

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<p>JOHN DOE I, et al.,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>COLONEL TYREE V. BLOCKER, in his official capacity as Commissioner of the Pennsylvania State Police,</p> <p style="text-align: center;">Defendant.</p>	<p>Case No. 2:16-cv-6039</p>
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**PLAINTIFFS' MOTION TO COMPEL ANSWERS TO INTERROGATORIES
AND FULL AND COMPLETE RESPONSES TO DOCUMENT REQUESTS**

Plaintiffs John Doe I and John Doe II (collectively "Plaintiffs"), by and through their undersigned counsel, hereby file this Motion to Compel interrogatory answers and full and complete responses to the requests for production of documents served over five months ago on Defendant Colonel Tyree V. Blocker ("Colonel Blocker" or "Defendant"), in his official capacity as the Commissioner of the Pennsylvania State Police. *See* FED. R. CIV. P. 37(a)(3)(B).

On November 3, 2017, Plaintiffs served their discovery requests upon Colonel Blocker. Since that date, Defendant has failed to respond adequately. On January 19, 2018, Colonel Blocker provided belated and woefully deficient responses to Plaintiffs' document requests together with boilerplate objections. Colonel Blocker has never answered or objected to the interrogatories. For months now, Counsel for Plaintiffs engaged in a series of conferences with the Office of the Attorney General representing Colonel Blocker in an unsuccessful attempt to obtain this discovery without need for Court intervention. As part of those conferences, on

February 26, 2018, Plaintiffs agreed to provide Defendant an additional two weeks (until March 12, 2018) to complete document responses and to provide interrogatory answers. Unfortunately, despite many weeks of discussion, Colonel Blocker offered no additional discovery responses.

Accordingly, Counsel for Plaintiffs requested a conference with this Court to resolve the discovery impasse, which the Court scheduled for March 22, 2018. The day prior, Colonel Blocker transmitted several additional documents to Plaintiffs' Counsel. Like Defendant's prior responses, this supplemental document production was anemic and, indeed, duplicated a number of documents previously produced by Colonel Blocker in his prior production. Colonel Blocker did not produce any responses to Plaintiffs' interrogatories.

During the conference with this Court, held on March 22, 2018, Counsel for Colonel Blocker committed to provide full and complete discovery responses – and, if appropriate, a completed privilege log – by April 12, 2018. Prior to that deadline, Counsel for Plaintiffs reviewed the responses to date and documents produced and served Counsel for Colonel Blocker a letter on March 29, 2018, setting out a detailed meet and confer request regarding Colonel Blocker's discovery deficiencies. Counsel for Colonel Blocker did not respond to Plaintiffs' letter. Two weeks later, the April 12, 2018 deadline agreed to by Counsel for Colonel Blocker passed without further production of discovery responses. Colonel Blocker has again failed to timely respond with any additional documents or with a privilege log for any responsive documents withheld. Moreover, Colonel Blocker has not responded to Plaintiffs' now five-months-old Interrogatories.

Counsel for Plaintiffs asked to meet and confer by telephone with Counsel for Colonel Blocker on Monday, April 16, 2018, to address these failures. At that teleconference, Counsel for Colonel Blocker stood on the boilerplate objections in the responses to requests for production,

but promised more discovery responses would be forthcoming. Counsel for Colonel Blocker could not provide a firm date for the provision of interrogatory answers, or further documents, or a privilege log. Counsel for Plaintiffs have brought this Motion to Compel because of Defendant's repeated failures to meet his discovery obligations, even in the face of Colonel Blocker's Counsel's representations to this Court that an April 12, 2018 deadline would not be an issue.

Plaintiffs' Interrogatories and Document Requests: (i) fall squarely within the scope of discovery permitted by Rule 26(b) of the Federal Rules of Civil Procedure; and (ii) seek information that is relevant to their claims and that is not protected by privilege. Colonel Blocker's boilerplate objections are not valid. Colonel Blocker's refusal to produce the requested information and documentation after all this time is inexcusable, especially in light of the representations made to this Court by Colonel Blocker's counsel. The Court has already moved the fact discovery deadline once to July 31, 2018, but Colonel Blocker's refusal to provide timely discovery responses threatens even that extended deadline.

In support of this Motion, Plaintiffs rely upon the attached Attorney Certification of Good Faith.

WHEREFORE, Plaintiff respectfully requests that this Honorable Court grant this Motion and order the provision of interrogatory answers and full and complete production of responsive documents and any privilege log within seven days of the Court's order.

