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

Conducted Pursuant to
Act 1995-17 (First Special Session of 1995)

May 2011

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Report Summary

The federal Brady Handgun Violence Prevention Act (the Brady Act) of 1993 established the National Instant Criminal Background Check System (NICS). The NICS is a national computerized background check system that checks records on persons who may be disqualified from receiving firearms.

Each state is free to determine the form of its involvement in NICS. States may choose to implement their own background check program, rely solely on the NICS system, or use a combination of both. In 1995, Act 17 (of the First Special Session) amended Pennsylvania's Uniform Firearms Act to require the Pennsylvania State Police to establish, maintain, and operate an instantaneous firearm background check program. This system, known as the Pennsylvania Instant Check System (PICS) is to provide for immediate access to a background check on individuals who attempt to purchase a firearm, receive a firearm through a transfer, or apply for a license to carry a firearm.

Act 17 established a \$2 fee charged to firearm dealers for each PICS request and a \$3 surcharge on the sale of each taxable firearm. Revenues collected from these fees are to be appropriated annually to the State Police to carry out the PICS records check function. Act 17 also directs the Legislative Budget and Finance Committee (LB&FC) to review the adequacy of the instant check fee every five years. This is our third such review.

PICS Operational Highlights

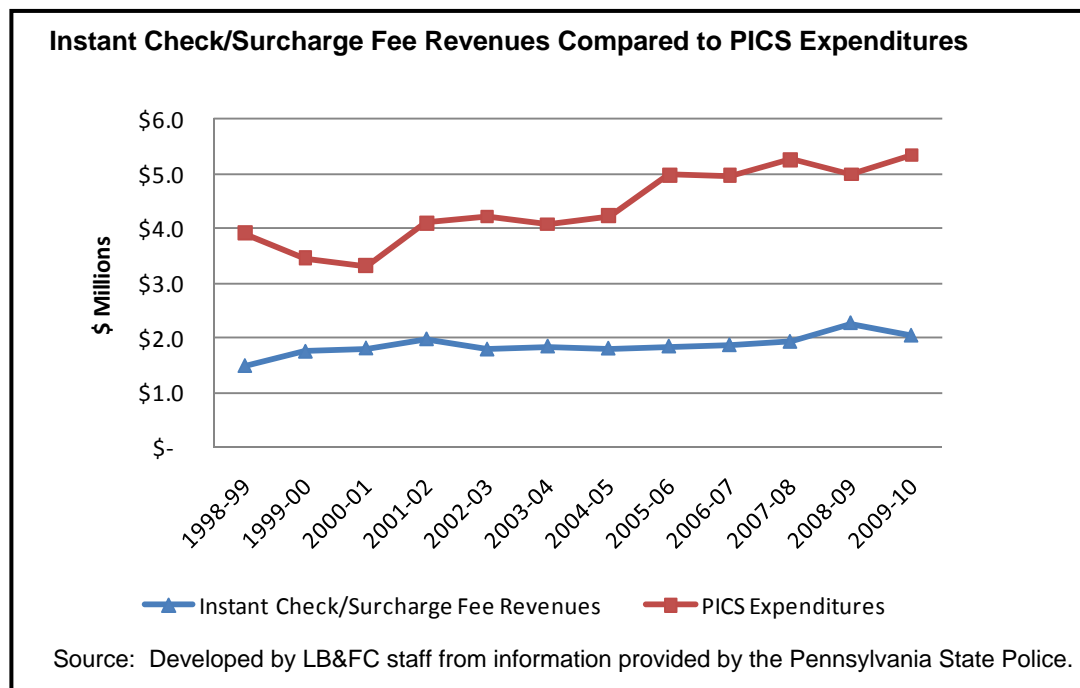
In 2009:

- 2,285 licensed firearm dealers in Pennsylvania made a total of 496,277 firearms sales and transfers (233,884 handguns and 262,393 long guns).
- PICS handled 663,003 calls, 94.3 percent of which were approved during the first call (59.5 percent through the Interactive Voice Response system and 34.8 percent after being transferred to an operator).
- Of the 9,449 initial denials (1.4 percent of calls), 3,721 were challenged. Of those, 2,023 final denials were issued, 1,448 denials were reversed, and 250 were returned to the challenger unprocessed.

Adequacy of Fees

The graph below shows PICS expenditures compared to revenues generated by the \$5 instant check fee/surcharge. Over the past eight years, the \$5 fee/surcharge has generated enough revenue to cover about 40 percent of PICS

expenditures. The additional costs of the PICS system are covered by General Fund monies through PSP General Government Operations and Gun Check appropriations.



To have fully funded the PICS program in FY 2008-09 and FY 2009-10, the \$5 combined instant check/surcharge fee would need to increase by about 140 percent, or from \$5 to \$12. To have covered 50 percent of PICS expenditures, the combined instant check/surcharge fee would need to increase by about 20 percent, or from \$5 to \$6.

The PSP has calculated that to have a fully self-sufficient PICS going forward, fees would need to be raised to a combination totaling \$17. The PSP believes this increase should be sufficient to cover the normal costs associated with operating the system, as well as allow for future enhancements, system upgrades, and contracted salary increases through the year 2020.

Instant Check Systems in Other States

Thirteen states, including Pennsylvania, use a state agency to conduct checks on all firearm transactions. These states are referred to as Point of Contact (POC) states. An additional eight states use a state agency to conduct background checks for some, but not all, firearm transactions.

The remaining 35 states and territories do not use a state agency; the FBI performs the background checks in these states. In nonPOC states, licensed dealers

must contact the FBI directly for instant background checks on all gun transfers. The FBI provides this service free of charge.

As shown below, instant check fees in POC states range from no fee to \$25.

Instant Check Fees in PA and Other Point-of-Contact (POC) States (POC for All Firearm Transactions)	
<u>State</u>	<u>Fee</u>
California	\$20
Colorado	0
Connecticut	0
Florida	5 ^a
Hawaii	n/a
Illinois	2
Nevada.....	25
New Jersey	15
Oregon	10
Pennsylvania	2
Tennessee	10
Utah	7.50
Virginia	2/5 ^b

^a The FBI conducts checks on pawn redemptions within 90 days of being pawned without charge. For all other transfers, the fee is \$5.00.

^b The fee is \$2.00 for any resident, and \$5.00 for any nonresident purchasing a firearm in Virginia.

Source: Developed by LB&FC staff using information obtained from the U.S. Department of Justice and POC agencies in other states.

Advantages to Pennsylvania Continuing as a POC State

The Pennsylvania State Police has identified the following as advantages to Pennsylvania continuing to operate as a POC state:

- Currently (October 2010) there are a total of 1,528 Protection From Abuse (PFA) orders that lack sufficient numeric identifiers (e.g., Social Security number) to be entered into the National Crime Information Center, one of the federal databases used in a National Instant Criminal Background Check System (NICS) background check. These are, however, included in the Pennsylvania PFA database and would be recognized on a PICS check.

- As a result of an NICS policy that allows a firearm dealer to transfer a firearm after three business days when a transaction cannot be resolved, in other states thousands of firearms have been acquired by prohibited persons through the NICS background check due to this policy. As a POC, Pennsylvania is allowed additional time to research checks that cannot be resolved on the initial call. PSP reports that this additional time allows research that permits lawful owners to obtain their firearms, while limiting the number of prohibited persons from unlawfully obtaining firearms.
- PICS has been responsible for the identification and capture of 1,323 (as of September 2010) fugitives attempting to acquire a firearm that would not have occurred if Pennsylvania was not a POC state.
- NICS regulations prohibit the use of NICS databases for any purpose other than conducting background checks related to firearm sales through licensed dealers. The PSP currently utilizes PICS databases to conduct evidence return checks for law enforcement agencies attempting to return seized or confiscated firearms to ensure the owners are not prohibited from possessing firearms. As of September 2010, the PSP reports it has conducted 20,617 such evidence returns.
- When a state POC performs an NICS check, the record interpretation process is decentralized. Decisions regarding who can and cannot possess a firearm in the State of Pennsylvania are therefore made at the state level. This allows for more direct access to the PSP Firearms Division by licensed firearm dealers and individuals regarding the disposition of firearms.

