



# NEWS RELEASE

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## Prohibited possessors of firearms due to mental health avoid arrest, prosecution

Florence, AZ (6/25/2013) - Today, a Pinal County Deputy Attorney spoke at the Meeting of Superior Court Presiding Judges conference in Arizona regarding shortfalls in reporting and tracking of prohibited possessors of firearms.

Geraldine Roll, a Principal Attorney in the Pinal County Attorney's Office, serves as a leading expert in Arizona representing the State on matters involving individuals with potential mental disorders. In Arizona, if a court determines an individual represents a danger to themselves or others or is persistently or acutely disabled or gravely disabled, a court may deem them a prohibited possessor if the individual is unwilling or unable to obtain treatment. Prohibited possessors also include convicted felons and undocumented aliens.

Deputy Attorney Roll spoke with the Superior Court Presiding Judges regarding access issues for local law enforcement and prosecutors to know whether an individual is a prohibited possessor. Mental health hearings remain understandably confidential, closed proceedings and all files related to the proceedings sealed. One of the few exceptions to this allows for reporting the person's name, date of birth, social security number, and date of commitment to the Arizona Department of Public Safety Concealed Weapons Unit for addition to the National Instant Criminal Background Check System (NICS) database as a prohibited possessor of firearms.

While mental health commitments qualify individuals as prohibited possessors, HIPAA Privacy Rules and state health privacy laws create obstacles for accessing NICS. The NICS database provides federal firearms and explosive dealers access to the data for background checks, but local law enforcement and prosecutors lack the ability to know whether a suspect or defendant exists on the list of prohibited possessors.

As a result, law enforcement agencies and county attorneys rely on criminal histories and therefore, can only charge formerly convicted felons or undocumented aliens for misconduct involving a weapon due to prohibited possession. When deemed as such as a result of mental health disorders, these individuals may not legally purchase a weapon, but do avoid being arrested or charged for violating their court determined prohibited possessor designation.

Roll said, "we are making prohibited possessors in the state every year, but no one can find out who they are."

Pinal County Attorney Voyles expressed his appreciation for Roll's part in educating courts on the conflict and plans to work with the Arizona Prosecuting Attorney's Advisory Council to resolve this legislative issue. "This issue requires and demands resolution. Correction to this legislative oversight must occur prior to a tragedy; not after one," said Voyles.

As the Pinal County Attorney, Lando Voyles serves as the lead criminal prosecutor in the county and the lead legal representative for the county, as he also manages the civil division. Within the Pinal County Attorney's Office, his deputy attorneys each offer expertise in a variety of fields. To seek a speaker on a specific topic, please contact Jim Knupp at [jim.knupp@pinalcountyaz.gov](mailto:jim.knupp@pinalcountyaz.gov) to determine whether there is a legal subject matter expert fitting your organizational need.

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