Respectfully submitted

/s/
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Attorneys for Plaintiffs

Dated: April 19, 2018

ATTORNEY CERTIFICATION OF GOOD FAITH

We, Jonathan S. Goldstein, Esq., and Shawn M. Rodgers, Esq., counsel for Plaintiffs, hereby certify and attest as follows:

On November 3, 2017, Plaintiffs served interrogatories and requests for production of document on Colonel Blocker. Attached with cover letter as Exhibit A. On January 19, 2018, Colonel Blocker served untimely Responses and Objections to the Requests for Production of Documents, Attached as Exhibit B. Colonel Blocker did not object to producing documents requested by 12 of the Plaintiffs' 23 requests: 1-8, 11, 14, 16, and 21. Colonel Blocker objected to 5 of the requests and agreed to provide policy and procedure documents only, but no statistics or individual information: 12, 15, 17, 22-23. Colonel Blocker objected to 2 of the requests and agreed only to provide statistics, but no individual information: 10, 13. Colonel Blocker objected to 4 of the requests and refused to provide anything: 9, 18, 19, 20. Colonel Blocker eventually produced 255 pages of documents.

In an effort to avoid the need for Court intervention, Counsel for Plaintiffs have engaged in numerous conferences with Counsel for Colonel Blocker before requesting the informal discovery conference held with the Court on March 22, 2018. For example, Plaintiffs engaged in a teleconference with Counsel for Colonel Blocker on February 26, 2018, in which Plaintiffs agreed to provide Defendant with an additional two weeks to address his discovery deficiencies. A copy of the email memorializing this agreement is attached as Exhibit C. Defendant's failure to abide by the agreed deadline reached on February 28, 2018, necessitated Plaintiffs' request to this Court for a discovery conference on March 16, 2018. A copy of that request is attached as Exhibit D. The day before that conference, Counsel for Colonel Blocker produced 320 pages of documents, 238 pages of which duplicated his earlier document production. Total production to

date is only 336 pages of documents. During the informal telephone conference with the Court on March 22, 2018, the Court set a deadline of April 12, 2018, by which Colonel Blocker was to complete his responses to Plaintiffs' discovery. Counsel for Colonel Blocker agreed to that deadline.

The Court subsequently entered a scheduling order requiring fact discovery to conclude by July 31, 2018. The parties had previously been working under the deadline for fact discovery of April 30, 2018, as set forth in their Rule 26(f) Report.

Following that conference, Counsel for Plaintiffs contacted Counsel for Colonel Blocker by emailed letter on March 29, 2018, attached as Exhibit E, detailing Plaintiffs' positions on Colonel Blocker's failure to provide interrogatory answers and full and complete document production and responding to Colonel Blocker's boilerplate objections to Plaintiffs' requests for production of documents. Counsel for Colonel Blocker did not respond to the letter, nor did Colonel Blocker provide interrogatory answers or any additional documents by April 12, 2018, the deadline provided by the Court and agreed to by Counsel for Colonel Blocker at the informal discovery conference.

Counsel for Plaintiffs requested to meet and confer with Counsel for Colonel Blocker by telephone on April 16, 2018. At that teleconference, Counsel for Colonel Blocker stood by her objections to request for production of documents and promised that additional discovery responses would be forthcoming but was unable to provide any firm date by which Colonel Blocker would provide interrogatory answers or additional documents and any privilege log.

Following this telephone conference on April 16, 2018, it was clear that the parties could not resolve this themselves. Despite all counsel's good faith attempts to resolve this dispute, counsel have been unable to do so. A genuine disagreement exists.

CERTIFIED TO THE COURT BY:

/s/

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Attorneys for Plaintiffs

Dated: April 19, 2018

CERTIFICATE OF SERVICE

I, Shawn M. Rodgers, Esq., hereby certify that on the 18th day of April, 2018, the foregoing Motion to Compel, and accompanying Attorney Certification of Good Faith, was filed electronically, is available for viewing and downloading from the ECF system of the United States District Court for the Eastern District of Pennsylvania, and has been served via the ECF system on the following individual(s).

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Attorney for Defendant Colonel Tyree V. Blocker, in his official capacity as the Commissioner of the Pennsylvania State Police^[1]_{SEP}

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Date: April 19, 2018

EXHIBIT A



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November 3, 2017

Kathy Le
Deputy Attorney General
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BY EMAIL (kle@attorneygeneral.gov) and FIRST CLASS MAIL

RE: John Doe, et al. v. Wolf, et al., U.S.D.C., E.D. Pa., No. 2:16-cv-06039-JHS

Dear Kathy:

Please find enclosed the First Set of Interrogatories and the First Set of Requests for Production of Documents directed to the Defendant, Colonel Tyree V. Blocker, in his official capacity as Commissioner of the Pennsylvania State Police. Please do not hesitate to contact me, or any of my colleagues, with questions or concerns

Very truly yours,


Shawn M. Rodgers, Esq.