I. Introduction

Act 1995-17 (Special Session No. 1 of 1995) amended the Uniform Firearms Act to require the Pennsylvania State Police (PSP) to establish and operate a system capable of performing instantaneous firearm background checks. The law also requires that the State Police charge a \$2.00 fee for conducting these background checks and a \$3.00 surcharge on the sale of each taxable firearm and that every five years the Legislative Budget and Finance Committee (LB&FC) review the need to increase or decrease the amount of the instant check fee. This is our third review of the adequacy of the fee.

Study Objectives

1. To determine pertinent program measures and financial and statistical data, including the number of instant checks the State Police conducts annually and associated administrative costs and revenue collections.
2. To examine the financial condition of the Firearm Records Check Fund and assess the adequacy of the fee the State Police currently charges to conduct the instant check on firearms purchases.
3. To present findings to the General Assembly relative to the need to increase or decrease the instant check/firearm surcharge fee on firearms purchases.

Scope and Methodology

To determine the number of instant checks the PSP conducts annually and the associated revenue collections as well as related program activity and statistical measures, we reviewed the PSP's *Firearms Division Annual Reports* as well as other relevant materials obtained from PSP staff. Fieldwork on this project ended December 2010.

Acknowledgements

LB&FC staff gratefully acknowledges the cooperation and assistance provided by the Pennsylvania State Police during the conduct of this project.

Important Note

This report was developed by Legislative Budget and Finance Committee staff. The release of this report should not be construed as indicating that the Committee's members endorse all the report's findings and recommendations.

Any questions or comments regarding the contents of this report should be directed to Philip R. Durgin, Executive Director, Legislative Budget and Finance Committee, P.O. Box 8737, Harrisburg, Pennsylvania 17105-8737.

II. Pennsylvania's Instant Check System for Firearms Purchases (PICS)

The federal Brady Handgun Violence Prevention Act, P.L. 103-159, amended the federal Gun Control Act to provide a method for blocking firearm transfers to prohibited persons. The act included both interim and permanent provisions, with the permanent provisions requiring the establishment of the National Instant Criminal Background Check System (NICS) by November 30, 1998.

Legal Background

The U.S. Department of Justice and Federal Bureau of Investigation, along with the states, developed a national instant check system during the "interim Brady Act period" (February 1994 through November 1998). Pennsylvania's involvement was formalized during the 1995 Special Legislative Session on Crime.

At that time, Act 1995-17 (Special Session No. 1 of 1995) amended the portion of the Pennsylvania Crimes Code known as the Uniform Firearms Act to require the development of an instantaneous firearms background check program. During this period, Pennsylvania was established as a full point-of-contact (POC) state. A full POC state (some states are partial POC states) has responsibility for conducting background checks for all federal firearms licensees.

Pursuant to Act 17, the Pennsylvania State Police are required to establish, maintain, and operate an instantaneous records check system for firearms purchases. Among other provisions, the act requires the State Police to:

- establish a telephone number operational seven days each week between 8:00 a.m. and 10:00 p.m. in order to respond to background check requests from licensed manufacturers, licensed importers, and licensed dealers;
- distribute without charge summaries of uniform firearm laws and firearm safety brochures;
- conduct criminal history, juvenile delinquency, and mental health records background checks on all available and applicable state and federal databases;
- institute procedures for challenging the accuracy of a person's criminal history, juvenile delinquency history, or mental health record pursuant to a denial by the instantaneous records check; and
- provide for the confidentiality of all information provided by a potential purchaser, transferee, or applicant.

The PSP is also to annually report to the General Assembly on the instant records check system, including the number and types of firearms sales, the number of applications denied and challenged, a summary of PSP instant check activities, and related statistics.

More recently, the NICS Improvement Act was enacted in the wake of the April 2007 shooting tragedy at Virginia Tech. The Virginia Tech shooter was able to purchase firearms from a licensed firearm dealer because information about his prohibiting mental health history was not available to the NICS. The system was therefore unable to deny the transfer of the firearms used in the shootings. The NICS Improvement Act seeks to address these and other gaps in information reporting by:

- enhancing the Brady Act requirement that federal departments and agencies provide relevant information to the NICS; and
- providing incentives to states to submit complete information to the Attorney General on persons prohibited from receiving or possessing firearms through:
 - authorizing new grant programs for state executive and judicial branch agencies to improve information sharing with NICS, and
 - providing for Byrne Justice Assistance Grant (JAG) program penalties for states that do not comply with the act’s record completeness goals.

Also, prior to the NICS Improvement Act, at 18 U.S.C. §922(g)(4) was effectively a lifetime prohibition on possessing firearms by any person “who had been adjudicated a mental defective or who has been committed to a mental institution.” The act, however, provides that when relief is granted under a qualified federal or state relief program, or when certain automatic relief conditions are met, the event giving rise to the mental health disability is “deemed not to have occurred” for purposes of the federal firearm prohibition.¹

PICS Organization and Staffing

The Pennsylvania State Police is responsible for administering the provisions of the Pennsylvania Uniform Firearms Act (PUFA). The Firearms Division, located within the Bureau of Records and Identification, has responsibility for the firearm background check program. The Firearms Division is organized into two sections: the Administrative Section and the Operations Section (see Exhibit 1).

¹ Pennsylvania, however, does not have a “qualified” relief program. According to the Pennsylvania State Police, a statutory amendment would be required for Pennsylvania to become qualified.

As shown on Table 1, the Firearms Division has an authorized staff complement of 98. As of September 2010, the Division had 92 filled positions, including three State Police enlisted and 89 civilian personnel. The enlisted positions include the Firearms Division Director, the Supervisor of the PICS Operations Section, and the Supervisor of the Firearms Administrative Section.

Table 1

	<u>Total Authorized</u>	<u>Filled Positions</u>	<u>Vacant Positions</u>
Division Director's Office ^a	<u>1</u>	<u>1</u>	<u>0</u>
Administrative Section:			
Section Supervisor ^a	1	1	0
Program Analyst	1	1	0
Subtotal.....	2	2	0
Firearm Records Unit:			
Clerical Supervisor	1	1	0
Clerical.....	<u>8</u>	<u>8</u>	<u>0</u>
Unit Subtotal	9	9	0
Firearm Compliance Unit:			
Auditor Supervisor	1	1	0
Auditor I	2	1	1
Accounting Assistant	<u>7</u>	<u>7</u>	<u>0</u>
Unit Subtotal	<u>10</u>	<u>9</u>	<u>1</u>
Administrative Section Subtotal.....	<u>21</u>	<u>20</u>	<u>1</u>
Operations Section:			
Section Supervisor ^a	1	1	0
Clerical.....	<u>2</u>	<u>2</u>	<u>0</u>
Subtotal.....	3	3	0
PICS Instant Check Unit:			
Legal Assistant Supervisor	8	8	0
Legal Assistant 2	<u>53</u>	<u>48</u>	<u>5</u>
Unit Subtotal	61	56	5
PICS Challenge Unit:			
Legal Assistant Supervisor	2	2	0
Legal Assistant 2	9	9	0
Clerical.....	<u>1</u>	<u>1</u>	<u>0</u>
Unit Subtotal	12	12	0
Operations Section Subtotal.....	<u>76</u>	<u>71</u>	<u>5</u>
Firearms Division Total.....	<u>98</u>	<u>92</u>	<u>6</u>

^a Individuals in these positions are enlisted members of the Pennsylvania State Police.

Source: Developed by LB&FC staff using information obtained from the Pennsylvania State Police.

Administrative Section

This section is responsible for initiating and coordinating all firearm-related investigations involving dealer license compliance issues under state law. The Administrative Section also handles all Division-related special projects, maintains the automated systems, obtains statistical information from the computer systems, identifies procedural modification requirements, coordinates Division staff training programs, and responds to many firearm-related questions.

The section currently has an enlisted Section Supervisor, a Program Analyst 2, and two separate units: the Firearm Compliance Unit with ten staff members and the Firearm Records Unit with nine staff members.

The Firearm Records Unit. This unit processes all firearm records of sale (ROS) forms submitted by Pennsylvania licensed firearm dealers for the sale or transfer of hand guns, information regarding license to carry concealed firearms submitted by county sheriffs, and sportsman's firearm permits submitted by county treasurers. All fees collected through the surcharge remittance and PICS background checks are processed through this unit. The Firearm Records Unit is also the source for firearms-related forms; firearm information and safety brochures; certification regarding hand guns, licenses, and permits; and general information regarding the administrative provisions of the act.

