

TESTIMONY
EXISTING FIREARMS LAWS
HOUSE JUDICIARY COMMITTEE HEARING
DECEMBER 2, 1999

Presented by:

MAJOR RONALD J. HACKENBERG
DIRECTOR
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PENNSYLVANIA STATE POLICE

Major Richard D. A. Morris
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Mr. Chairman, Committee Members, on behalf of the Pennsylvania State Police, I welcome this opportunity to address the House Judiciary Committee, and testify on the issues surrounding the enforcement of existing firearms laws and regulations within this Commonwealth.

The fundamental purpose of Act 17 of 1995, the Uniform Firearms Act, was to provide support to law enforcement in the areas of crime prevention and control.

Under the Uniform Firearms Act, individuals who have been convicted of specific enumerated offenses, or fall under other conditions identified in the Act, are prohibited from possessing, using, manufacturing, controlling, selling or transferring firearms.

The Uniform Firearms Act establishes criteria where firearms are prohibited from being carried without a license. For instance, it is illegal to carry a loaded firearm in any vehicle or a concealed firearm, except in an individual's place of abode, or fixed place of business, without a valid Pennsylvania License To Carry Firearms. A violation of this section is graded a felony of the third degree, unless the individual has a license that expired within the last six months or would otherwise be eligible to obtain a valid license to carry a firearm. In such circumstances, the violation is graded a misdemeanor of the first degree.

Additionally, no individual, except persons exempt from licensing or possessing a valid Pennsylvania License to Carry Firearms, is permitted to transport firearms in a vehicle. With regard to carrying firearms in Philadelphia, individuals are prohibited from carrying a firearm at any time upon the public streets or on public property in the city, unless the individual is licensed to carry a firearm.

Moreover, the Act provided that any person who knowingly and intentionally delivers or provides a minor with a firearm in violation of this chapter commits a felony of the third degree.

The Pennsylvania State Police, within our responsibility to administer the Act, has established the Pennsylvania Instant Check System (PICS) to conduct background checks to determine an individual's eligibility to carry a firearm or obtain a license to carry firearms.

In conducting PICS background checks, the Pennsylvania State Police searches databases covering: Pennsylvania criminal history, juvenile records, wanted person files, protection from abuse files, mental health, and national records that include, federal and other states criminal history record information, national wanted files, protection orders, mental health, military records, and renounced citizenship information. A toll-free telephone number has been established for firearm dealers and county sheriffs for instantaneous access to the PICS background check process.

The Uniform Firearms Act additionally regulates the sale and transfer of firearms within the Commonwealth. Licensed Pennsylvania Firearm Dealers are required to conduct a background check through PICS to determine an individual's eligibility to acquire a firearm. The Dealers are also required to complete certain forms promulgated by the Department. The Act requires an Application/Record of Sale to be completed on all handgun transactions. The form is not required for the sale of long guns, although the background check is still necessary. However, private transfers of long guns are not required to be conducted through a dealer; accordingly, a background check is not conducted to determine the individual's eligibility to possess the firearm.

With the requirements for firearm dealers in Pennsylvania to complete and maintain specific documentation related to the sale and transfer of firearms, dealers are also directed that any confidential information obtained on an individual shall only be used for the sole purpose of a firearm background check transaction. Use of the PICS background check system for any purpose other than the sale or transfer of firearms, or use of information obtained for the purpose of the background check in violation of the Act is a felony of the third degree.

The Uniform Firearms Act also requires dealers to maintain specific records and collect fees for PICS background checks (\$2.00) and surcharge fees (\$3.00) on firearm transactions subject to sales tax. Unlike the Gun Control Act of 1968, which requires the Bureau of Alcohol, Tobacco, and Firearms to ensure Federal Firearm Licensee compliance with federal laws and regulations, the Uniform Firearms Act clearly assigns the Pennsylvania State Police the responsibility for the administration of the Act, but dealer compliance investigation, enforcement, and auditing of the Pennsylvania Licensed Firearm Dealers is not regulated, or exclusively delegated to the Pennsylvania State Police.

Individuals attempting to acquire firearms through a purchase or transfer through a dealer are required to complete the Application / Record of Sale and / or the applicable Federal Firearm Transaction Records forms. An individual misrepresenting him or herself by making a false written or oral statement in an attempt to acquire a firearm in violation of this Act commits a felony of the third degree. Unlike the federal Gun Control Act of 1968, an individual attempting to acquire a long gun through a licensed Pennsylvania Firearm Dealer is not required to complete an Application/Record of Sale under the Uniform Firearm Act, which requires self certification as to the accuracy of the information and identification provided in order to acquire the firearm.

The state Application/Record of Sale form used for all handgun transactions, clearly identifies those circumstances for which an individual is prohibited from acquiring a firearm. Without reading and completing the form, an individual may not know what may or may not be prohibited. Without the signed document, enforcement of this section is difficult.