Cc: John Sweeney (vial email)
Jay Porter (vial email)

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<p>JOHN DOE I, et al.,</p> <p style="text-align: center;">Plaintiffs,</p> <p style="text-align: center;">v.</p> <p>COLONEL TYREE V. BLOCKER, in his official capacity as Commissioner of the Pennsylvania State Police,</p> <p style="text-align: center;">Defendant.</p>	<p>Case No.: 2:16-cv-6039</p>
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**PLAINTIFFS' FIRST SET OF INTERROGATORIES TO DEFENDANT
COLONEL TYREE V. BLOCKER**

Plaintiffs John Doe I and John Doe II (collectively Plaintiffs) pursuant to Rules 26 and 33, Federal Rules of Civil Procedure and Local Rule 26.1 of the United States District Court for the Eastern District of Pennsylvania, propound the following interrogatories to Defendant Colonel Tyree V. Blocker (Blocker), in his official capacity as the Commissioner of the Pennsylvania State Police. Each interrogatory shall be answered separately, plainly, fully, in writing, and under oath within thirty (30) days of service pursuant to Federal Rule of Civil Procedure 33.

Pursuant to Federal Rules of Civil Procedure 26(e), these interrogatories are ongoing in nature, and Defendant is under an obligation to supplement each inaccurate or incomplete answer.

DEFINITIONS

1. "Action" means *John Doe I, et al., v. Colonel Tyree V. Blocker*, Case No. 16-6039 (E.D. Pa.).

2. "Defendant," "you," or "your" means the defendant in this action, Colonel Tyree V. Blocker, in your official capacity as Commissioner of the Pennsylvania State Police, the Pennsylvania

State Police(“PSP”), and the PSP’s employees, agents, attorneys, representatives, and all others who are acting or have acted on the PSP’s behalf.

3. The phrase “Mental Health Procedures Act” (MHPA) refers to 50 Pa. Stat. §§ 7101–7505.

4. The phrase “Section 302” or “Temporary Emergency Commitment Statute” refers to Section 302 of the MHPA, 50 Pa. Stat. § 7302.

5. The phrase “Pennsylvania Uniform Firearms Act (PUFA) refers to 18 Pa. Const. Stat. Ann. §§ 6101–6127.

6. The phrase “Firearms Disqualification Statute” refers to 18 Pa. Const. Stat. Ann. § 6105(a)(1), (c)(4).

7. The phrase “Involuntary Commitment Reporting Statute” refers to 50 Pa. Stat. § 7109(d).

8. The phrase “Pennsylvania Instant Check System” (PICS) refers to the database identifying those individuals prohibited from possessing, using, controlling, selling, or transferring firearms in Pennsylvania.

9. The phrase “National Instant Criminal Background Check System” (NICS) refers to the national database identifying those individuals prohibited from possessing, using, controlling, selling, or transferring firearms in the United States.

10. The phrase “post-deprivation procedures” refers to the three post-deprivation procedures found in 18 Pa. Const. Stat. §§ 6105(f), 6111.1(e), 6111.1(g).

11. The phrase “Second Amendment” refers to the Second Amendment to the United States Constitution, U.S. Const. amend. II, which confers a fundamental and individual right to keep and bear arms, *District of Columbia v. Heller*, 554 U.S. 570 (2008), incorporated as to the states, *McDonald v. City of Chicago*, 561 U.S. 742 (2010).

12. Plaintiffs incorporate the definition contained in Federal Rule of Civil Procedure 34(a) of “document,” including but not limited to writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations.

13. The term “document” is defined to be synonymous in meaning and in scope to the usage of this term in Federal Rule of Civil Procedure 34(a):

a. The term “document” shall include, without limitation, any writing, whether handwritten, printed, typed, or otherwise made, of any kind or nature, however produced or reproduced, including drafts thereof, and including copies bearing notations or marks not found in the original.

b. This definition shall further include, without limitation, agreements, letters, correspondence, memoranda, e-mail, notes, analyses, appraisals, valuations, reports, studies, bills, statements, work papers, books, records, journals, ledgers, logs, messages of any nature (including reports, notes, notations, and memoranda of or relating to telephone conversations and conferences), agenda, minutes or transcripts or tapes of communications or meetings, desk calendars, appointment books, diaries, lists, questionnaires, surveys, tapes or other recordings from which information can be obtained.

c. This definition shall include documents stored, maintained, or transmitted as electronic data.

14. The term “electronic data” includes writings of every kind and description whether inscribed by mechanical, facsimile, electronic, magnetic, digital, or other means, and means the original, or identical duplicate when the original is not available, and any non-identical copies, whether non-identical because of notes made on copies or attached comments, annotations, marks, transmission notations, or highlighting of any kind. Electronic data includes, but is not limited to, activity listings of electronic mail recipients and/or transmittals, output resulting from the use of any software program, including word processing documents, spreadsheets, database files, charts, graphs and outlines, electronic mail, any and all items stored on electronic media, including, but not limited to, computer memories, hard disks, floppy disks, CD-ROMs and removable media.

