

Legislative Budget and Finance Committee

The Adequacy of Fees Charged in Pennsylvania's Instant Check System

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

Pennsylvania created its own background check system through Act 17 of 1995, becoming a full point-of-contact state, which requires the Pennsylvania State Police to establish, maintain, and operate an instant firearm background check program, known as the Pennsylvania Instant Check System, or PICS, to conduct all background checks.

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

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

During CY 2019, PICS handled over 980,000 phone calls or web-based inquiries regarding the sale or transfer of a firearm, a license to carry permit, or firearm evidence return. Ninety-seven percent of background checks were approved on the initial contact. Denials accounted for 1.6 percent of calls.

Although 2020 operational statistics were outside the scope of this study, in light of COVID 19, we reviewed the number of gun checks handled by the PICS system in 2020. The number of PICS checks performed in the first half of calendar year 2020 was up 28 percent from 2019. In fact, by the close of October 2020, PICS checks exceeded all of 2019 by 19 percent.

The revenues from the statutory \$5 instant check fee and surcharge continue to be insufficient to fully fund the costs to operate PICS. For example, over the past two years, the \$5 fee/surcharge has generated just over \$2.5 million annually, while PICS expenditures have been about \$8 million annually. The fee and surcharge, therefore, funded only 31 percent of actual costs.

The remainder of funding to sustain PICS operations is 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 have needed to be increased to approximately \$16 to have fully funded the PICS program over the past two years. As one of 13 full point-of-contact states, Pennsylvania has the lowest firearm background check fee. These fees range from the \$5 in Pennsylvania to a high of over \$200 in Connecticut.

Pennsylvania does have the option of having firearm dealers contact the National Instant Criminal Background Check System directly to conduct background checks, as is done in other states and territories of the United States. Although costs could be reduced by taking such action, the PSP notes several significant protections available through the PICS system that are not part of the NICS system. Among them are 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.

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