The Firearm Compliance Unit. This unit coordinates and controls all compliance and auditing functions of the Division. The unit is responsible for the review and processing of surcharge remittance forms submitted by firearms dealers. Staff members are also responsible for auditing dealer accounts, reviewing policy and procedures with firearm dealers, and referring noncompliant dealers for possible investigation. Compliance auditing of dealer accounts is conducted through review of firearm record of sale and surcharge documents received by the Firearm Records Unit. The Unit also completes on-site dealer inspections in addition to conducting training or review for dealers as requested. An Auditor Supervisor oversees the overall operations of the Firearm Accounts Unit and is responsible for the supervision and evaluation of two Auditor 1 positions and seven Accounting Assistants.

Operations Section

This section is comprised of an enlisted Section Supervisor, a Clerk Typist 3, a Clerk Typist 2, the Instant Check Unit with 61 staff members, and the PICS Challenge Unit with 12 staff members.

The Instant Check Unit. This unit is the call center that conducts the background check requests for the purchase/transfer of firearms or application for license to carry a concealed firearm. This responsibility requires ensuring accurate identification of the subject of the background check, conducting evaluation and research of records, maintaining comprehensive documentation, and keeping positive communication with firearm dealers and sheriffs. This unit also processes and maintains the mental health database and updates Pennsylvania criminal history records with information obtained as a result of research conducted by PICS staff.

In 2007, the Pennsylvania State Police notified licensed firearm dealers, sheriffs, and the chief of police of the city of the first class, that the PICS system would not be available due to a conversion of criminal history records to a new system. Calls were still accepted by the PICS unit, but no approval numbers were issued by PICS. The delay was scheduled to suspend PICS for a total of 50 operational hours, but the conversion was completed ahead of schedule, and PICS was only suspended approximately 18 operational hours. The PSP reports that this enhancement to the criminal history records system has allowed it to better serve the many agencies and citizens of the Commonwealth, not only with the PICS system, but for all who rely on criminal history information being accurate and up-to-date.

The Challenge Unit. This unit handles all PICS denial challenges submitted to the Department. All “denied” and “undetermined” status background check subjects have the right to challenge a PICS determination. If challenged, the PICS Challenge Unit assumes research responsibilities and ultimately upholds or reverses the initial determination.

If records are incomplete, the staff conducts extensive research of records and attempts to obtain information from originating sources. The unit also prepares case files for appeals through the Office of the Attorney General; testifies at the appeal hearings when required; and attends and testifies at relief hearings for restoration of firearms rights, which are conducted in the various county courts of common pleas throughout the state. It also handles enforcement investigations involving individuals who knowingly and intentionally furnish false information in the attempt to acquire a firearm in violation of the Pennsylvania Uniform Firearms Act.

System Overview and Procedures

PICS provides for immediate access to a background check on individuals attempting to purchase a firearm, receive a firearm through a transfer, or apply for a license to carry a firearm. PICS uses an Interactive Voice Response (IVR) system that provides for a completely automated background check when no adverse or prohibitive records are identified on the subject of an inquiry.

As a point-of-contact agency, the State Police use PICS to access the state and federal databases listed on Exhibit 2 to determine an individual's eligibility to acquire a firearm or license to carry a firearm. In addition to the record check databases, PICS also accesses the Pennsylvania Bureau of Motor Vehicle records to obtain the individual's complete name, date of birth, and Social Security number prior to the initiation of the background check.

The Pennsylvania State Police believe that there are a number of advantages to operating as a POC state. Those include the following:

- Currently (October 2010) there are a total of 1,528 Protection From Abuse (PFA) orders that lack sufficient numeric identifiers (e.g., Social Security number) to be entered into the National Crime Information Center, one of the federal databases used in a NICS background check. These are, however, included in the Pennsylvania PFA database and would be recognized on a PICS check.
- As a result of a NICS policy that allows a firearm dealer to transfer a firearm after three business days when a transaction cannot be resolved, in other states thousands of firearms have been acquired by prohibited persons through the NICS background check due to this policy. As a POC, Pennsylvania is allowed additional time to research checks that cannot be resolved on the initial call. PSP reports that this additional time allows research that permits lawful owners to obtain their firearms, while limiting the number of prohibited persons from unlawfully obtaining firearms.
- PICS has been responsible for the identification and capture of 1,323 (as of September 2010) fugitives attempting to acquire a firearm that would not have occurred if Pennsylvania was not a POC state.
- NICS regulations prohibit the use of NICS databases for any purpose other than conducting background checks related to firearm sales through licensed dealers. The PSP currently utilizes PICS databases to conduct evidence return checks for law enforcement agencies attempting to return seized or confiscated firearms to ensure the owners are not prohibited from possessing

Exhibit 2

**State and Federal Databases Searched
During Pennsylvania's Instant Background Checks**

State databases searched include:^a

- Pennsylvania Criminal History Records
- Juvenile Records (contained within the criminal history record file)
- Mental Health File (containing §302, §303, and §304 involuntary commitment information and adjudication of incompetence)
- Pennsylvania Protection From Abuse File (not all Pennsylvania PFA's fit the criteria for entry into the National Protection Order File)
- Pennsylvania Wanted/Missing Persons File

Federal databases searched include:^b

- *Interstate Identification Index (III)*—an “index pointer” system for the interstate exchange of criminal records; contains over 46 million federal and state criminal history records of persons arrested for felonies or serious misdemeanors under state or federal law
- *National Crime Information Center (NCIC)*—contains federal, state, and international information on wanted persons, a Protection Order File, foreign fugitives, deported felons, immigration violators, convicted persons on supervised release, U.S. Secret Service Protective File, SENTRY file (persons under supervision of the Federal Bureau of Prisons), convicted persons on supervised release, convicted sexual offenders, and the Violent Gang and Terrorist Organization File (VGTOF)
- *NICS Index*—contains records contributed by local, state, and federal agencies pertaining to individuals *federally* prohibited from transferring a firearm; including a Denied Persons File,^c mental defectives/commitments file, controlled substance abusers, illegal/unlawful aliens, renounced citizenship, and dishonorable discharges from the Armed Services
- Applicable databases in the Department of Homeland Security's United States Immigration and Customs Enforcement (ICE)^d

^a In addition to the record check databases, PICS also accesses the Pennsylvania Bureau of Motor Vehicle records to obtain the individual's complete name, date of birth, and Social Security number prior to the initiation of the background check.

^b As a point-of-contact state, PICS conducts the check of the federal databases through the National Instant Criminal Background Check System (NICS).

^c Includes persons who are federally disqualified when a record is not already included in the NCIC or the Interstate Identification Index. States may include voluntary submissions of individuals prohibited under state laws, but all records must concurrently be prohibited under federal law.

^d A directive from the Attorney General in 2002 mandates that an Automated Immigration Alien Query (IAQ) be conducted on all non-U.S. citizens via the applicable Immigration and Customs Enforcement databases.

Source: Pennsylvania State Police and the FBI/NICS Section.

firearms. As of September 2010, the PSP reports it has conducted 20,617 such evidence returns.

- When a state POC performs an NICS check, the record interpretation process is decentralized, i.e., the decisions regarding who can and cannot possess a firearm in the State of Pennsylvania are made at the state level. This allows for more direct access to the PSP Firearms Division by licensed firearm dealers and individuals regarding the disposition of firearms.

Approximately 2,300 active Pennsylvania licensed firearm dealers² use PICS. Each dealer has a security code for lawfully accessing the system. County sheriffs are also authorized PICS users. Sheriffs request instant background checks when processing applications for a license to carry a firearm. Firearm dealers are required to pay a \$2.00 fee for each background check they request. While not expressly provided for by statute, sheriffs historically have not been required to pay the \$2.00 instant check fee for background checks when issuing a license to carry.