Electronic data also includes the file, folder tabs and/or containers and labels appended to, or associated with, any physical storage device associated with each original and/or copy.

15. The term “communication” means any sending or receipt of information in any medium. The term “communication” includes, but is not limited to any oral, written, or electronic correspondence or transmittal of information, regardless of how that transmission is stored. The term “communication” also includes any notes, logs, records, minutes, statements, outlines, presentations, reports, summaries, text messages, or emails concerning, memorializing, confirming, or acknowledging the transmittal of information.

16. The term “agency” refers to all federal, state, and local authorities.

17. Wherever the word “and” or “or” appears herein, the meaning intended is always both “and” and “or.”

18. The singular includes the plural and vice versa. The words “and” and “or” are both conjunctive and disjunctive. The word “all” means “each.” The word “any” means “each.”

19. Wherever the word “including” appears here, the meaning intended is “including, but not limited to” and “including without limitation.”

20. Where the context permits, any verb used here should be read as incorporating all tenses (e.g., “give” means “give,” “will give,” “gave,” “have given,” etc.).

21. The phrases “relating to,” “pertaining to,” or “relating or pertaining to,” or any conjugate of the words “relate” or “pertain,” shall mean any logical connection with a particular subject matter. These phrases shall also include, depending upon the context of the subject matter of the request, and are synonymous with the following verbs, verb phrases, or gerunds: “evidencing,” “evidenced,” “evidences,” “evidence,” “reflects,” “reflected,” “reflecting,” “relate to,” “referring to,” and “concerning” in reference to any given subject or when used to specify a document, communication, act, or statement.

22. The term “any” means “any and all;” the term “all” means “any and all.”

INSTRUCTIONS

1. “Identify,” with respect to a document, means to state the document’s subject matter, date, author(s), address(es), recipient(s), and type; or, alternatively, to produce the document. If the document has been destroyed, lost, mutilated, or otherwise altered, “identify” means to state the date upon which the destruction, loss, mutilation, or alteration occurred, the reason for such event, and the identity of the person who destroyed, lost, mutilated, or altered it.

2. “Identify,” with respect to a person, means to state the person’s full name, present or last known address, telephone number, job title, and employer or business affiliation.

3. “Identify,” with respect to an event, means to state the date or dates upon which the event occurred, the names of all persons participating in the event, the last known addresses of all persons participating in the event, the place or places at which the event occurred, and all known information corroborating these facts.

4. “State the basis” of or for means identify each and every document (and, where pertinent, the section, article, or subparagraph thereof), which forms any part of the source of Defendant’s information regarding the alleged facts or legal conclusions referred to by the interrogatory; identify each and every communication which forms any part of the source of Defendant’s information regarding the alleged facts or legal conclusions referred to by the interrogatory; state separately the acts or omissions to act on the part of any person (identifying the acts or omissions to act by stating their nature, time, and place and identifying the persons involved) which form any part of Defendant’s information regarding the alleged facts or legal conclusions referred to in the interrogatory; and state separately any other fact which forms the basis of the party’s information regarding the alleged facts or conclusions referred to in the interrogatory.

5. Respond with all information, however obtained, including hearsay, in your possession, custody, or control, or in the possession, custody, or control of your agents, employees, attorneys, or any other persons acting or purporting to act on your behalf.

6. If an objection is made, the reasons therefore shall be stated. If the objection is based on privilege, identify the nature of the privilege. Include the information set forth in Federal Rule of Civil Procedure 26(b)(5)(A)(ii).

7. The obligation to respond is intended to be and is, under the Federal Rules of Civil Procedure, continuing in nature. If any documents or new information responsive to any of these requests becomes available, you are requested to supplement your responses.

8. If, in answering any of the interrogatories, Defendant claims any ambiguity in either the interrogatory or any applicable definition or instruction, identify in your response the language you consider ambiguous and state the interpretation you are using in responding.

9. Objection to a part of an interrogatory does not excuse Defendant from responding to the remainder of the interrogatory. If an incomplete response is provided, state that the answer is incomplete, specify which portions of the interrogatory have been answered and which portions have not been answered, and state the reason(s) for not answering any portions that have not been answered.

10. If any objection is made that responding to a particular interrogatory would be unduly burdensome, explain with particularity the burden of providing a response.

INTERROGATORIES

1. Identify all instances in the last 7 years in which a judge of a Pennsylvania court of commons pleas, Pennsylvania mental health review officer, or Pennsylvania county mental health and mental retardation administrator has notified the Pennsylvania State Police of a temporary emergency commitment pursuant to Section 302. For each instance, include the date of the report, the name of the judge, mental health review officer, or county mental health and mental retardation administrator submitting the notification, the name of the individual committed, and the circumstances underlying the temporary emergency commitment.

