

IN THE COMMONWEALTH COURT OF PENNSYLVANIA

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

Plaintiffs (Petitioners) )

No. 565 MD 2000

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, )

Defendants (Respondents) )

***COMPLAINT IN EQUITY***

***I. INTRODUCTORY STATEMENT***

1. Plaintiffs, individuals and organizations representing the interests of thousands of Pennsylvania firearms owners, bring this action to challenge Defendants' unlawful practice of maintaining a permanent data bank regarding all legitimate handgun sales in the Commonwealth.

2. Plaintiff's base their claims on state statutes which prohibit Defendants from retaining the information in the database at issue.

## ***II. JURISDICTION***

3. The jurisdiction of this court to adjudicate Plaintiffs' claims is premised upon 42 Pa. C. S. § 761 which concerns the original jurisdiction of the Commonwealth Court over "all civil actions or proceedings [a]gainst the Commonwealth government, including any officer thereof, acting in his official capacity ...." Jurisdiction is also invoked pursuant to Chapter 15 of the Pennsylvania Rules of Appellate Procedure.

## ***III. PARTIES***

### ***A. PLAINTIFFS***

4. Plaintiff Allegheny County Sportsmen's League (hereinafter referred to as "League") is a non-profit Pennsylvania corporation with 46 member organizations throughout Allegheny County. The League and its member organizations have thousands of individual members.

5. The League is committed to advancing the interests of Allegheny County firearms owners. The League opposes and actively works to defeat efforts to restrict and infringe the right to own and bear arms as protected by federal and state constitutional and statutory provisions.

6. Plaintiff Kim Stolfer is an adult resident of McDonald, Allegheny County. He currently serves as the Vice-Chair of the League's Legislative Committee.

7. Plaintiff Richard Haid is an adult resident of Pittsburgh, Allegheny County. He is an active participant in the League's affairs.

8. Plaintiff Lehigh Valley Firearms Coalition (hereinafter referred to as "LVFC") is a non-profit Pennsylvania corporation with numerous organizational and individual members throughout the Pennsylvania Lehigh Valley.

9. The LVFC is dedicated to protecting and preserving the right of people to keep and bear arms and, thus, actively opposes any effort by the government to establish or maintain any type of firearm registry.

10. Plaintiff John F. Brinson is an adult resident of Breinigsville, Pennsylvania. He is the current LVFC Chairman.

11. Plaintiff John J. Iannantuono is an adult resident of Schnecksville, Pennsylvania. He is the current LVFC Vice-Chairman.

***B. DEFENDANTS***

12. Defendant Tom Ridge is the Governor of the Commonwealth of Pennsylvania. As Governor, Defendant Ridge serves as the chief executive officer of the Commonwealth. He has ultimate responsibility for the conduct of those Commonwealth executive or administrative agencies and departments whose activities are at issue in this case. Defendant Ridge is charged by statute with ensuring that the laws of the Commonwealth are faithfully executed.

13. Defendant Ridge's office is located at 225 Capitol, Harrisburg, PA 17120.

14. Defendant Paul Evanko currently serves as the Commissioner of the Pennsylvania State Police, a cabinet level position. As State Police Commissioner, Defendant Evanko is the head and executive officer of the Pennsylvania State Police. He is the person primarily responsible for ensuring that the State Police, as a department of state government, conducts itself in conformity with controlling law.

15. Defendant Evanko's office is located at 1800 Elmerton Avenue, Harrisburg, PA 17110-9758.

16. Defendant State Police of the Commonwealth of Pennsylvania (Pennsylvania State Police) is an executive department of the state government. The Pennsylvania State Police is the primary law enforcement agency of the Commonwealth.
17. The office address for the Pennsylvania State Police is 1800 Elmerton Avenue, Harrisburg, PA 17110-9758.

