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COMMONWEALTH OF PENNSYLVANIA
HARRISBURG

June 27, 2000

Captain Jeffrey B. Miller
Legislative Liaison
Pennsylvania State Police
1800 Elmerton Avenue
Harrisburg, PA 17110

Dear Captain Miller:

We appreciate the response which you provided to our earlier inquiries regarding the Pennsylvania State Police practice of maintaining a registry of handgun sales. We want to note, however, that we were disappointed you were not able to cite any specific statutory authority regarding the registry.

We continue to use the word registry because, according to the Statutory Construction Act of 1972, words are to be construed "according to their common and approved usage." 1 Pa.C.S.A. § 1903. Webster's II New Collegiate Dictionary (1995) defines "registry" as "Registration (or).. a place for registering." In turn, "registration" is defined as "An act of registering (or). . . an entry in a register." Finally, "register" is defined as "A formal or official recording of items, names or actions." We are at a loss concerning any distinction between your maintenance of records of sale and a "registry."

The prohibition of 18 Pa.C.S.A. § 6111.4 regarding registries, including the legislative intent of that section, seems to speak for itself. However, in this letter we would like to focus on the provisions of 18 Pa. C. S .A. § 6111 which were discussed in our original correspondence. The second-to-last paragraph of your reply, dated June 13, 2000, reads as follows:

"As to your concern regarding long gun records of sale, please note that, absent mechanical failure of PICS, no record of sale exists for long guns. When there is a mechanical failure of the PICS system requiring

completion of long gun records of sale, this information is equivalent to a PICS document, which is purged after completion of the PICS check.”

The aforementioned lack of statutory citation in the above paragraph makes it difficult to respond, but it appears you were referring to portions of 18 Pa.C.S.A. § 6111. According to the language of that section, no information on any application/record of sale may be maintained by the Pennsylvania State Police.

First, it may be helpful to consider a section of the Pennsylvania Consolidated Statutes, specifically 1 Pa.C.S.A. § 301, dealing with statutory arrangement. The Consolidated Statutes are divided up into Titles, such as Title 18 (Crimes Code), and then other major subdivisions, such as parts, articles, chapters. For example, Part II, Article G, Chapter 61 of Title 18 deals with “Firearms and Other Dangerous Articles.” Subpart A of that chapter is entitled Uniform Firearms Act. Further subdivision results in sections, identified by Arabic numerals. Sections are “subdivided into **subsections, paragraphs, subparagraphs** and such other minor subdivisions as may be required...” 1 Pa.C.S.A. § 301(c) (emphasis added).

Once the arrangement of Consolidated Statutes is taken into consideration, it becomes clear that 18 Pa.C.S.A. § 6111 prohibits the maintenance of any records of sale.

18 Pa.C.S.A. § 6111. Sale or transfer of firearms.

* * * *

(b) Duty of seller.--No licensed importer, licensed manufacturer or licensed dealer shall sell or deliver any firearm to another person, other than a licensed importer, licensed manufacturer, licensed dealer or licensed collector, until the conditions of subsection (a) have been satisfied and until he has:

(1) For purposes of a firearm as defined in section 6102 (relating to definitions), obtained a completed application! record of sale from the potential buyer or transferee to be filled out in triplicate, the original copy to be sent to the Pennsylvania State Police, postmarked via first class mail, within 14 days of the sale, one copy to be retained by the licensed importer, licensed manufacturer or licensed dealer for a period of 20 years and one copy to be provided to the purchaser or transferee. The form of this application/record of sale shall be no more than one page in length and shall be promulgated by the Pennsylvania State Police and provided by the licensed importer,

licensed manufacturer or licensed dealer. The application/record of sale shall include the name, address, birthdate, gender, race, physical description and Social Security number of the purchaser or transferee, the date of the application and the caliber, length of barrel, make, model and manufacturers number of the firearm to be purchased or transferred.

(1.1) On the date of publication in the Pennsylvania Bulletin of a notice by the Pennsylvania State Police that the instantaneous records check has been implemented, all of the following shall apply:

(i) In the event of an electronic failure under section 6111.1 (b)(2) (relating to Pennsylvania State Police) for purposes of a firearm which exceeds the barrel and related lengths set forth in section 6102, obtained a completed application/record of sale from the potential buyer or transferee to be filled out in triplicate, the original copy to be sent to the Pennsylvania State Police, postmarked via first class mail, within 14 days of sale, one copy to be retained by the licensed importer, licensed manufacturer or licensed dealer for a period of 20 years and one copy to be provided to the purchaser or transferee. (ii) The form of the application/record of sale shall be no more than one page in length and shall be promulgated by the Pennsylvania State Police and provided by the licensed importer, licensed manufacturer or licensed dealer.

