

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

**ALLEGHENY COUNTY SPORTSMEN'S** )  
**LEAGUE, KIM STOLFER, RICHARD** )  
**Haid, LEHIGH VALLEY FIREARMS** )  
**COALITION, JOHN F. BRINSON** )  
and **JOHN J. IANNANTUONO,** )

Plaintiffs (Petitioners) )

V. )

**TOM RIDGE**, in his official capacity )  
as Governor of the Commonwealth of )  
Pennsylvania, **PAUL EVANKO**, in )  
his official capacity as Commonwealth )  
of Pennsylvania State Police Commissioner )  
and the **STATE POLICE OF THE** )  
**COMMONWEALTH OF** )  
**PENNSYLVANIA** (Pennsylvania State )  
Police), )

Defendants (Respondents) )

No. 565 MID 2000

Motion For Issuance Of Preliminary  
Injunction

Filed on Behalf of:

**ALLEGHENY SPORTSMEN'S**  
**LEAGUE, KIM STOLFER,**  
**RICHARD HAID, LEHIGH**  
**VALLEY FIREARMS**  
**COALITION, JOHN F.**  
**BRINSON, and JOHN J.**  
**IANNANTUONO,**  
Petitioners

Counsel for this party:

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Respondents (Respondents) )

**MOTION FOR ISSUANCE OF PRELIMINARY INJUNCTION**

COME NOW, Petitioners Allegheny County Sportsmen’s League et al., by their lawyer Jon Pushinsky, pursuant to Pa.R.Civ.P. 1531, and move for the issuance of a preliminary injunction prohibiting Respondents from maintaining their illegal handgun sales database and directing them to otherwise refrain from violating existing statutory restrictions on state record keeping of handgun sales. Petitioners have suffered and will continue to suffer irreparable injury for an indefinite period of time unless the court awards them preliminary relief pending final resolution of this matter on its merits. The following matters are brought to the court’s attention in support of this Motion:

1. Petitioners are four individuals and two organizations.
2. The two organizations bringing this action represent the interests of thousands of individuals from both Eastern and Western Pennsylvania.
3. The organizational Petitioners are committed to preserving the rights of firearm owners as set-forth in and protected by the constitutions of the United States and the Commonwealth of Pennsylvania. Both organizations actively work on behalf of their members to oppose any kind of governmental database or registry of firearm ownership.
4. The individual Petitioners, who are each members of one or the other of the organizational Petitioners, are firearm owners who believe that their ownership or possession of firearms is not a matter which should be permanently recorded in a governmental database. They further believe that such databases are subject to abuse by unscrupulous public officials and that they pose a threat to their right to own and possess firearms.
5. Each of the individual Petitioners and many members of the organizational Petitioners are included in a permanent handgun sales database maintained by and at the direction of Respondents.
6. Controlling state law prohibits the maintenance of the above referenced database by Respondents.
7. Whatever justification Respondents may have had in the past to maintain the subject database, that justification became inoperative in 1997 when the pertinent statute was amended so as to make continued maintenance of the database unlawful.
8. Although the Commonwealth is entitled to receive copies of handgun application/record of sales forms for the purpose of conducting required criminal history,

juvenile delinquency and mental health background checks, **it must destroy** those forms within 72 hours of completing the background checks. 18 Pa.C.S. §6111(b).

9. This referenced statute, 18 Pa.C.S. §6111 (b), provides in pertinent part:

no information on the application/ record of sale provided pursuant to this subsection shall be retained as precluded by section 6111.4 (relating to registration of firearms) by the Pennsylvania State Police either through retention of the application/record of sale or by entering the information on a computer, and, further, an application/record of sale received by the Pennsylvania State Police pursuant to this subsection shall be destroyed within 72 hours of the completion of the criminal history, juvenile delinquency and mental health records background check.

10. In addition to having to destroy the handgun application/record of sales forms, Respondents are also barred by 18 Pa.C.S. §6 111.4 from retaining any of the information appearing on those forms.

11. Section 6111.4, referenced in the previous paragraph, states in unequivocal terms that Respondents lack the authority to maintain the database at issue:

[N]othing in this chapter shall be construed to allow any government or law enforcement agency or any agent thereof to create, maintain or operate any registry of firearm ownership within this Commonwealth

12. Individual Petitioners and others known to them have contacted Respondents and/or Respondents' authorized agents to advise them of the illegality of the handgun sales database. It is Petitioners' understanding that Respondents have refused to destroy the database and that, absent a court order, they will continue recording information concerning the identity of those legally purchasing handguns in the Commonwealth.

13. Petitioners hereby incorporate by reference the additional pertinent facts contained in Petitioners' Complaint/Petition For Review and the Verified Statement of Kim Stolfer In Support Of Petitioners' Motion For The Issuance Of A Preliminary Injunction.

14. Respondents' retention of information regarding the individual Petitioners and many members of the organizational Petitioners in a permanent database, including said individuals' names, addresses, dates of birth, gender, race and social security number, amounts to irreparable harm for which they cannot be compensated through the award of monetary damages.

15. The cited statutory provisions, 18 Pa. C.S. §§ 6111 (b) and 6111.4, protect Petitioners' ability to exercise, with anonymity, their fundamental constitutional right to own a firearm. Respondents' database nullifies that anonymity which the legislature sought to guarantee.

16. In light of the clear legislative mandate contained in the above referenced statutory provisions, Petitioners have a high probability of success on the merits of their claims.

17. Since Petitioners seek to remedy the flagrant violation of unambiguous state law by high government officials and a law enforcement agency, the award of Petitioners' requested relief is in the public interest and would tend to enhance public confidence in state government.

18. There is a general societal benefit in ensuring that public officials and governmental entities respect and obey the law to the same degree as the general population.

19. Issuance of the requested preliminary injunction will not harm the Respondents in any way.

WHEREFORE, Petitioners respectfully request that the court enter an order scheduling an expeditious hearing on the instant Motion and that, following said hearing, an order be entered directing Respondents to destroy their permanent database regarding handgun sales and prohibiting them from retaining the information contained on handgun application/record of sale forms beyond the period of time necessary to conduct required background checks.

Respectfully submitted,

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