2. Identify the process the Pennsylvania State Police uses to intake notifications of Section 302 temporary emergency commitments. In doing so, identify any and all written policies or procedures governing such intake notifications.

3. Identify all employees, agents, or representatives of the Pennsylvania State Police involved in the intake of Section 302 notifications from judges, mental health review officers, or county mental health and mental retardation administrators. For all employees, agents, and representatives so involved, include job titles and the names and contact information of individuals currently filling those roles.

4. Identify all due process protections—including but not limited to, notice, a neutral arbiter, an opportunity to make an oral presentation, a means of presenting evidence, an opportunity to cross-examine witnesses and respond to evidence, the right to representation by counsel, and a decision based on the record complete with reasoning for the result—the Pennsylvania State Police provides when enforcing the Firearms Disqualification Statute against individuals subject to Section 302 temporary emergency commitments. If those due process protections have changed or evolved – either formally or informally – any time in the past 7 years, please identify the date of the change and the change implemented.

5. Identify all instances in the last 7 years in which the Pennsylvania State Police has submitted or input Section 302 emergency commitments to the PICS database. For each instance, include the date of the submission or input, the name of the individual committed, the address of the individual committed, the facility in which the 302 commitment took place and any subsequent action by the Pennsylvania State Police involving that individual, including but not limited to removal or expungement from the PICS database or an alteration in status of the individual's record in the PICS database.

6. Identify the process the Pennsylvania State Police uses to submit or input Section 302 temporary emergency commitments into the PICS database. In doing so, identify any and all written

policies or procedures governing such submissions and identify all training materials used to train persons deemed qualified to undertake the entry of such records into the PICS system or deemed qualified to supervise persons entering such records into the PICS system.

7. Identify all employees, agents, or representatives of the Pennsylvania State Police involved in submitting or inputting Section 302 temporary emergency commitments to the PICS database, along with all employees, agents, or representatives of the Pennsylvania State Police involved in managing, controlling, administering, maintaining, or operating the PICS database.

8. Identify all instances in the last 7 years in which the Pennsylvania State Police has submitted Section 302 temporary emergency commitments to the NICS database. For each instance, include the date of the submission, the name of the individual committed, the address of the individual committed, the facility in which the 302 commitment took place and any subsequent action related to the NICS database involving that individual of which the Pennsylvania State Police is aware.

9. Identify the process the Pennsylvania State Police uses to submit Section 302 temporary emergency commitments to the NICS database. In doing so, identify any and all written policies or procedures governing such submissions and identify all training materials used to train persons deemed qualified to undertake the entry of such records into the NICS system or deemed qualified to supervise persons entering such records into the NICS system.

10. Identify all employees, agents, or representatives of Pennsylvania State Police involved in submitting Section 302 temporary emergency commitments to the NICS database, along with all employees, agents, or representatives of the Federal Bureau of Investigation or other federal agencies involved in managing, controlling, administering, maintaining, or operating the NICS database and interfacing with the Pennsylvania State Police to facilitate such NICS work.

11. Identify the process or procedures governing the manner in which sellers of firearms interact with the PICS database, including employees of the Pennsylvania State Police administering

or maintaining the PICS database, as it pertains to individuals subject to Section 302 temporary emergency commitments and identify all training materials used to train persons deemed qualified to undertake the entry of such records into the PICS system or deemed qualified to supervise persons entering such records into the PICS system.

12. Identify the process the Pennsylvania State Police uses to ensure an individual subject to a Section 302 temporary emergency commitment has complied with the 60-day deadline to sell or transfer his firearms to another eligible person who is not a member of the committed person's household under 18 Pa. Const. Stat. § 6105(a)(2)(i). In doing so, identify any and all written policies or procedures governing this process, including the names and job titles of any employees, agents, or representatives involved in ensuring compliance. This shall include, but is not limited to, policies and procedures relating to law enforcement's interactions with such individuals, and/or whether the Pennsylvania State Police (or other law enforcement agency) pursues search warrants or targets such individuals for investigation either systematically or on an *ad hoc* basis.

13. For the last 7 years, identify all instances of individuals subject to a Section 302 temporary emergency commitment, who were arrested, detained, incarcerated, stopped and frisked, charged with a criminal offense, and/or subject to court proceedings, *during* the 60-day transfer period under 18 Pa. Const. Stat. Ann. § 6105(a)(2)(i).

14. For the last 7 years, identify all instances of individuals subject to a Section 302 temporary emergency commitment were involved in instances of violent crime and/or incidents concerning the discharge of a firearm, *during* the 60-day transfer period under 18 Pa. Const. Stat. Ann. § 6105(a)(2)(i).