An overview description of the background check process involving licensed dealers, county sheriffs, and PICS operators working in the Instant Check Unit is provided in the narrative and flowchart shown in Exhibit 3. The applicability of the background check requirements in the cases of private transfers and gun show transactions is discussed below:

Private Transfers. Private transfers of long guns between two Pennsylvania residents are not required to be conducted through a dealer. Therefore, a background check is not conducted to determine the individual's eligibility to possess the firearm on private long gun transactions. It is illegal under federal and state law, however, for an individual to knowingly transfer a long gun to a prohibited individual on a private basis.

Private transfers of handguns must use an Application/Record of Sale form through a Federal Firearms Licensee (FFL) and require a PICS background check. This requirement does not apply to private transfers between husband/wife, parent/child, or grandparent/grandchild.

Gun Show Transactions. A PICS official clarified the popular perception of a "gun show loophole" concerning firearm transactions. Under federal law, private individuals (who are not FFLs) may sell firearms at gun shows or meets without completing a NICS check. However, states may—and Pennsylvania does—require that only FFLs may complete the sale or transfer of handguns at gun shows and meets.

² Pennsylvania law requires that a dealer be licensed by the state to sell or transfer firearms direct to the consumer. A Pennsylvania-licensed dealer is also required to have a federal license and thus, in this case, the term "licensed firearm dealer" under state law is synonymous with "federal firearms licensee." The total shown does not include county sheriffs.

An Overview of the Pennsylvania PICS Firearms Background Check Process

Step 1: The dealer or sheriff initiates a call to the PICS toll-free number. If on a rotary or pulse telephone, or if requesting a background check on a non-U.S. citizen or a resident of another state, the dealer or sheriff is transferred to a PICS operator and the check then proceeds with operator assistance. If the call remains automated, the Interactive Voice Response (IVR) computer program prompts the caller for the security access code.

Step 2: With a touch tone telephone, the caller is prompted through each step. The IVR requests the Pennsylvania driver's license number or photo identification card number. The number is entered on the telephone key pad.

Step 3: Upon receiving the license number, the IVR initiates a database inquiry to the Pennsylvania Bureau of Motor Vehicles. The database returns the name, date of birth, and Social Security number of the subject of the background check.

Step 4: The IVR asks the dealer to verify the information received. Upon indicating the information is correct, the IVR system will then initiate the background check query through Pennsylvania and federal databases. The databases queried at this time are listed on Exhibit 2.

Step 5: The IVR advises the dealer at this time that he/she has been charged \$2.00 for the background check. County sheriffs are not required to collect and pay this fee.

Step 6: If no record is found for the individual, the IVR system automatically approves the transaction and issues a unique approval number.

Step 7: If a potentially prohibitive record is located, the call is transferred through the Automatic Call Distribution (ACD) system to an operator, who then continues to process the background check.

Step 8: The operator re-verifies the identification information and reviews the information returned from the various databases. If the information is determined to be non-prohibiting, the operator will issue an approval number.

Step 9: If the information is prohibiting, the dealer/sheriff is advised that the transaction must be denied. The dealer/sheriff should, at this time, provide the denied individual with a copy of the Pennsylvania State Police Denial Challenge form. If the individual feels they may have been denied in error, he/she may read and complete the form and submit it to the Pennsylvania State Police's Challenge Unit.

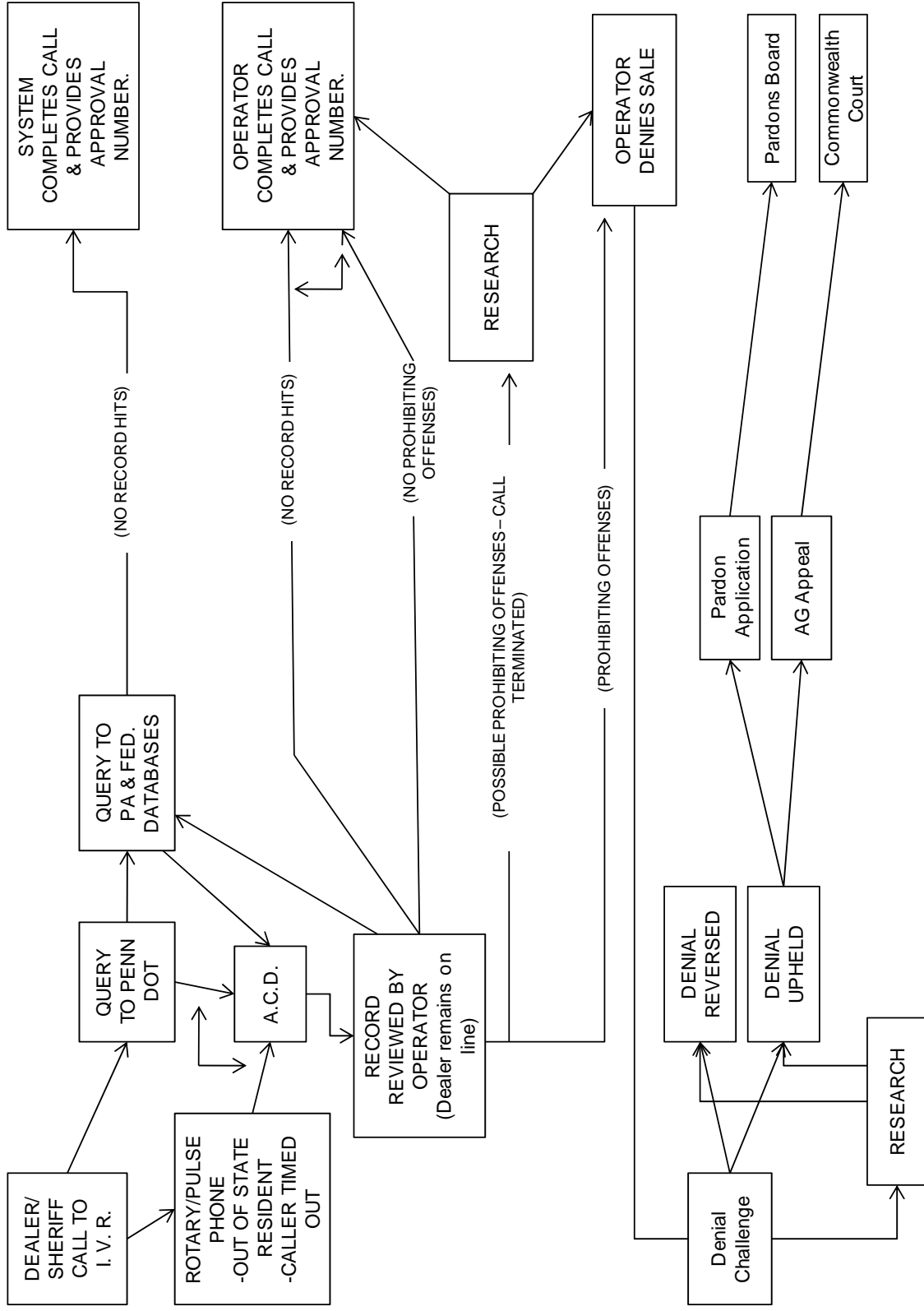
Step 10: Occasionally, a transaction cannot be completed instantly for a number of reasons:

- A lack of numeric identifiers on the record--i.e., date of birth or Social Security number.
- A similar name exists, making identification difficult without fingerprints.
- Research of potentially prohibiting offenses from another state is needed.
- Research of missing criminal record disposition information is needed.
- Pennsylvania was not the sole source for criminal record submission to the FBI prior to 1983. Local agencies could submit records directly. Occasionally, the records have conflicting or ambiguous information.

Step 11: If a timely resolution cannot be obtained, the transaction is placed into research and the dealer/sheriff is advised that PICS will re-contact them as soon as possible, and at the very latest within 15 days, with a determination.

(A flow-chart illustrating the PICS call process is provided on the next page.)

Exhibit 3 (Continued)



Source: Developed by LB&FC staff using information obtained from the Pennsylvania State Police.

Act 1995-17, which amended 18 Pa.C.S.A., specifies in §6113 conditions by which dealers may be licensed to sell firearms: “the business [FFL] shall be carried on only upon the premises designated in the license or at a lawful gun show or meet.” Therefore an FFL selling firearms at a “lawful gun show or meet” is, according to state law, acting in the same capacity as it would were the transactions occurring at the place of business specified on the FFL’s License to Sell Firearms.

