

## Public Hearing On Pennsylvania Procedure for Firearm Background Checks

### Hearing Testimony

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I would like to start my testimony with a simple question, not to be answered immediately by anyone in attendance but to simply be thought of as we review the testimony of the day and the issue at hand. That question is, very simply, why are we here? I know why I am here. I am here because I asked to be here, because I feel that each of us needs to look closely at why we are discussing background checks today. If we are here today to take an honest look at how background checks to purchase or transfer firearms are conducted then progress may be made. We need to address inefficiencies and flaws in the system and to work towards ensuring that the system both works easily for the law abiding to use and works easily to prevent criminals from legally transferring arms.

However, it is clear to me that there is an alternative motive for some at this hearing. For some this is just a show where they can pretend to reach out to those with different views on firearms rights. Listening to the plain, tired, and dry testimonies about the procedural flaws with our current background check system can be just one check-box on the list of ways to pretend to consider legislation and policy in an honest manner. If we are here solely to appease those who want to grandstand with poll numbers and ideology, while they ignore the procedural challenges of expanding a background check system, then this hearing is a nice and expensive waste of taxpayer money.

Speaking of polls, I am one of the declared ninety percent of Americans that actually supports having a background check done before firearms are transferred. I also reflect personally, and rest assured I am not alone on this, the fact that what the poll numbers do not reveal is that individuals do care about those dry and sometimes annoying details about how the background check system works. There is a very simple reason for this, and that reason is that I am not alone in caring deeply about critiquing any legal proposal that can act as a barrier to the exercise of a fundamental civil right.

Our current background check system has fundamental flaws that threaten those rights and current legislative proposals to expand the system make not a single effort to address these flaws. That is not surprising to me of course, as the short lists of cosponsors on legislation currently before this body reveals that many of the cosponsors to expanding background checks would like to quickly move on to other more restrictive measures of control. The slippery slope fallacy is only a fallacy if there isn't strikingly clear evidence of what individuals seek to do next. We have that evidence, in the form of legislation, and the evidence reveals that alternative motive I mentioned just a minute ago.

If the general assembly is willing to actually address the ways that our current background check system delays, denies, and deters some individuals from transferring firearms, both lawfully and unlawfully, then I am willing to aid in that desire to make our system more efficient, less costly, and less obtrusive into the lives and business of lawful firearms owners. If however the general assembly only seeks to expand the system in a way that is more costly and that expands the current abuses of due process and denials of civil liberties then I will remain ardently opposed to reactionary legislation that doesn't seek to make our system work and work well for everyone who uses it.

## Public Hearing On Pennsylvania Procedure for Firearm Background Checks

Let me assure the committee that I am not here to simply shout ideology or political rhetoric. I am here to extend an olive branch for a sincere and honest communication about the flaws of our current system. I will focus on two today given our limited time frame. Let me begin with the most obvious of flaws, and that is very simply that our current system is not physically or technologically capable of a massive increase in the number of background checks run. Given the size of our Commonwealth and the number of legally owned long guns that would be transferred through the system with any expansive new requirement it is readily apparent that the current strain on the infrastructure of the Pennsylvania Instant Check System (PICS) will only get worse unless immediately addressed.

This is a certainty, and most licensed dealers can easily relay numerous accounts of failed attempts to connect with PICS only to be met with silence on the telephone line, seemingly endless busy signals, or a message apologizing that the system is offline and will be operational at some unknown point in the future. I have personally dialed and redialed multiple telephone lines simultaneously for over an hour and a half only to be met with an additional hour long wait just to reach an operator to conduct a background check. I have also experienced the suspension of rights that occurs whenever extended downtime is needed for system maintenance.

To have the right to purchase or transfer arms summarily suspended for hours, perhaps for a weekend or longer whenever the Commonwealth feels it is necessary, without any immediate means of redress outside of court action should the promised maintenance deadlines not be met, is dangerous to the very order of liberty and is a problem that must be addressed. It is long past time that the Commonwealth learn how to conduct maintenance on the Pennsylvania Instant Check System without outright denying the citizenry's ability to exercise fundamental rights. Although, it is here that I must interject a technicality. Technically Pennsylvania law provides that dealers may conduct a sale when the Pennsylvania Instant Check System is not working, but only provided that certain conditions are met. One of those conditions is that the failure of the system must last for 48 hours. Dealers statewide are left with an inability to even measure how long a failure has occurred, or even if a system shutdown is the result of one technical failure or several. Without any accurate way to judge the clock on this requirement dealers simply refuse to conduct transfers during extended downtimes. Fixing all the uncertainty over this issue, however, is rather easy.

During times when PICS is down for maintenance Pennsylvania dealers need to be permitted to conduct background checks straight through the National Instant Check System. There is no reason to prohibit dealers in this Commonwealth from running checks through NICS. Federal law provides for this solution and our Commonwealth should welcome use of it. Our licenses to carry should also be able to be verified by dealers to avoid the requirement of costly, unnecessary, and redundant background checks at times of sales. Once again federal law provides for this solution, and enabling dealers to verify duly issued licenses as proof of eligibility for ownership will alleviate the number of calls to PICS and the strain on our current system. Thankfully extended downtimes are rare, but the very simple fact that rights may be suspended for days without means of conducting clearly lawful transfers is unacceptable.

## Public Hearing On Pennsylvania Procedure for Firearm Background Checks

The second flaw in the Pennsylvania Instant Check System that I wish to address is that the General Assembly has a history of inadequate oversight over the Pennsylvania Instant Check System and that this has led to a number of ongoing issues of particular concern should the system be expanded. For example, just one rare but problematic issue is that on the record of sale form required for each handgun transfer the transferee is requested to list place of employment and provide an address. I think it ought to be obvious to every member of the General Assembly that firearms owners take their privacy very seriously, and while there are strict protections under the law on the information provided the very simple fact that employer information is mandated increases the risks that employees who do not want their employers to know about what firearms they own may one day find that information has been improperly shared.

It is notable that such information is also mandated on applications for licenses to carry firearms and that there has been more than one instance in which private information about firearms ownership has been shared to employers without employee consent. Yes the law provides penalties for improper disclosure of such information but where an individual works is irrelevant to firearms transfers and there is no need for the disclosure of it by the transferee.

The General Assembly never asked or specifically authorized the Pennsylvania State Police to collect employer information, and employment is not a pre-requisite to purchasing or transferring a firearm. Considering that the current record of sale database retains private information on transferees for a period of time longer than even federal law allows the matter of privacy protections and concerns that an expanded background check system will later enable a full registry of ownership is legitimate enough that they need to be addressed. Proper protections, and realistic oversight, could alleviate these concerns at least for myself and for many others, but they must be carefully crafted if they are to have any chance of doing so.

I could delve much more greatly into the day to day issues dealers face with the current background check system, but I must leave time for everyone else to have their say on things. I will gladly continue the discussions of today with each and every member of the committee that seeks to improve our current system, but until we do improve it and ensure that the rights of all lawful citizens are protected I must oppose a rash expansion of it done in haste and not with the careful deliberation and care truly required of restrictions on fundamental liberties.