15. For the last 7 years, identify all instances in which the Pennsylvania State Police (or other Pennsylvania law enforcement agency) interacted with individuals subject to a Section 302 temporary emergency commitment, for a period of one-year following the 60-day transfer period under 18 Pa. Const. Stat. Ann. § 6105(a)(2)(i). This interrogatory includes, but is not limited to, instances

involving search warrants, arrests, incident reports, police encounters, the entry of court orders and the commencement of forfeiture proceedings.

16. Identify all instances in the last 7 years where the Pennsylvania State Police has targeted for investigation individuals subjected to a Section 302 temporary emergency commitment, within a one-year period following the 60-day transfer period under 18 Pa. Const. Stat. Ann. § 6105(a)(2)(i). This interrogatory includes, but is not limited to, all instances where the Pennsylvania State Police (or other law enforcement agency) sought and/or executed search warrants upon such individuals' residences, cars, places of business or other locations associated with such individuals.

17. Identify all instances in the last 7 years in which an individual recorded in the PICS database pursuant to a Section 302 temporary emergency commitment has applied for relief under one of the three post-deprivation procedures available under 18 Pa. Const. Stat. §§ 6105(f), 6111.1(e), 6111.1(g). For each instance, include the date of the application, the name of the applicant, the address of the individual seeking relief, the facility in which the 302 commitment took place and any subsequent action related to the PICS database arising out of the application.

18. Identify the procedures the Pennsylvania State Police uses to process applications for relief or comply with court orders granting relief under one of the three post-deprivation procedures. In doing so, identify any and all written policies or procedures governing this process as well as all training materials used to train persons deemed qualified to process these applications or deemed qualified to supervise persons processing these applications.

19. Identify all employees, agents, or representatives of the Pennsylvania State Police involved in processing applications for relief or complying with court orders granting relief under one of the three post-deprivation procedures as well as all training materials used to train persons deemed qualified to process these applications or deemed qualified to supervise persons processing these applications.

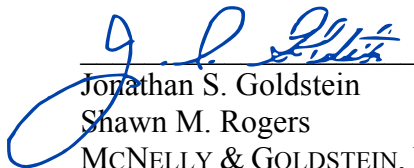
20. Identify the Pennsylvania State Police's duties and responsibilities in enforcing the Firearms Disqualification Statute against individuals subject to Section 302 temporary emergency commitments, or commitments under sections 303 and/or 304.

21. If you contend individuals subject to a Section 302 temporary emergency commitment are unprotected by the Second Amendment, state the basis for this contention.

22. Identify all instances where hunting licenses were issued to individuals subject to Section 302 temporary emergency commitments (or commitments under sections 303 or 304) under the following circumstances: (a) in total; (b) without an ancillary archery permit; and/or (c) with an ancillary permit for a muzzleloader. Also share all policies and procedures for how the Pennsylvania State Police revokes or arranges the revocation of any such license by a person who becomes subject to the Firearms Disqualification Statute while in possession of any such license.

23. Identify all instances where individuals subject to Section 302 temporary emergency commitments (or commitments under sections 303 or 304) were issued the following: (a) Act 235 permits; (b) license to carry concealed firearms; and/or (c) a Pennsylvania License to Sell Firearms. Also share all policies and procedures for how the Pennsylvania State Police revokes or arranges the revocation of any such license by a person who becomes subject to the Firearms Disqualification Statute while in possession of any such license.

Plaintiffs John Doe I and John Doe II
By their attorneys,



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Attorneys for Plaintiffs

Dated: November 3, 2017

CERTIFICATE OF SERVICE

I, Shawn M. Rodgers, Esq., hereby certify that on the 3rd day of November, 2017, the foregoing Interrogatories were served by first-class mail and/or e-mail, to the following individual(s).

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Attorney for Defendant Colonel Tyree V. Blocker, in his official capacity as the Commissioner of the Pennsylvania State Police

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Attorneys for Plaintiffs

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<p>JOHN DOE I, et al.,</p> <p>Plaintiffs,</p> <p>v.</p> <p>COLONEL TYREE V. BLOCKER, in his official capacity as Commissioner of the Pennsylvania State Police,</p> <p>Defendant.</p>	<p>Case No.: 2:16-cv-6039</p>
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**PLAINTIFFS' FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS TO
DEFENDANT COLONEL TYREE V. BLOCKER**

Plaintiffs John Doe I and John Doe II (collectively Plaintiffs) pursuant to Rules 26 and 34, Federal Rules of Civil Procedure and Local Rule 26.1 of the United States District Court for the Eastern District of Pennsylvania, propound the following requests for production to Defendant Colonel Tyree V. Blocker (Blocker), in his official capacity as the Commissioner of the Pennsylvania State Police. Each request shall be answered within thirty (30) days of service pursuant to Federal Rule of Civil Procedure 34.

Pursuant to Federal Rules of Civil Procedure 26(e), these requests for production of documents are ongoing in nature, and Defendant is under an obligation to supplement each inaccurate or incomplete answer.

