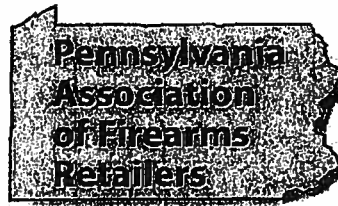


**TESTIMONY OF  
Joe Keffer  
President  
Pennsylvania Association of Firearms Retailers**



**PUBLIC HEARING BEFORE  
THE PENNSYLVANIA HOUSE OF REPRESENTATIVES  
REPUBLICAN POLICY COMMITTEE  
ON  
PENNSYLVANIA INSTANT CHECK SYSTEM  
VS.  
NATIONAL INSTANT CHECK SYSTEM**

**August 26, 2010**

Mr. Chairman, Members of the Committee, I appreciate the opportunity to appear before you today. I am President of the Pennsylvania Association of Firearms Retailers (PAFR) and my name is Joe Keffer. I am a business owner and licensed firearms dealer as well as a representative of the interests of my fellow firearms dealers on the issues before us today.

There are three major areas of concern that I would like to address. Please bear in mind that these are not the only areas of concern and many of those will be presented by others here today.

### Economic issues

In 1998 PA became an independent POC (Point of Contact) state for the purposes of conducting firearms background checks. The cost of the system is being borne directly by firearms purchasers and taxpayers in general. The charge of \$2.00 per background check plus \$3.00 per taxable transfer has been in place since the system was created. There is, and has been, repeated discussion of 'required system upgrades' that can only cause reasonable people to conclude that these "fees" (read taxes) will dramatically increase sometime in the future. In addition, unlike the outages experienced by firearms dealers within this state when accessing PICS on holidays or during hunting seasons or during the previous system upgrade, firearms dealers in other states do not report outages and delays in the same frequency or duration.

There is another more subtle problem with operation of the PICS system and that is the economic damages to dealers when the system misidentifies a purchaser and interrupts legitimate sales to law abiding citizens. In the tables below you will see the impact on just one dealer, Ace Sporting Goods- Washington County, from Jan/2010 to July/2010 and the length of time each approval required for a specific category - **Delayed**.

<b>Number of Delayed Sales &amp; Subsequent Approval–Customer Returned to Complete Sale</b>												
1 Days	2 Days	3 Days	6 Days	7 Days	8 Days	9 Days	10 Days	11 Days	12 Days	14 Days	15 Days	21 Days
1	1	2	1	2	1	1	4	2	2	1	1	1
<b>Total Delayed Customers - 20</b>												

<b>Number of Delayed Sales &amp; Subsequent Approval–Customer Did NOT Return to Complete Sale</b>							
2 Days	4 Days	6 Days	8 Days	10 Days	13 Days	15 Days	Net <u>Loss</u> To Dealer
1	2	1	1	2	1	1	
<b>Total Delayed Customers - 9</b>							

<b>Number of Delayed Sales – Customer Put in ‘Undetermined’ Status</b>								
1 Days	8 Days	10 Days	11 Days	12 Days	13 Days	14 Days	15 Days	Net <u>Loss</u> To Dealer
1	2	2	4	1	1	1	1	
<b>Total Delayed Customers in Undetermined Status - 13</b>								

The last category, 'undetermined', is perhaps the most troubling because it refers to a status that is not provided for in Pennsylvania law or Federal law. This places the purchaser in a legal limbo requiring the individual to essentially 'prove his innocence' before he/she can exercise their constitutional freedoms.

Now contrast the delays, in the previous tables, with the number of denials in the table below. It is important to point out that the majority of **denials** (22) occur ‘after’ the three day window provided for in federal law.

<b>Number of Sales – Customer ‘Denied’</b>										
1 Days	3 Days	6 Days	8 Days	10 Days	11 Days	12 Days	13 Days	14 Days	15 Days	16 Days
2	1	1	2	2	4	6	2	3	1	1
<b>Total Number of Denied Sales – 12 (PICS Records Indicate it is likely 39% will be challenged &amp; Approved)</b>										

*Because of geographical location, demographics and sales it is believed that the above itemization of one aspect – Delays of firearms sales – represents what the average dealer can experience when dealing with the PICS system.*

## Regulations / Laws

If a consumer is denied, he has only 30 days to file a challenge. 9000+ denials were issued in 2009. Of those, only 3700 challenged the denials. Of those, **1,448 were reversed** (39%). This obviously raises a number of questions and concerns. What of the 5,728 who didn’t challenge or “challenge within the deadline”. These individuals have a denial on their record and as such cannot ‘now’ even legally possess firearms. What percentage of these are errors? Using this figure of 39% would equate to a total of **2200** individuals being improperly denied their right to purchase/own a firearm if this denial error rate were extended to the entire number of denials for the 2009 calendar year and all denials had been challenged.

## Conflicting Interpretation of Law

At the most recent BATFE/PICS seminar for firearms dealers, a PSP PICS representative stated that unlike the Federal 4473 form, the person that is attempting to purchase a firearm must complete the PA ROS without assistance. “He must be able to READ-WRITE-COMPREHEND the questions without assistance. When questioned regarding the legality of this, the answer was that it falls within the “Administrative Regulatory Authority” of the PSP. The question is, is this position legal and, if so, upon what statutory authority is it based?

There are many forms of impairment that can make it difficult to complete the firearms forms and yet the individual is still able to utilize a firearm for a variety of reasons. This regulatory interpretation not only denials firearms sales but also effectively discriminates against these handicapped individuals and denies them the exercise of a constitutional right. It also calls into question their current ownership of firearms as well as once these individuals are denied it effectively means those around them (family and friends) cannot possess firearms either.

This is not the only time that the PSP PICS unit has adopted a stance absent legal authority. Pennsylvania Statute expressly prohibits completing a Record of Sale Form for rifles. However, just a few months ago the PSP began instructing dealers that they must instruct buyers to complete a record of sale form for certain rifles such as AR-15's and Thompson Contenders. Written inquiries from legislators convinced the PSP to stop instructing gun dealers to instruct gun buyers to violate the law.

## **Final Thoughts**

In closing, PAFR supports a change from a POC state to NICS. The NICS system (National Instant Check System) is in place and would replace PICS (Pennsylvania Instant Check System) at no direct cost to the consumer or the taxpayers of PA saving millions of dollars for taxpayers

On behalf of the organizations I represent I thank you, Mr. Chairman and the committee members, for the opportunity to testify here today. I would gladly answer any questions you may have at this time.

Respectfully, Joe Keffer

The Pennsylvania Association of Firearms Retailers (PAFR) is the only organization set up by firearms retailers for firearms retailers. PAFR provides firearms retailers in the state with a unified voice in Harrisburg and includes professional government relation's representation, representing every retail store, no matter the size, that deals in firearms and ammunition. We are taking a proactive approach to stopping frivolous legislation aimed at firearm retailers in the state of Pennsylvania.