#### ***IV. FACTS***

18. Plaintiff Kim Stolfer is the legal owner of firearms.
19. Among the firearms owned by Mr. Stolfer is at least one handgun which he purchased in Pennsylvania during the past several years.
20. Plaintiff Richard Haid is also a legal owner of firearms.
21. Among Mr. Haid's firearms is at least one handgun which he purchased in Pennsylvania during the past several years.
22. Plaintiff John F. Brinson is also a legal owner of firearms.
23. Among Mr. Brinson's firearms is at least one handgun which he purchased in Pennsylvania during the past several years.
24. Plaintiff John J. Iannantuono is also a legal owner of firearms.
25. Among Mr. Iannantuono's firearms is at least one handgun which he purchased in Pennsylvania during the past several years.
26. The vast majority of individuals represented by the League are owners of legal firearms.
27. Upon information and belief, Plaintiffs aver that many of the League's members have purchased handguns within the Commonwealth.

28. The vast majority of individuals represented by the LVFC are legal firearms owners.

29. Upon information and belief, Plaintiffs aver that many of the LVFC's members have purchased handguns within the Commonwealth.

30. Pursuant to controlling state law, the handgun purchasers referenced above have had to provide certain identifying information to a licensed Pennsylvania handgun dealer at the time of making their respective purchases.

31. The information required to be provided by a purchaser in order to complete the sale of a handgun includes, but is not limited to, his/her name, address, date of birth, gender, race and social security number.

32. The identifying information provided by a purchaser is recorded on a one page application/record of sale promulgated by the State Police.

33. Pursuant to state law, the licensed firearms dealer forwards all completed original application/record of sale records to the State Police.

34. Upon receipt of the completed application/record of sale forms, the State Police conduct a criminal history, juvenile delinquency and mental health background check to determine whether the buyer/transferee is statutorily barred from owning or possessing a firearm.

35. The State Police are required to destroy application/record of sale forms within 72 hours of completing a required background check.

36. Furthermore, the State Police are prohibited from retaining any of the information on an application/record of sale form or from entering any of the information onto a computer.

37. The practice of the State Police is not to destroy the application/record of sale form after completing required background checks.

38. Rather, the State Police, pursuant to the policies and practices promulgated by the individual Defendants, maintains a database of all legal handgun sales in Pennsylvania.

39. The State Police handgun sale database consists of information taken from the handgun application/record of sale forms.

40. The State Police handgun sale database records information regarding transactions going back approximately 70 years.

41. Information concerning approximately 160,000 handgun sales/transfers was added to the State Police's database in the 1999 calendar year alone.

42. By virtue of their own handgun purchases, personal information concerning the individual Plaintiffs and many members of the organizational Plaintiffs is recorded in the handgun database maintained by the State Police.

43. Plaintiffs object to the inclusion of information concerning their legal handgun purchases and those of their members in records maintained by the State Police for any period beyond that reasonably necessary to complete required background checks.

44. By letter dated August 7, 2000, Plaintiff Stolfer notified Defendant Evanko of his opposition to being included in the database maintained by the State Police and demanded that such information be purged from the State police handgun transaction files.

45. To date, Defendant Evanko has refused to comply with Mr. Stolfer's request to remove references to him from the handgun transaction database.

46. Plaintiff Haid also wrote a letter to Defendant Evanko on August 7, 2000. Like Mr. Stolfer, Mr. Haid demanded that references to him be removed from the files of the State Police.

47. According to the information available to Plaintiffs, Defendant Evanko has yet to comply with Mr. Haid's request.

48. By letter dated August 10, 2000, William A. Duff, a League supporter, informed Defendant Evanko that he objects to being included in the files of the State Police. Through his letter, Mr. Duff 'insist[s] on the removal of all references to me from the database.'

49. Plaintiffs believe and therefore aver that Defendant Evanko has not complied with Mr. Duff's request.

50. John J. Iannantuono, Vice-Chairman of LVFC, also sent a letter to Defendant Evanko expressing his objections to inclusion in the State Police handgun registry.

51. Plaintiffs believe and therefore aver that Defendant Evanko has not complied with Mr. Iannantuono's request.

52. John F. Brinson, Chairman of the LVFC, wrote a letter to Fritz Bittenbender, Defendant Ridge's Public Liason Director, dated September 20, 2000. In this letter, Mr. Brinson expresses his opposition to the maintenance of the State Police handgun database.

53. Plaintiffs believe and therefore aver that no action was taken to terminate the State Police handgun database as a result of Mr. Brinson's letter of September 20, 2000.