Further, 37 Pa. Code §33.111 specifies the pre-sale check procedures conducted at gun shows. This procedure mirrors the procedure that would occur at an FFL’s place of business. Included in these provisions are identical procedures for completion of an Application/Record of Sale form (for completed handgun transactions) and their required submittal to the State Police. Also detailed are procedures for including all instant check fees and firearm sale surcharges (if a sale is completed) for inclusion in a dealer’s surcharge remittance form.

Despite the prohibitions against private individuals (non-FFLs) selling handguns at gun shows, PICS Administrative Section staff have indicated that a categorical guarantee of no such sales occurring at gun shows is not possible given the lack of complete monitoring of all gun show vendors.

PICS Operational Statistics

As can be seen from Table 2, there were 2,285 licensed firearm dealers in Pennsylvania in calendar year 2009. These dealers accounted for total firearm sales and transfers of 496,277, including 233,884 handguns and 262,393 long guns. (See Appendix A for a county-by-county breakdown of firearm sales and transfers.) Additionally, 165,857 license to carry permits, which also require PICS background checks, were issued in 2009.

Table 2

Number of PA Licensed Firearm Dealers and Related PICS Activities					
(Firearm Sales/Transfers and License to Carry Permits)					
Calendar Year	Licensed Firearm Dealers ^a	Firearm Sales and Transfers			License to Carry Permits
		Handguns	Long Guns	Total	
2005	2,644	151,891	234,491	386,382	101,163
2006	2,463	165,260	249,815	415,075	113,013
2007	2,173	171,868	232,660	404,528	164,824
2008	2,367	208,436	255,540	463,976	150,843
2009	2,285	233,884	262,393	496,277	165,857

^aSee Appendix B for the number of licensed firearm dealers on a county-by-county basis.

Source: Developed by LB&FC staff with information obtained from the Pennsylvania State Police.

PICS Operating Hours and System Downtime

PICS is to be operational 365 days a year from 8:00 a.m. until 10:00 p.m. This equates to 5,110 operating hours yearly. Periods in which the PICS system is not operational are classified as “system downtime.” Table 3 provides a five-year breakdown of total operating time, system downtime in hours, and the number of days affected by downtime.

Table 3

PICS Operating Hours and System Downtime				
<u>Calendar Year</u>	<u>Total Potential Operating Hours</u>	<u>Total System Downtime (Hours)</u>	<u>Percent of Total</u>	<u>Number of Days Affected</u>
2005	5,110	103.1	2.01%	64 days
2006	5,110	98.0	1.92	71 days
2007	5,110	87.6	1.71	49 days
2008	5,124	38.3	0.75	49 days
2009	<u>5,110</u>	<u>37.9</u>	0.74	50 days
Five -Year Totals.....	25,564	364.87		

Source: Developed by LB&FC staff using information obtained from the Pennsylvania State Police.

Reasons for PICS System Downtime

Reasons for PICS system downtime include technical problems exclusively with federal or Pennsylvania databases, a combination of problems with both federal and Pennsylvania databases, and downtime due to other unspecified technical difficulties. (See Table 4.)

Table 4

	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
Technical Difficulties – Federal Databases.....	31.0%	32%	4.0%	17.0%
Technical Difficulties – PA Databases	64.5	52.0	86.0	76.0
Combination of Problems in Both PA and Federal Databases.....	4.0	0.0	5.0	0.0
Downtime Due to Other Technical Difficulties	<u>0.5</u>	<u>16.0</u>	<u>5.0</u>	<u>7.0</u>
Total	100.0%	100.0%	100.0%	100.0%

Source: Developed by LB&FC staff using information obtained from the Pennsylvania State Police.

Outcomes of Initial Instant Check Calls to PICS

As shown on Table 5, 59.5 percent of all calls to PICS were automatically approved by the IVR system in 2009. Another 34.8 percent of the calls were approved once transferred to an operator. Thus, 94.3 percent of the background check calls received approval during the first call.

Table 5

Initial Disposition of Calls Requesting PICS Background Checks					
Calendar Year	Total PICS Calls ^a	Number Approved on Initial Call			
		By IVR System		By Operator	
		No.	%	No.	%
2005	497,294	303,836	61.1%	156,799	31.5
2006	539,735	330,076	61.2	165,081	30.6
2007	581,625	365,073	62.8	177,424	30.5
2008	619,297	377,886	61.0	201,223	32.5
2009	663,003	394,529	59.5	230,667	34.8

^a Represents background checks requested by firearm dealers and sheriffs for firearm sales/transfers license to carry permits, and information on pending cases.

Source: Compiled by LB&FC staff using information obtained from the Pennsylvania State Police.

Average PICS Approval Call Time

Table 6 presents average background check call times, in minutes, for calls automatically approved by the IVR computer system and calls transferred to an operator and approved immediately.

Table 6

Calendar Year	Average Background Check Call Time (Minutes) for:	
	Calls Automatically Approved by IVR Computer System ^a	Calls Transferred to PICS Operator and Approved Without Further Research
2005	3.95 Minutes	6.32 Minutes
2006	5.72	6.57
2007	5.80	5.75
2008	6.07	5.90
2009	6.03	5.40

^aInteractive Voice Response system.

Source: Developed by LB&FC staff using information obtained from the Pennsylvania State Police.

PICS Initial Denials, Challenges, and Final Denials

Table 7 provides a summary of the total number of initial denials issued by PICS and the subsequent number of denials challenged.

Table 7

Calendar Year	Total Number of Initial Denials Issued by PICS ^a	Initial Denial Rate	Number of Denials Challenged	
			Number	% of Total Denials
2005.....	9,451	1.9%	3,841	40.7%
2006.....	9,535	1.7	4,090	42.9
2007.....	7,420	1.3	4,017	54.1
2008.....	10,823	1.8	4,302	39.8
2009.....	9,449	1.4	3,721	39.4

^aRepresents total denials issued either immediately by a PICS operator or following research by the PICS Challenge Unit.

Source: Developed by LB&FC staff using information obtained from the Pennsylvania State Police.

Of the 3,721 denials challenged, 2,023 final denials were issued, 1,448 denials were reversed, and 250 were returned to the challenger unprocessed for reasons such as incompleteness, untimely filing, or because the file being appealed was not a PICS denial.

Pennsylvania's 1.4 percent denial rate is very similar to the national rate (FBI and states) of 1.5 percent. The FBI-only denial rate is 1.2 percent.

PICS Appeals Actions

Denials that are upheld by the PICS Challenge Unit may be appealed to the Office of Attorney General. Subsequent decisions may then be appealed to the Commonwealth Court and the Pennsylvania Supreme Court. Table 8 provides a summary of the actions taken on appeals of PICS denials brought before the Office of Attorney General during calendar years 2005-2009.

Table 8

Actions Taken by the Office of Attorney General on Appeals of PICS Denials					
	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>	<u>2009</u>
<u>Office of the Attorney General</u>					
Total Number of Appeals.....	37	56	58	54	63
Outcome:					
Reversed prior to hearing date.....	7	7	4	0	7
Cases Upheld.....	2	9	2	4	4
Cases Reversed by the Court.....	0	0	0	1	0
Cases Withdrawn/Cancelled.....	17	30	12	10	22
Cases Pending.....	11	10	40	38	30

Source: Developed by LB&FC staff using information obtained from the Pennsylvania State Police.

The first appeals to reach the Commonwealth Court level were in the year 2000. As of 2009, a total of 35 cases had been filed in Commonwealth Court. Of these, 14 were upheld, 16 were reversed,³ 3 were refused/withdrawn/cancelled, and 2 were pending a decision.

The first appeals to reach the Pennsylvania Supreme Court occurred in 2001. As of December 31, 2009, the cumulative statistics for Supreme Court review of appealed PICS cases were as follows (no appeals were filed with the Supreme Court in 2009):

Cases Upheld.....	5
Cases Reversed.....	0
Cases Refused/Withdrawn/Cancelled/Remanded.....	10
Cases Accepted, Pending Hearing/Decision.....	0

PICS-Related Arrests

During 2009, law enforcement authorities reported the arrest of 114 fugitives with active warrants as a result of an attempted firearm purchase. Law enforcement authorities are notified immediately when a fugitive is attempting to purchase a firearm and is identified through a PICS check. The State Police report that PICS has been responsible for the arrests of 1,323 individuals since its inception on July 1, 1998.