DEFINITIONS

1. "Action" means *John Doe I, et al., v. Colonel Tyree V. Blocker*, Case No. 16-6039 (E.D. Pa.).

2. “Defendant,” “you,” or “your” means the defendant in this action, Colonel Tyree V. Blocker, in your official capacity as Commissioner of the Pennsylvania State Police, the Pennsylvania State Police (“PSP”), and the PSP’s employees, agents, attorneys, representatives, and all others who are acting or have acted on the PSP’s behalf.

3. The phrase “Mental Health Procedures Act” (MHPA) refers to 50 Pa. Stat. §§ 7101–7505.

4. The phrase “Section 302” or “Temporary Emergency Commitment Statute” refers to Section 302 of the MHPA, 50 Pa. Stat. § 7302.

5. The phrase “Pennsylvania Uniform Firearms Act (PUFA) refers to 18 Pa. Const. Stat. Ann. §§ 6101–6127.

6. The phrase “Firearms Disqualification Statute” refers to 18 Pa. Const. Stat. Ann. § 6105(a)(1), (c)(4).

7. The phrase “Involuntary Commitment Reporting Statute” refers to 50 Pa. Stat. § 7109(d).

8. The phrase “Pennsylvania Instant Check System” (PICS) refers to the database identifying those individuals prohibited from possessing, using, controlling, selling, or transferring firearms in Pennsylvania.

9. The phrase “National Instant Criminal Background Check System” (NICS) refers to the national database identifying those individuals prohibited from possessing, using, controlling, selling, or transferring firearms in the United States.

10. The phrase “post-deprivation procedures” refers to the three post-deprivation procedures found in 18 Pa. Const. Stat. §§ 6105(f), 6111.1(e), 6111.1(g).

11. The phrase “Second Amendment” refers to the Second Amendment to the United States Constitution, U.S. Const. amend. II, which confers a fundamental and individual right to keep and bear arms, *District of Columbia v. Heller*, 554 U.S. 570 (2008), incorporated as to the states, *McDonald v. City of Chicago*, 561 U.S. 742 (2010).

12. Plaintiffs incorporate the definition contained in Federal Rule of Civil Procedure 34(a)

of “document,” including but not limited to writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations.

13. The term “document” is defined to be synonymous in meaning and in scope to the usage of this term in Federal Rule of Civil Procedure 34(a):

a. The term “document” shall include, without limitation, any writing, whether handwritten, printed, typed, or otherwise made, of any kind or nature, however produced or reproduced, including drafts thereof, and including copies bearing notations or marks not found in the original.

b. This definition shall further include, without limitation, agreements, letters, correspondence, memoranda, e-mail, notes, analyses, appraisals, valuations, reports, studies, bills, statements, work papers, books, records, journals, ledgers, logs, messages of any nature (including reports, notes, notations, and memoranda of or relating to telephone conversations and conferences), agenda, minutes or transcripts or tapes of communications or meetings, desk calendars, appointment books, diaries, lists, questionnaires, surveys, tapes or other recordings from which information can be obtained.

c. This definition shall include documents stored, maintained, or transmitted as electronic data.

14. The term “electronic data” includes writings of every kind and description whether inscribed by mechanical, facsimile, electronic, magnetic, digital, or other means, and means the original, or identical duplicate when the original is not available, and any non-identical copies, whether non-identical because of notes made on copies or attached comments, annotations, marks, transmission notations, or highlighting of any kind. Electronic data includes, but is not limited to, activity listings of electronic mail recipients and/or transmittals, output resulting from the use of any software program, including word processing documents, spreadsheets, database files, charts,

graphs and outlines, electronic mail, any and all items stored on electronic media, including, but not limited to, computer memories, hard disks, floppy disks, CD-ROMs and removable media.

Electronic data also includes the file, folder tabs and/or containers and labels appended to, or associated with, any physical storage device associated with each original and/or copy.

15. The term “communication” means any sending or receipt of information in any medium. The term “communication” includes, but is not limited to any oral, written, or electronic correspondence or transmittal of information, regardless of how that transmission is stored. The term “communication” also includes any notes, logs, records, minutes, statements, outlines, presentations, reports, summaries, text messages, or emails concerning, memorializing, confirming, or acknowledging the transmittal of information.

16. The term “agency” refers to all federal, state, and local authorities.

17. Wherever the word “and” or “or” appears herein, the meaning intended is always both “and” and “or.”

18. The singular includes the plural and vice versa. The words “and” and “or” are both conjunctive and disjunctive. The word “all” means “each.” The word “any” means “each.”

19. Wherever the word “including” appears here, the meaning intended is “including, but not limited to” and “including without limitation.”

20. Where the context permits, any verb used here should be read as incorporating all tenses (e.g., “give” means “give,” “will give,” “gave,” “have given,” etc.).