(iii) For purposes of conducting the criminal history, juvenile delinquency and mental health records background check which shall be completed within ten days of receipt of the information from the dealer, the application/record of sale shall include the name, address, birthdate, gender, race, physical description and Social Security number of the purchaser or transferee and the date of application. (iv) No information regarding the type of firearm need be included other than an indication that the firearm exceeds the barrel lengths set forth in section 6102.

(v) Unless it has been discovered pursuant to a criminal history, juvenile delinquency and mental health records background check that the potential purchaser or transferee is prohibited from possessing a firearm pursuant to section 6105 (relating to persons not to possess, use, manufacture, control, sell or transfer firearms), **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 onto 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.

(1.2) Fees collected under paragraph (3) and section 6111.2 (relating to firearm sales surcharge) shall be transmitted to the Pennsylvania State Police within 14 days of collection.


(emphasis added).

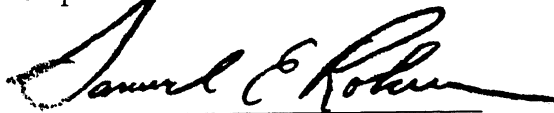
An analysis of Section 6111 finds that “(b) Duty of Seller” is a subsection, divided into a number of paragraphs, including “(1.1)”, which are further divided into subparagraphs, such as “(iv)”, which is the subparagraph containing language relevant to this topic. While subparagraph (i), under Section 6111 (b)(1.1), specifically limits its application to long guns, not all of the other subparagraphs are so limited. If you look at the language highlighted in subparagraph (iv), it becomes very clear that the prohibitions and required destruction of applications/records of sale cover all applications/records of sale **“provided pursuant to this subsection.”** This refers to subsection (b) of Section 6111, which covers applications/records of sale for both long guns and handguns (handguns specifically within Section 6111, **subsection (b)**, paragraph (1)).

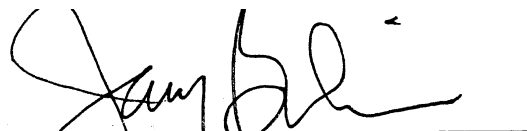
We would ask you to provide us with confirmation that the Pennsylvania State Police intend to comply with the law and destroy all applications/records of sale and information gleaned from those applications/records of sale. Thank you in advance for your prompt attention to this matter.

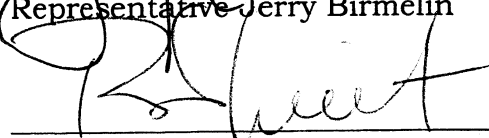
Sincerely,

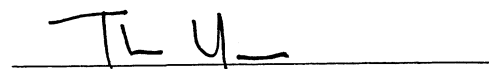

Representative Daryl Metcalfe

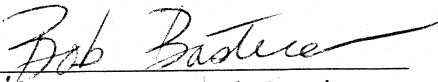

Representative Scott Hutchinson

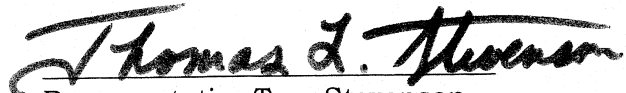

Representative Samuel Rohrer

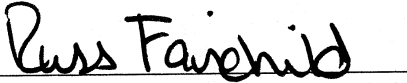

Representative Jerry Birmelin

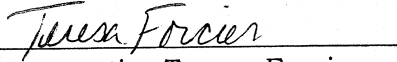

Representative Rod Wilt



Representative Thomas Yewcic

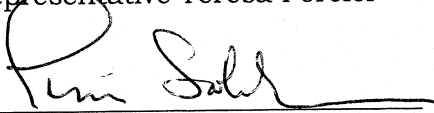

Representative Bob Bastian

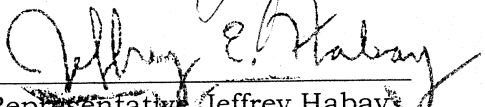

Representative Tom Stevenson


Representative Russ Fairchild


Representative Teresa Forcier


Representative Allan Egolf


Representative Timothy Solobay


Representative Jeffrey Habay

cc: Governor Tom Ridge, Colonel Evanko

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