The PSP also networks information and coordinates investigative efforts with the U.S. Department of Justice and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) in investigating and prosecuting individuals attempting to acquire firearms illegally. In 2009, the PSP Challenge Unit referred 328 files to PSP Troops, the ATF, and local police departments for investigation. A total of 215 arrests and 115 convictions were reported as a result of these referrals (including investigations initiated in past years).

³ Seven of these cases were a result of a single court case decision since all cases involved the same issues.

Planned System Upgrades

Our 2006 report indicated that PICS needed a complete system redesign and upgrade. The PSP reported that it began planning this upgrade in 2009 and attempted to implement the first phase of a three-phase upgrade in October 2010. This attempt, which involved an upgrade to the Interactive Voice Response (IVR), did not go well, however, and the PSP had to revert back, at least temporarily, to the prior system. Work on this project is being funded by a federal grant through ARRA (American Recovery and Reinvestment Act of 2009) funds.

III. PICS Costs and Funding

PICS Expenditures

As shown in Table 9 below, PICS costs total about \$5 million annually, with about 95 percent of these expenditures being for personnel services. Table 11 provides a further breakdown of PICS expenditures, by major and minor object, for the past three fiscal years.

Table 9

PICS Expenditures				
<u>Fiscal Year</u>	<u>Personnel Services</u>	<u>Operational Expenses</u>	<u>Fixed Assets</u>	<u>Total</u>
2005-06.....	\$4,371,219	\$355,950	\$250,038	\$4,977,207
2006-07.....	4,657,756	314,232	0	4,971,988
2007-08.....	5,008,730	256,334	0	5,265,064
2008-09.....	4,739,405	253,551	0	4,992,956
2009-10.....	5,084,590	258,045	0	5,342,635

PICS is funded through a combination of Gun Check appropriations, instant check/firearm surcharge fees, and the PSP General Government Operations (GGO) appropriation. As Table 10 shows, the amounts coming from these sources vary from year to year.

Table 10

PICS Funding, by Source				
<u>Fiscal Year</u>	<u>Gun Checks Appropriation^a</u>	<u>\$5 Instant Check/ Firearms Surcharge^b</u>	<u>PSP General Government Operations</u>	<u>Total</u>
2005-06.....	\$ 0	\$4,660,285	\$ 316,923	\$4,977,207
2006-07.....	900,000	2,933,304	1,138,684	4,971,988
2007-08.....	0	1,185,242	4,079,822	5,265,064
2008-09.....	3,830,000	245,146	917,810	4,992,956
2009-10.....	2,376,000	2,899,295	67,340	5,342,635

^a The Gun Check appropriation for FY 2010-11 is \$2,286,000.

^b Revenues from the \$2 instant check fee and \$3 firearms surcharge are not separately recorded in PSP or Commonwealth fiscal documents.

Table 11

PICS Expenditures

Description	FY 2007-08	FY 2008-09	FY 2009-10
Personnel Services			
Salaries	\$3,016,845	\$2,986,538	\$3,676,803
Shift Differential Pay	33,714	31,992	31,530
Higher Classification Pay	657	407	464
General Pay Increase—Cash Payment	3,443	3,228	3,345
Repay Salaries Overpay	(944)	658	(1,264)
Wages – Reg. Hours	22,091	0	0
Overtime	22,612	24,968	22,248
Hospitalization Insurance	550,080	531,360	544,968
Social Security Contributions	200,284	185,939	199,303
Medicare	46,841	43,486	46,611
Retirement Contributions	104,240	101,559	102,237
State Workmen's Insurance Premium Payments	74,913	65,207	74,207
Employees' Group Life Insurance	9,882	8,133	8,691
Health Benefits	756,303	752,211	268,822
Unemployment Compensation	0	0	864
Rewards/Bonuses	111,250	0	0
Leave Payout	54,440	210	105,760
Allowances	<u>2,080</u>	<u>3,510</u>	<u>0</u>
Subtotal - Personnel Services	\$5,008,730	\$4,739,405	\$5,084,590
Operational Expenses:			
Travel	\$ 1,077	\$ 4,871	\$ 1,935
Training	0	0	0
Telecommunications—Recurring	125,978	124,538	116,694
Telecommunications—Nonrecurring	0	0	0
Legal Services/Fees	131	77	28
Specialized Services	12,816	25,032	25,252
Contracted EDP Svc-Vendor Provided			14,764
Contracted Maintenance Services – EDP	88,906	93,352	98,020
Office Supplies	8,678	1,132	0
Contracted Maintenance Serves – Non EDP	1,349	554	1,349
Furniture/Fixtures	17,357	0	0
Fuels	41	0	0
Other Rentals/Leases	0	3,996	0
Motorized Equipment	0	0	3
Other Operating Expenses	<u>0</u>	<u>0</u>	<u>0</u>
Subtotal - Operational Expenses	\$ 256,334	\$ 253,551	\$ 258,045
Fixed Assets:			
Capital—Construction	\$ 0	\$ 0	\$ 0
EDP—Computers and Peripherals	0	0	0
EDP—Software	0	0	0
Other Equipment	<u>0</u>	<u>0</u>	<u>0</u>
Subtotal - Fixed Assets	\$ 0	\$ 0	\$ 0
Total	\$5,265,064	\$4,992,956	\$5,342,635

Source: Pennsylvania State Police.

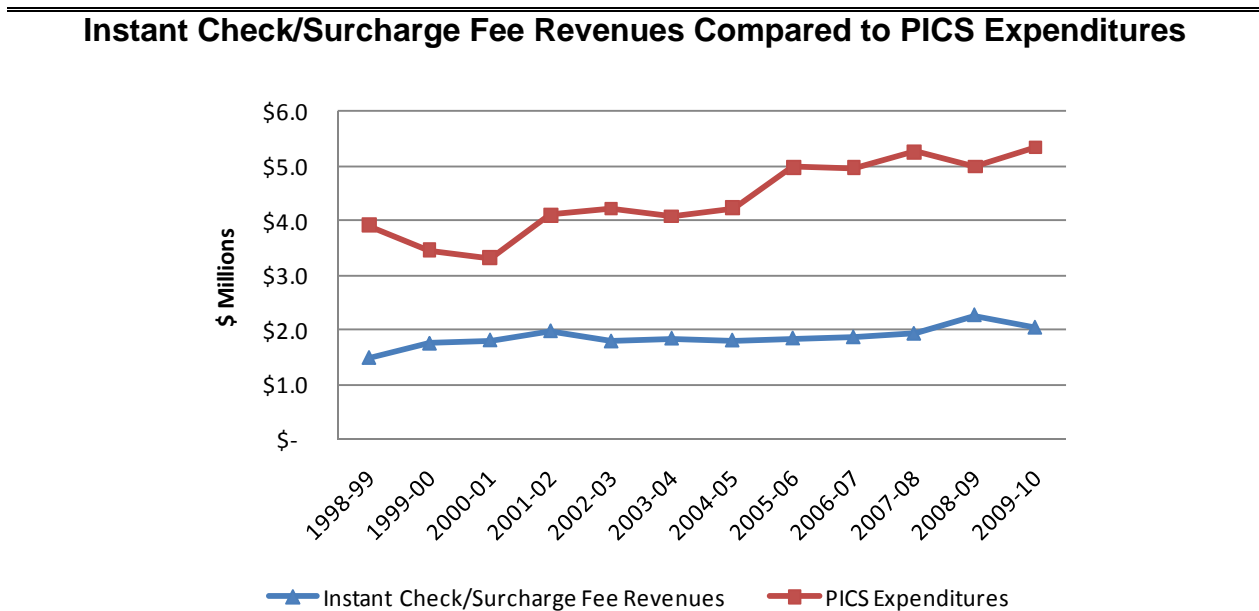
Although the amount of PICS funding that comes from the \$5 instant check/firearm surcharge varies from year to year, the amount received from the instant check/firearm surcharge has remained relatively consistent over the past 15 years (see Table 12).