Early in the PICS operation it became evident that some individuals did not realize that they are prohibited from possessing and acquiring firearms. Individuals, who had been acquiring long guns before November of 1998, were not required to go through the background check process. Also, before PICS, background checks did not encompass as many database searches. Individuals who are denied through the PICS check, under the Act and within thirty days of a PICS transaction, may challenge a denial determination. Based upon records obtained through extensive research, when further information is located to determine that an individual is not prohibited under the Uniform Firearms Act or federal firearms law, a denial determination can be reversed.

The Pennsylvania State Police have developed an Administrative Regulation for the enforcement of violations of the Uniform Firearms Act. Meetings with the Bureau of Alcohol, Tobacco, and Firearms have been held to discuss and develop enforcement strategies and provide for timely and efficient exchange of investigative information. Procedures have been established for multi-agency investigations and provide for follow-up contact with the State Police, Firearm Division, as to the status of investigations. Investigations are prioritized as they relate to individuals who have records indicating crimes of violence, multiple prohibiting offenses, habitual drug offenses, protection orders requiring confiscation of firearms, and prohibiting mental health records.

The Pennsylvania State Police and agents from the Bureau of Alcohol, Tobacco, and Firearms meet regularly to exchange information on investigations and coordinate enforcement efforts. As a result, cases are being investigated by State Police, local law enforcement agencies, and federal authorities for prosecution of individuals who allegedly have been providing false written or oral statements to firearm dealers in their efforts to illegally acquire firearms.

The PICS has also identified fugitives from justice as they attempt to acquire firearms. Warrants are verified and law enforcement agencies are contacted immediately by PICS staff. To date, 142 fugitives have been identified and taken into custody as a result of the PICS firearm background check.

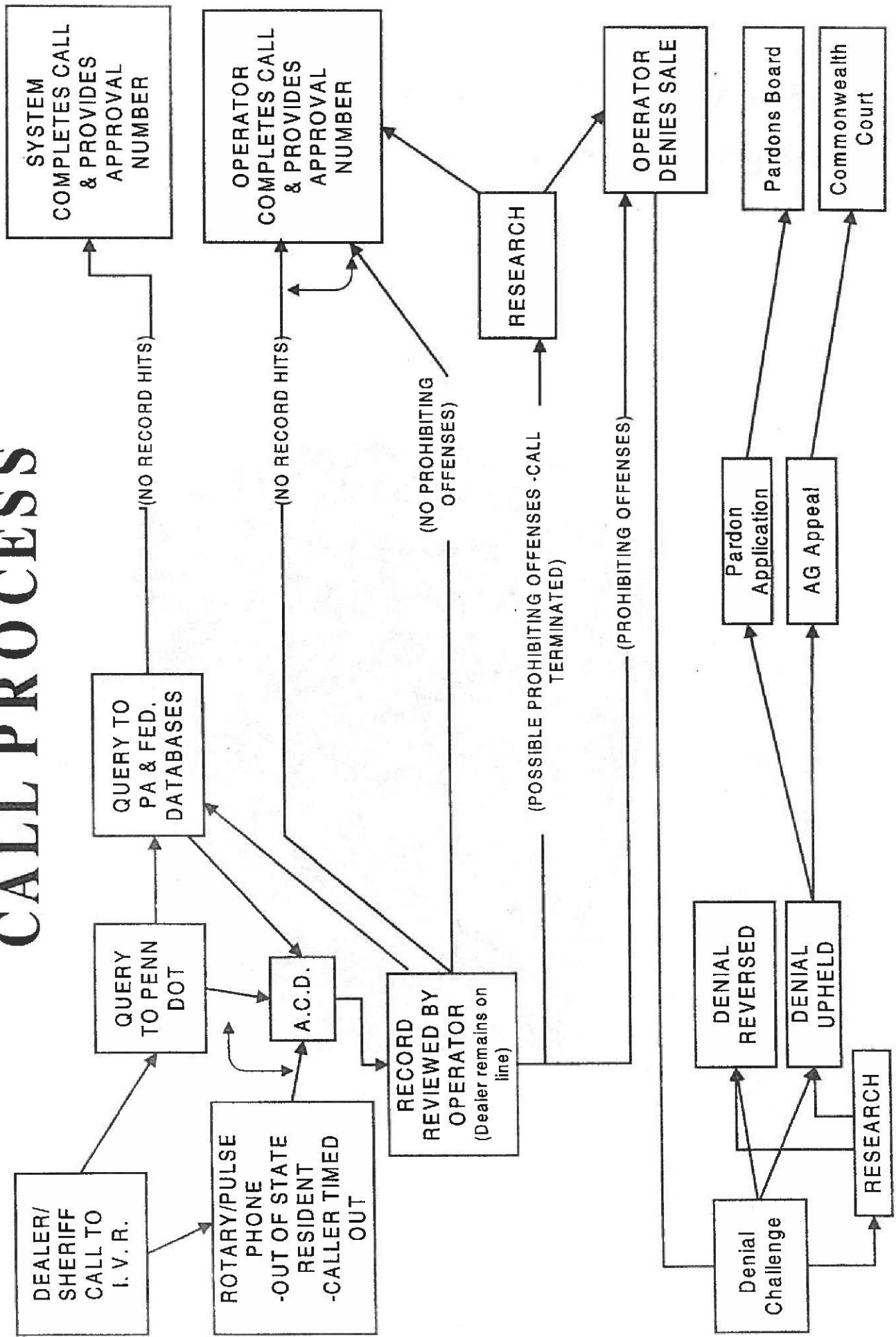
In conclusion, the Pennsylvania State Police would like to express our appreciation to the Pennsylvania Firearm Dealers, for their continuing support of the PICS, and to local, state, and federal law enforcement agencies, who continue to support and enforce the primary objective of the Uniform Firearms Act, and the safety of the people of our Commonwealth.