54. The organizational Plaintiffs consider the State Police handgun sales database to be prohibited by state law and as a threat to the right of their individual members to keep and bear arms.

55. Defendant Ridge has been informed of the State Police practice forming the basis of this action and of the grounds for Plaintiffs' opposition to the practice.

56. Rather than fulfilling his duty as Governor to ensure the faithful execution of the Commonwealth's laws by directing the other Defendants to cease and desist their illegal practices, Defendant Ridge has publicly communicated his approval of the handgun database maintained by his administration.

57. In light of the endorsement of Defendant Ridge, Pennsylvania's Governor, the Pennsylvania State Police have stated their intention to continue the practice of collecting and retaining handgun sale information.

58. Defendants Ridge and Evanko are the state officials with the duty and authority to ensure that the State Police act in accordance with controlling law.

59. Individual Plaintiffs and the members of the organizational Plaintiffs suffer a continuing statutory injury and invasion of their privacy as a result of Defendants' failure to comply with the law.

60. Plaintiffs are without an adequate remedy at law with which to protect their rights from Defendants' ongoing unlawful conduct.

## **V. LEGAL CLAIMS**

### **A. 18Pa.C.S. §6111**

61. Section 6111 (b)(1) of the Pennsylvania Crimes Code, 18 Pa.C.S. §6111 (b)(1), requires licensed firearms dealers to obtain a completed application/record of sale from potential handgun purchasers or transferees.

62. Pursuant to the Crimes Code, dealers must retain one copy of the completed form for a period of twenty (20) years; one copy must be sent to the State Police; and a third copy must be given to the purchaser/transferee. 18 Pa.C.S. §6111 (b).

63. The information on the application/record of sale may be used by the State Police for purposes of conducting required criminal history, juvenile delinquency and mental health background checks. 18 Pa.C.S. §6111 (b).

64. The State Police are required to destroy the application/record of sale “within 72 hours of the completion of the criminal history, juvenile delinquency and mental health records background check.” 18 Pa.C.S. §6111 (b).

65. The State Police are further prohibited from retaining any of the information appearing on the application/record of sale form. 18 Pa.C.S. §6111 (b).

66. The practices of Defendants in maintaining the State Police handgun database, as more fully described above, amount to violations of the statutory duty to destroy handgun application/record of sale forms and the statutory prohibition against the retention of information contained in such forms.

WHEREFORE, Plaintiffs request entry of the following relief:

1. that the Commonwealth Court exercise jurisdiction over this case;
2. that the court issue appropriate declaratory relief, including a declaration that Defendants have violated the record maintenance provisions of 18 Pa.C.S. §6111 (b);
3. that the court issue appropriate injunctive relief, including an order directing Defendants to destroy the State Police file of handgun application/record of sale forms and

prohibiting them from retaining the information appearing on said forms beyond the period of time necessary to conduct required background checks;

4. that the court award Plaintiffs attorney's fees and costs;
5. that the court grant Plaintiffs such other relief as it deems just and equitable.

**B. 18 Pa.C.S. §6111.4**

67. Plaintiffs hereby incorporate paragraphs 1 - 64 above by reference and make them a part of this legal claim as if fully stated herein.

68. Section 6111.4 of the Pennsylvania Crimes Code, 18 Pa. CS. §6111.4, prohibits any Pennsylvania "government, or law enforcement agency or any agent thereof" from creating, maintaining or operating a registry of firearms ownership within the Commonwealth.

69. The policies and practices of Defendants, as is more fully described above, constitutes the creation, maintenance and operation of a prohibited firearms' ownership registry.

WHEREFORE, Plaintiffs request entry of the following relief:

1. that the Commonwealth Court exercise jurisdiction over this case;
2. that the court issue appropriate declaratory relief including a declaration that

Defendants have violated the prohibition against a state firearms' ownership registry contained in 18 Pa.C.S. §6111.4;

3 . that the court issue appropriate injunctive relief including an order directing Defendants to discontinue and destroy the unlawful State Police operated firearms' ownership registry described above;

4. that the court award Plaintiffs attorney's fees and costs;

5. that the court grant Plaintiffs such other relief as it deems just and equitable.

Respectfully submitted,

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