

Comment [JM2]: Should this be capitalized too?

Private companies are increasingly being used by employers to evaluate a potential employee. They use a vast array of databases to gather information and can provide a much wider search than the PATCH resulting in a copious amount of information. Examples include prior employment history, summary criminal arrests for which no fingerprints were required, traffic citations, civil judgments, residence history, credit history, etc.

The PSP recognizes the value of employers conducting appropriate background checks on perspective employees, including criminal history checks. However, the potential for a significant increase in the volume of checks processed through our PATCH would undoubtedly increase workload and tax our resources should

SB 1039 become law. The full extent of this increase cannot be projected because the increased use of PATCH will not be realized until the bill's provisions take effect. Additionally, it is difficult to accurately assess the fiscal impact this bill would have on the Pennsylvania State Police since it is unknown how many employers would be required to use the system. The fiscal concerns associated with PATCH are primarily related to system upgrades and increased personnel.

The requirement of all background checks to be conducted by PATCH could conceivably double, or triple the amount of record checks currently received. The current PATCH web-based system consistently operates between 80-90% capacity. Occasionally, the system will reach a maximum of 100% of its system capacity, ceasing to effectively process any requests. A significant increase in requests would require a major architectural change to the PATCH system, which would come at a significant cost and require a substantial period of time to accomplish. It is estimated that 1.1 to 2.6 million dollars would be necessary to accomplish the PATCH system improvements. This figure is based upon the type and complexity of the upgrade conducted. It is estimated that a minimum of nine months would be required for a system upgrade.

The other matter of concern is the required increase of personnel that would be necessary to accommodate the potential increase of PATCH requests. Currently, there are 21 personnel assigned to the various units directly

associated with PATCH in our Criminal Records Section. If the workload would double, a proportionate increase in staffing, workspace and equipment would be necessary. It is estimated that a little over 1 million dollars annually would be needed to fund the cost of additional staffing.

Some costs could be mitigated by a phasing in of the required staffing, however, the PATCH system architectural change would have to be accomplished upfront before any legislative change could realistically be accommodated. The user fees received from each request would mitigate ongoing operating cost.

Finally, a review of the legal impact of SB 1039 reveals that existing law would be impacted and require revision. Specifically, Title 18 Pa.C.S. §9121, would need to be amended to mandate employers to utilize the Pennsylvania State Police to conduct all criminal background checks.

In closing, while many of issues for discussion on the merits of SB 1039 are beyond the scope of a law enforcement analysis, I want to thank the Committee for the opportunity to provide input for your thoughtful consideration. For the past 21 years, the Pennsylvania State Police has embraced the challenge of managing Pennsylvania criminal history information and we will continue to carry out this mandate with diligence for the citizens of the Commonwealth. At this time, I will be glad to answer any questions you may have.