

Pennsylvania State Police Testimony
Senate Committee on Law and Justice
May 11, 2011



Presented by:
Major Scott R. Snyder
Acting Deputy Commissioner of Staff
Pennsylvania State Police

Good morning, Chairman Pippy and members of the Committee. I am Major Scott Snyder, Acting Deputy Commissioner of Staff for the Pennsylvania State Police. With me today is Trooper Paul Anderson, Supervisor, Firearms Administration Section. Thank you for the opportunity to appear before you to discuss the Pennsylvania Instant Check System, commonly known as "PICS."

In 1993, the federal government passed the Brady Act, which requires background checks for certain firearms transactions. To facilitate those checks, the Brady Act established the National Instant Criminal Background Check System or "NICS." The Brady Act authorizes states to rely solely on the NICS system, implement their own background check programs, or use a combination of both. Along with 12 other states, Pennsylvania chose to implement its own system and become a "full point-of-contact state" with NICS.

Act 17 of 1995, which created PICS, was formulated by a committee that included members from the House and Senate, the National Rifle Association, the United Sportsmen of Pennsylvania, the Office of Attorney General, the Governor's Office, and numerous other interested groups. They reached a consensus that Pennsylvania's citizens would best be served by requiring the State Police to establish, maintain, and operate Pennsylvania's own instantaneous background records check system for firearms transactions.

PICS became operational on July 1, 1998. It is housed within the Firearms Division of our Bureau of Records and Identification. The Firearms Division encompasses four different Units: the PICS Instant Check Unit, the PICS Challenge Unit, the Firearms Compliance Unit, and the Firearms Records Check Unit. Each of these units operates autonomously, but all are reliant on the PICS Instant Check Unit and, in particular, the background checks conducted by this unit.

PICS provides licensed firearms dealers, Pennsylvania Sheriffs, and the Philadelphia Police Department with immediate access to background check information on individuals attempting to purchase a firearm, receive a firearm through transfer, or apply for a license to carry a firearm. As mandated by statute, PICS operates 365 days a year and is accessible from 8 a.m. to 10 p.m.

To give perspective to the scope of the operation, the Firearms Division has an authorized complement of three enlisted members and 94 civilian personnel. Of those, one enlisted corporal, eight civilian supervisors, and 53 legal assistants are assigned to the PICS Instant Check Unit. Due to employee turnover and hiring issues, five to eight of the legal assistant positions have been vacant for over a year.

Since its inception, PICS has processed over 6.6 million calls for background checks – an average of more than 550,000 calls per year. In 2009, the PICS Instant Check Unit processed a record-high number of over 663,000 background checks, which was followed up in 2010 by 645,475 checks. The PICS Instant Check Unit and the Pennsylvania State Police have prevented prohibited persons from illegally obtaining firearms more than 100,000 times.

Recently, some have expressed the sentiment that the Commonwealth would be better served by allowing the National Instant Check System to conduct all background checks for Pennsylvania firearms transactions. While on its face this may sound like a simple, cost-effective measure, please allow me to address some subtle issues, which raise concern.

At this time, § 6111 of the Uniform Firearms Act requires a licensed dealer to contact the Pennsylvania State Police, via telephone, to conduct a background check prior to the sale or transfer of a firearm. When PICS receives that call, multiple sources are then checked, including both federal and state databases. Presently, the PICS check provides exclusive access to the database containing information on

Pennsylvania involuntary mental health commitments. This database alone contains over 587,000 records of firearm-prohibited persons, and it continues to expand daily. A check through NICS would not provide this information. Similarly, a background check through PICS provides access to the Commonwealth Law Enforcement Access Network called "CLEAN." This access affords PICS the opportunity to view and gather records of arrest warrants, which may form the basis for a firearms disqualification. Again, this benefit is not fully available through NICS because not all warrants in CLEAN can be uploaded to NCIC.

Recent attention has been centered on Pennsylvania and other states that cannot currently submit mental health records to the NICS database. These submissions are a complex issue with many challenges and obstacles. Rest assured, we are continuing to work with appropriate state and federal entities towards the common goal of submitting these records to NICS.

In 2010, the PICS unit was directly involved in the capture of 114 wanted persons as a result of the PICS background check. For example, during a background check last August, a PICS legal assistant identified a subject who was wanted on armed robbery charges. As a direct result of the identification and follow up actions of the PICS legal assistant, the subject was taken into custody. Since PICS became operational, PICS personnel have assisted in capturing 1,408 wanted persons.