PENNSYLVANIA STATE POLICE

Pennsylvania Instant Check System



PIUS CALL PROCESS



The Pennsylvania
Instant Check System

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Overview

- UFA review
- PICS process:
 - Pa. & Fed databases searched
- Questions

Uniform Firearms Act

- Acts:
 - 17 of 1995 (SS1)
 - 66 of 1995
- Amended four times since 1995
- Effective Dates:
 - Handgun sales: July 1, 1998
 - All firearms: November 30, 1998

Pennsylvania Databases

- Pa. Criminal Record History
 - Juvenile Criminal History
- Active Protection From Abuse Orders
- Mental Health
- Missing and Wanted files
 - Warrants, etc..

UFA Disqualifying Offenses:

- Violent Crimes:
 - Murder, Manslaughter, Agg. assault, Kidnapping, Unlawful restraint
- Sex Crimes:
 - Rape, Agg. Sex assault, IDSI, Agg. indecent assault
- Property Offenses:
 - Burglary, Robbery, Arson, Felony Criminal Trespass, Theft and RSP upon conviction of second felony
- Weapons Offenses:
 - Prohib. Off. Weap., Weapons on School Property, Possession by a minor, Sale/lease of weapons, Riot w/firearm, weapons for escape
- Other Offenses:
 - 3 or more DUIs, Corrupt org.s., Harassment and stalking, impersonating a cop, Corruption of a minor, Intimidation/retaliation against a witness

Other UFA Disqualifying Offenses

- Juvenile Adjudication of delinquency of any crime in 6105 (extends 15 years past last adjudication or to age 30)
- Drug Conviction > 2 years imprisonment
- Same or similar offense(s)

Pennsylvania Databases

- Pa. Criminal Record History
 - Juvenile Criminal History
- Active Protection From Abuse Orders
- Mental Health
- Missing and Wanted files
 - Warrants, etc..
 - 142 wanted individuals apprehended.

NICS: Federal Databases

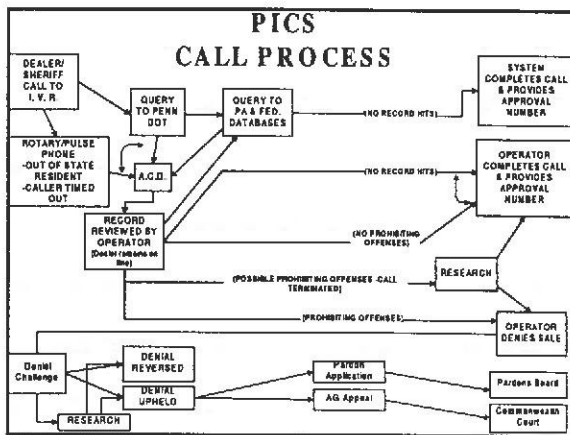
- NCIC: Criminal Record History
 - Interstate Identification Index (III)
- Immigration & Naturalization Service
 - Citizenship, illegal aliens ...
- Department of Defense
 - Military Records
- Civil (mental health) Commitments
- Protection Orders

GCA Disqualifying Offenses (FFL restrictions)

- Felony Crimes of Violence
- State Misdemeanor Crimes for term of imprisonment > 2yrs.
- Misdemeanor Crime of Domestic Violence
- Federal Firearm Crimes
- Prohibiting State Offense

NICS: Federal Databases

- NCIC: Criminal Record History
 - Interstate Identification Index (III)
- Immigration & Naturalization Service
 - Citizenship, illegal aliens ...
- Department of Defense
 - Military Records
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PICS Statistical Overview

Total Calls to the PICS
-7/1/98 - 11/26/99: 671,013

- **IVR Percentages**
-7/1/98 - 11/26/99: 62%

PICS Denials & Appeals

Total Denials (7/1/98- 11/26/99):
17,456

Denial Challenge Forms
Received: 8,306

Denials Reversed: 3,333

On Behalf of the PSP.....

THANK
YOU

Questions?