Table 12

Instant Check/Surcharge Fees as a Percentage of PICS Expenditures			
<u>Year</u>	<u>Instant Check/ Surcharge Fees</u>	<u>PICS Expenditures</u>	<u>Fees as % of Expenditures</u>
1998-99	\$1,489,857	\$3,915,893	38%
1999-00	1,749,467	3,459,983	51
2000-01	1,810,171	3,316,765	55
2001-02	1,975,885	4,105,476	48
2002-03	1,789,949	4,225,174	42
2003-04	1,843,435	4,086,006	45
2004-05	1,807,048	4,234,867	43
2005-06	1,844,360	4,977,207	37
2006-07	1,866,581	4,971,988	38
2007-08	1,930,296	5,265,064	37
2008-09	2,269,137	4,992,956	45
2009-10	2,041,712	5,342,635	38

Table 12 also shows the fee/surcharge collections as a percentage of PICS expenditures. Exhibit 4 shows this information in graphic form.

Exhibit 4



Source: Developed by LB&FC staff from information provided by the Pennsylvania State Police.

Finally, Table 13 shows the beginning and ending balances of the Firearms Record Check Fund, the fund into which the fees/surcharges are deposited.

Table 13

Firearm Records Check Fund Financial Statement					
	<u>FY 2005-06</u>	<u>FY 2006-07</u>	<u>FY 2007-08</u>	<u>FY 2008-09</u>	<u>FY 2009-10</u>
Beginning Balance	\$4,377,133	\$1,651,764	\$ 585,041	\$ 515,336	\$2,434,474
Revenues	1,847,082	1,866,581	1,930,296	2,269,137	2,961,324 ^a
Available Funds.....	6,224,215	3,518,344	2,515,336	2,784,474	5,395,797
Expenditures	<u>4,572,452</u>	<u>2,933,304</u>	<u>2,000,000</u>	<u>350,000</u>	<u>2,899,295</u>
Ending Balance	\$1,651,764	\$ 585,041	\$ 515,336	\$2,434,474	\$2,496,502

^a Includes \$920,000 due to a transfer from the Purchase of Firearms appropriation.

Fee Revenues Compared to PICS Costs

As established in the Uniform Firearms Act, 18 Pa.C.S.A. §6111(b)(3), “the requester shall be charged a fee equivalent to the cost of providing the service but not to exceed \$2.00 per buyer or transferee.” This fee, along with the \$3.00 surcharge, is to be deposited into the Firearm Records Check Fund established by §6111.3(a) of the act and is to be used for carrying out the provisions of §6111.¹ The act, at 18 Pa.C.S.A. §6111.2(b), also states that the Legislative Budget and Finance Committee shall review the need to increase or decrease the \$2.00 instant check fee.²

As shown in Table 12 (above), revenues from the instant check and firearm surcharge fees have not been sufficient to fully cover fee-related costs, with revenues generally meeting between 37 percent and 50 percent of PICS annual expenditures. To have fully funded the PICS program in FY 2008-09 and FY 2009-10, the \$5 combined instant check/surcharge fee would need to increase by about 140 percent,³ or from \$5 to \$12. To have covered 50 percent of PICS expenditures, the combined instant check/surcharge fee would need to increase by about 20 percent, or from \$5 to \$6.

¹ The provisions of §6111 include the following: the process of sale or transfer of firearms, such as application/record requirements; carrying out the instant background checks; PSP investigation of criminal and court records, and monitoring licensee adherence to statutory requirements.

² Since all the funds in the Firearm Records Check Fund are to be used in carrying out the provisions of §6111, which establishes the instant check fee as well as the requirements for that check, we assume that both the \$2.00 instant check fee and the \$3.00 firearms sales surcharge are to be used in carrying out this function. However, the section of the act requiring the review by the Legislative Budget and Finance Committee specifically states that the Committee is to issue a report only for a statutory change to the instant check fee.

³ Combined revenue for FYs 2008-09 and 2009-10 was \$4.31 million and combined expenditures were \$10.34 million.

The PSP, citing costs of roughly \$5.9 million to operate PICS and a revenue stream of approximately \$2 million from the \$5 instant check/surcharge fee, notes that PICS has a \$3.9 million shortfall that must be subsidized from the State Police budget or other General Fund monies. To have a fully self-sufficient PICS, and assuming one transfer fee per phone call, the PSP has calculated that fees would need to be raised to a combination totaling \$17. The PSP believes this increase should cover the normal costs associated with operating the system, as well as allow for future enhancements, system upgrades, and contracted salary increases through the year 2020.

IV. Instant Check Systems in Other States

Forms of State Involvement

Each state is free to determine the nature and extent of its involvement in the NICS process. According to the U.S. Department of Justice, there are three basic forms of state involvement:

- In states where the state government has agreed to serve as the point-of-contact (POC) for the system, Federal Firearms Licensees (FFLs) contact the NICS through the state POC for all firearm transfers. The state POC conducts the NICS check and determines whether or not the transfer would violate state or federal law.
- In states where the state government has declined to serve as a POC, the FFLs initiate a NICS background check by contacting the NICS Section directly for all firearm transfers. The FBI conducts the NICS check and determines whether or not the transfer would violate state or federal law.
- Finally, in states where the state government has agreed to serve as a POC for handgun purchases but not for long gun purchases, the FFLs contact the NICS through the designated state POC for handgun transfers and the NICS Section for long gun transfers.

While these are the three basic models, some states combine elements of the above models with some incorporating the use of an “ATF Qualified Alternative Permit.”¹

The specific methods used by the states to conduct instant firearm background checks are shown on Exhibit 5. As shown, 13 states, including Pennsylvania, have a POC agency that conducts checks on all firearm transactions. An additional eight states have a POC agency that serves as a POC for some, but not all, firearm transactions. The remaining 35 states and territories do not have a POC agency; the FBI performs the background checks in these states.

¹An ATF-Qualified Alternative Permit is determined on a state-specific basis as being an exception to an NICS check. ATF advises licensees in each state as to which permits qualify as alternative to an NICS check at the time of purchase or transfer. A permit qualifies as an NICS alternative only if it was issued by the state in which the transfer is to take place. Permits qualify as alternatives to the background check requirements of the Brady Act for no more than five years from the date of issuance.

**National Instant Criminal Background Check System (NICS)
Point of Contact for States and Territories**

Full participants (13): States that conduct NICS checks for all firearms purchases and/or for alternate permits for handguns and long guns:

California ^a	New Jersey
Colorado	Oregon
Connecticut	Pennsylvania
Florida	Tennessee
Hawaii ^a	Utaha
Illinois	Virginia
Nevada	

Partial Participants (8): States that perform checks for handgun permits, while the FBI performs NICS checks for long gun purchases:

Iowa ^a	Nebraska ^a
Michigan ^a	North Carolina ^a

States that perform NICS checks for handgun purchases, while the FBI performs NICS checks for long gun purchases:

Maryland	Washington
New Hampshire	Wisconsin

Nonparticipants (35): The FBI performs NICS checks on both handguns and long guns for:

Alabama	Montana ^a
Alaska ^a	New Mexico
American Samoa	New York
Arizona ^a	North Dakota ^a
Arkansas ^a	Northern Mariana Island
Delaware	Ohio
Georgia ^a	Oklahoma
Guam	Puerto Rico
Idaho ^a	Rhode Island
Indiana	South Carolina ^a
Kansas	South Dakota
Kentucky ^a	Texas ^a
Louisiana	Vermont
Maine	U.S. Virgin Islands
Massachusetts	West Virginia
Minnesota	Wyoming ^a
Mississippi ^a	Washington, DC
Missouri	

^a Denotes states that have an ATF-qualified alternate permit. An ATF-Qualified Alternative Permit is determined on a state-specific basis as being an exception to an NICS check. ATF advises licenses in each state as to which permits qualify as alternative to an NICS check at the time of purchase or transfer.

Source: Federal Bureau of Investigation.

Many states, including Pennsylvania, have designated a single agency with statewide jurisdiction as their NICS point of contact (e.g., a department of public safety or their state police). Others have multiple points of contact, which are usually county sheriffs or municipal police departments. In non-POC states, licensed dealers must contact the FBI directly for approval on all gun transfers; the FBI does not charge a fee for this service.

Fees Charged in Full POC States

As shown in Table 14 below, instant check fees in POC states range from no fee to \$25.

