

**Legislative Budget and Finance Committee**

**The Adequacy of Fees Charged in Pennsylvania's Instant  
Check System for Firearms Purchases**

**Report Presentation by Christopher Latta at September 30, 2015, Meeting**

The 1994 federal Brady Handgun Violence Prevention Act requires an immediate background check on all persons attempting to purchase, receive through a transfer, or apply for a license to carry a firearm. States may fulfill this mandate by using the National Instant Criminal Background Check (NICS) System or by creating their own system and become what is known as a point-of-contact (POC) state.

Pennsylvania created its own system through Act 17 of 1995, which requires the Pennsylvania State Police to establish, maintain, and operate an instant firearm background check program, known as PICS.

Act 17 established two separate fees pertaining to firearm sales and background checks: a \$3 surcharge on the sale of each firearm and a \$2 fee charged to firearm dealers for each request they make to the State Police for an instant background check. Revenues collected from these fees are deposited into the Firearms Records Check Fund and are used to operate the PICS program.

Act 17 also requires that every five years the Legislative Budget and Finance Committee is to review the adequacy of the fees charged to operate the PICS system. This is our fourth review under this mandate.

In our 2011 report, we noted that the State Police was planning a PICS system upgrade, and that project was completed in February 2014. The upgrade, called Flexcheck, made a number of major changes, the most significant of which was to move the system from a phone-based system to a system that can use both phones and the internet. The upgrade cost \$991,000 and was paid for by a federal grant. Benefits of the upgrade include the elimination of busy signals when calling into the PICS system, savings in long distance charges to the PSP, and providing dealers with certain online account management tools.

During FY 2014-15, firearm dealers and county sheriffs made 893,054 calls/web inquiries to PICS regarding the sale or transfer of a firearm or the issuance of a gun permit, a 34 percent increase since our last report in 2011. About 98 percent of the background checks were approved on the initial contact, either by one of the automated response systems or after being transferred to an operator for additional research. Denials accounted for 1.5 percent of calls.

The revenues from the statutory \$5.00 instant check fee and surcharge continue to be insufficient to cover the costs to operate the Instant Check System. For example, over the past two years, the \$5 fee/surcharge has generated an average of nearly \$3 million annually, while PICS expenditures have averaged about \$6.6 million annually. The fee and surcharge, therefore, average only about 45 percent of actual costs.

The State Police has compensated for this shortfall by relying on General Fund monies to sustain PICS operations, through both the Gun Checks Appropriation and the General Government Operations Appropriation within the State Police budget.

Our report does not make any explicit recommendations, although we do note that the \$5 instant check/surcharge fee would need to have been increased to approximately \$11 to have fully funded the PICS program over the past two years.

A completely different alternative would be to discontinue PICS and have firearm dealers contact the National Instant Criminal Background Check System (NICS) directly to conduct background checks, as is done in about 35 other states. While Pennsylvania could reduce costs by taking such action, we would also give up several significant added protections available through the PICS system, such as increased time to conduct investigations and an enhanced ability to prohibit gun sales to persons who are the subject of a Protection from Abuse (PFA) order. PFAs often lack sufficient information to be entered into the NICS database, but can, however, be included in the PICS system. The State Police have noted several additional concerns with disbanding PICS, and have voiced their strong support for Pennsylvania continuing as a point-of-contact state.

In closing, we would like to acknowledge the excellent cooperation and assistance the Pennsylvania State Police provided us during this study. Thank you.