Not only is the PICS Instant Check Unit actively assisting in the capture of fugitives, it is also an important source for identifying and initiating investigations on possible straw purchases and the falsifying of information on both state and federal firearms forms. Last year, the unit initiated 441 criminal investigations, which were forwarded to state, local, or federal law enforcement for follow-up investigation. In all, PICS has been responsible for initiating over 4,100 of these investigations, resulting in the arrest and successful prosecution of more than 2,150 criminals.

PICS also provides a proactive means to fight domestic violence. When a background check call is forwarded to a legal assistant and the subject has an outstanding protection from abuse order, PICS personnel immediately notify the applicable police agency that the subject is attempting to acquire a firearm.

An often overlooked service of PICS is its availability to provide every law enforcement department in the Commonwealth with background checks before returning firearms. To explain, there are many instances when law enforcement personnel are required to take possession of a firearm, whether it is directed by court order, for evidentiary purposes, for safekeeping during a domestic situation, and countless other situations. In many instances, that seized firearm is ultimately returned to its owner. Prior to return, PICS enables a law enforcement agency to instantly determine whether the subject claiming the firearm is legally prohibited from possessing it. In 2010, PICS provided 4,250 checks for this purpose. In contrast, NICS cannot provide this service under federal-law restrictions.

The PICS and NICS processes and statistics are similar in many ways. With NICS, the initial call goes through a call center, where the dealer speaks with a live operator. Pending issues are then transferred to a NICS operator for further processing. With PICS, if there are no pending issues, the call is approved by an automated system rather than a live operator. Both PICS and NICS are operational, or up and running, for background checks over 98 percent of all available hours. Both have high immediate determination rates – PICS over 94 percent and NICS over 91 percent. Both systems ultimately deny slightly over one percent of their checks.

We have heard complaints about down time – or those periods when the PICS system is out of service. The large majority of system down time is attributed to technical issues with federal and state databases. In 2010, PICS was operational a total of 5,110 hours. The system experienced only 95 hours of down time – or just 1.8

percent of its total operational hours. Over the last five years, PICS down time has averaged even less downtime – approximately 1.3 percent per year.

Despite similarities between PICS and NICS, there are also some glaring differences. To begin with, NICS is required to conduct research and reply to a delayed background check within three days of receipt. If a person's legal status cannot be determined in three days, the licensed dealer is allowed to proceed with the sale of the firearm. This scenario poses a genuine safety concern because it allows prohibited persons to illegally procure firearms.

Unlike NICS, the PICS process provides additional assurance that no firearm will be sold or transferred to a prohibited person once the background check is initiated. If a person's status cannot be determined during the initial call, the PICS Instant Check Unit places a call in delayed status for no more than 15 days. Within that timeframe, trained PICS personnel investigate the person's background and gather necessary records to determine whether the transaction can be legally approved. If a final determination cannot be made in 15 days, the transaction is placed into an undetermined status. At that point, the subject may file a challenge.

That brings me to the differences in the federal and state challenge processes. NICS and PICS both offer a person who is denied a firearm the right to challenge that decision. However, a citizen appealing a NICS denial bears a heavy burden of proof to produce documents or otherwise prove the denial was unjust and should be reversed. Without professional legal assistance, ordinary people may have difficulty identifying and obtaining court documents, criminal histories, dispositions, or countless other records necessary to meet their burden of proof.

The PICS process is just the opposite. When a transaction is denied, the PICS Challenge Unit assumes the burden of proof. This unit's sole purpose is to further investigate the validity of a denied person's challenge or appeal. Many times, after

in-depth investigation, this unit is able to reverse an original denial and approve a transaction that was in delayed status. Last year alone, this unit investigated 3,826 challenges; ultimately reversing 1,382 denials, further protecting the second amendment rights of the citizens we serve.

One unique component of PICS is the Immediate Voice Response (or IVR) system. With PICS IVR, a licensed firearm dealer can use a touch tone phone, punch in a few required key responses, and if no restrictions are present, and receive an approval in a matter of minutes, all without speaking to an operator. In fact, this occurs in nearly 59 percent of the calls received by the PICS Instant Check Unit.

In closing, let me state that the Pennsylvania General Assembly amended the Uniform Firearms Act in 1995, creating a Pennsylvania background check system designed to protect public safety and further the fundamental right of all law abiding Pennsylvania citizens to keep and bear arms. For the past 13 years, the Pennsylvania State Police PICS Instant Check Unit has embraced these ideals and will continue to carry out its mandated duty and obligations for the benefit all citizens of the Commonwealth.

Once again, thank you for inviting me to appear before you. I would be happy to answer any questions you may have.