Table 14

Instant Check Fees in PA and Other Point-of-Contact (POC) States
(POC for All Firearm Transactions)

<u>State</u>	<u>Fee</u>
California	\$20
Colorado	0
Connecticut	0
Florida	5 ^a
Hawaii	n/a
Illinois	2
Nevada.....	25
New Jersey	15
Oregon	10
Pennsylvania	2
Tennessee	10
Utah	7.50
Virginia	2/5 ^b

^a The FBI conducts checks on pawn redemptions within 90 days of being pawned without charge. For all other transfers, the fee is \$5.00.

^b The fee is \$2.00 for any resident, and \$5.00 for any nonresident purchasing a firearm in Virginia.

Source: Developed by LB&FC staff using information obtained from the U.S. Department of Justice and POC agencies in other states.

V. Appendices

APPENDIX A

Reported Firearm Sales/Transfers in Pennsylvania in 2009, by County

<u>County</u>	<u>Handguns^a</u>	<u>Long Guns^b</u>	<u>County</u>	<u>Handguns^a</u>	<u>Long Guns^b</u>
Adams	2,809	4,270	Lancaster.....	9,885	9,846
Allegheny.....	16,024	13,656	Lawrence.....	2,143	1,857
Armstrong.....	890	857	Lebanon	5,407	5,457
Beaver	3,810	2,989	Lehigh.....	7,270	6,347
Bedford.....	1,874	3,919	Luzerne	7,301	7,070
Berks	14,621	22,049	Lycoming	5,313	7,566
Blair	4,612	5,225	McKean	490	778
Bradford.....	1,530	2,952	Mercer	1,523	1,675
Bucks.....	12,977	10,377	Mifflin	570	827
Butler	6,212	6,580	Monroe	5,316	3,318
Cambria.....	3,978	4,737	Montgomery	7,874	7,570
Cameron.....	55	57	Montour	59	113
Carbon.....	806	500	Northampton.....	2,580	3,394
Centre.....	1,751	2,405	Northumberland....	1,749	2,075
Chester.....	4,145	3,909	Perry.....	1,148	1,386
Clarion	1,322	2,129	Philadelphia.....	7,282	2,062
Clearfield	5,273	9,552	Pike.....	395	606
Clinton	600	1,522	Potter.....	618	974
Columbia	1,527	2,337	Schuylkill	4,469	5,418
Crawford.....	917	1,470	Snyder	599	1,562
Cumberland.....	2,516	4,334	Somerset.....	1,569	2,287
Dauphin	4,652	5,175	Sullivan.....	48	45
Delaware	6,145	3,116	Susquehanna	1,277	2,284
Elk	957	1,333	Tioga	994	2,750
Erie	5,542	8,279	Union	620	550
Fayette	4,571	5,394	Venango	1,552	2,338
Forest	13	28	Warren.....	1,160	2,227
Franklin.....	3,474	6,145	Washington	9,155	7,203
Fulton	150	358	Wayne	3,289	3,737
Greene	710	764	Westmoreland	9,221	9,917
Huntingdon.....	370	1,105	Wyoming	593	938
Indiana.....	1,673	2,156	York	<u>9,055</u>	<u>10,276</u>
Jefferson.....	1,642	2,280	State Totals	233,884	262,393
Juniata.....	306	803			
Lackawanna	4,906	5,178	Total Firearm Sales/Transfers.....		496,277

Note: Reported as of 3/17/10; totals include any taxed and non-taxed sales/transfers reported for the year 2009.

^aA handgun is defined as: a pistol or revolver with a barrel length less than 15 inches, a shotgun with a barrel length less than 18 inches, or a rifle with a barrel length less than 16 inches, or a pistol, revolver, rifle, or shotgun with an overall length of less than 26 inches. The barrel length of a firearm is determined by measuring from the muzzle of the barrel to the face of the closed action, bolt, or cylinder, whichever is applicable.

^bA long gun is defined as: any weapon, that is not a handgun, designed to or that may readily be converted to expel a projectile by the action of an explosion.

Source: Pennsylvania State Police, 2009 Firearms Annual Report.

APPENDIX B

Number of Pennsylvania Licensed Firearm Dealers in 2009, by County

<u>County</u>	<u>Number of Dealers</u>	<u>County</u>	<u>Number of Dealers</u>
Adams	37	Lancaster	58
Allegheny	122	Lawrence	22
Armstrong	23	Lebanon	28
Beaver	41	Lehigh	40
Bedford	23	Luzerne	57
Berks	58	Lycoming	45
Blair	41	McKean	19
Bradford	34	Mercer	35
Bucks	73	Mifflin	15
Butler	48	Monroe	42
Cambria	39	Montgomery	59
Cameron	4	Montour	5
Carbon	10	Northampton	38
Centre	33	Northumberland	29
Chester	57	Perry	25
Clarion	23	Philadelphia	11
Clearfield	23	Pike	26
Clinton	8	Potter	18
Columbia	32	Schuylkill	41
Crawford	30	Snyder	14
Cumberland	46	Somerset	36
Dauphin	36	Sullivan	6
Delaware	40	Susquehanna	34
Elk	20	Tioga	30
Erie	43	Union	8
Fayette	42	Venango	16
Forest	4	Warren	25
Franklin	41	Washington	40
Fulton	10	Wayne	27
Greene	12	Westmoreland	122
Huntingdon	28	Wyoming	10
Indiana	48	York	<u>90</u>
Jefferson	24		
Juniata	16		
Lackawanna	45	State Total	2,285

Source: Pennsylvania State Police, 2009 Firearms Annual Report.

APPENDIX C

Pennsylvania State Police Response to This Report



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA STATE POLICE
1800 ELMERTON AVENUE
HARRISBURG, PA. 17110

OFFICE OF COMMISSIONER

January 21, 2011

Mr. Philip R. Durgin
Executive Director
Legislative Budget and Finance Committee
Post Office Box 8737
Harrisburg, Pennsylvania 17105-8737

Dear Mr. Durgin:

Thank you for the opportunity to respond to the Legislative Budget and Finance Committee report regarding the Adequacy of Fees Charged in Pennsylvania's Instant Check System (PICS) for Firearms Purchases. This is the third review conducted pursuant to the Pennsylvania Uniform Firearms Act (PUFA).

During the past few months, representatives of our Department's Firearms Division and Fiscal Division have worked with you to provide the information necessary for the Committee to conduct its review. I commend you for your professionalism and the efforts to accurately address the adequacy of fees associated with the mandated responsibility of the Pennsylvania State Police (PSP) to administer the PICS.

Your report indicates that over the last eight years, the mandated surcharge fees associated with PICS background checks and taxable firearm sales has generated only enough revenue to cover approximately 40 percent of PICS expenditures. General Fund monies from the PSP General Government Operations and Gun Check appropriations cover the additional costs of PICS operations.

As noted in your report, we have calculated and proposed that increasing PICS fees to \$17 would allow the PSP to sufficiently cover the normal costs of the PICS operations. This increase would also allow for future enhancements, system upgrades and contracted salary increases through the year 2020.

The Committee's report accurately details Pennsylvania's status as a Point of Contact state with regard to the National Instant Criminal Background Check System. What cannot be overstated by the report is the level of safety and security afforded to the citizens of the Commonwealth because of the PICS, and the extraordinary service provided by PICS personnel on a state level. Pennsylvania's choice to conduct their own firearm background checks allows both licensed firearm dealers and Commonwealth citizens direct access to decisions regarding the acquisition of firearms. Additionally, PICS ensures that second amendment rights are protected for all individuals attempting to purchase a firearm within the Commonwealth of Pennsylvania.

Mr. Philip R. Durgin
January 21, 2011
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Since its inception in 1998, PICS has been staffed and operated by the PSP as mandated by Pennsylvania Legislature. We have continually demonstrated our professional commitment to administer the laws set forth by the PUFA. As we move forward, we embrace the opportunity to continue our cooperative efforts with the Pennsylvania Legislature, licensed firearms dealers and all citizens of the Commonwealth regarding the safe and lawful ownership of firearms.

Thank you for your efforts and excellent work on this review process and report.

Sincerely,

A handwritten signature in black ink, appearing to read "Frank Noonan", written in a cursive style.

Colonel Frank Noonan
Acting Commissioner