21. The phrases “relating to,” “pertaining to,” or “relating or pertaining to,” or any conjugate of the words “relate” or “pertain,” shall mean any logical connection with a particular subject matter. These phrases shall also include, depending upon the context of the subject matter of the request, and are synonymous with the following verbs, verb phrases, or gerunds: “evidencing,” “evidenced,” “evidences,” “evidence,” “reflects,” “reflected,” “reflecting,” “relate to,” “referring to,” and “concerning” in reference to any given subject or when used to specify a document,

communication, act, or statement.

22. The term “any” means “any and all;” the term “all” means “any and all.”

INSTRUCTIONS

1. Respond with all documents in your possession, custody, or control, or in the possession, custody or control of your agents, employees, attorneys, or any other persons acting or purporting to act on your behalf.

2. Identify within the specific requests which documents you believe to be responsive to that particular request.

3. These responses are intended and are, under the Federal Rules of Civil Procedure, continuing in nature. If any documents or new information responsive to any of these requests becomes available, you are requested to supplement your response.

4. If objection is made, state the reasons for your objection. Include the information set forth in Fed. R. Civ. Pro. 26(b)(5)(A)(ii).

5. If any document is not produced in its entirety or is produced with information redacted, indicate any and all omissions or redactions on the document. State with particularity the reason for the omission or redaction and describe the redacted or omitted materials. If any privilege is asserted as a reason for the omission or redaction, include the information requested in Instruction 4 above.

6. If you object to any production on the ground of being unduly burdensome, describe the burden or expense associated with supplying the requested materials.

7. The documents identified below should be produced to John Parker Sweeney, Bradley Arant Boult Cummings, 1615 L. St. N.W., Suite 1350, Washington, DC 20036.

REQUESTS FOR PRODUCTION

1. All documents or communications identified, reviewed, or considered by you in responding to Plaintiffs’ First Set of Interrogatories.

2. All documents or communications you intend to introduce as exhibits at any hearing or trial in this matter.

3. Any documents or communications supporting your contention that individuals subject to a Section 302 temporary emergency commitment are denied Second Amendment protections.

4. Any documents or communications supporting your contention denying Second Amendment protections to individuals subject to Section 302 temporary emergency commitments will improve public safety.

5. Any documents or communications supporting your contention that denying traditional pre-deprivation due process protections (such as an evidentiary hearing before an impartial tribunal, consultation with counsel, etc.) to individuals subject to Section 302 temporary emergency commitments is justified by public health and safety concerns.

6. Any documents or communications supporting your contention a two-hour examination by a physician is sufficient to justify denying Second Amendment protection to an individual subject to a Section 302 temporary emergency commitment and that such a commitment meets what you understand to be the definition of “adjudicated as a mental defective” or “committed to a mental institution” found at 27 C.F.R. § 478.11 in the Code of Federal Regulations.

7. Any documents or communications supporting your contention a meaningful pre-deprivation hearing could not be held during the 60-day transfer period under 18 Pa. Const. Stat. Ann. § 6105(a)(2)(i).

8. Any and all documents concerning the Commonwealth’s policies and procedures related to the tracking of firearms or the tracking of known firearms owners during the 60-day transfer period under 18 Pa. Const. Stat. Ann. § 6105(a)(2)(i), which defines the pendency between a Section 302 temporary emergency commitment and the date upon which all firearms are to be surrendered.

9. Any and all documents for the last 7 years, which relate to interactions between the Pennsylvania State Police (or other law enforcement agency) and individuals subject to a Section 302

temporary emergency commitment, for a period of one-year *following* the 60-day transfer period under 18 Pa. Const. Stat. Ann. § 6105(a)(2)(i). This request includes, but is not limited to, search warrants, arrests, incident reports, police encounters, the entry of court orders and the commencement of forfeiture proceedings.

10. For the last 7 years, any documents or communications relating to notification by a judge of a Pennsylvania court of commons pleas, Pennsylvania mental health review officer, or Pennsylvania county mental health and mental retardation administrator to the Pennsylvania State Police concerning a Section 302 temporary emergency commitment.

11. Any documents or communications relating to the process or policy governing the intake of Section 302 temporary emergency commitment notifications by the Pennsylvania State Police. This request includes, but is not limited to, documents related to the PICS and NICS reporting systems. For each instance, this shall include, but is not limited to, policies and procedures concerning the following: (i) the date of the submission or input; (ii) the name of the individual committed; (iii) the address of the individual committed; (iv) the facility in which the 302 commitment took place; and (v) for any subsequent action by the Pennsylvania State Police involving that individual, including but not limited to removal or expungement from the PICS (or NICS) database or an alteration in status of the individual's record in the PICS (or NICS) database.

12. Any documents or communications relating to the due process protections—including but not limited to, notice, a neutral arbiter, an opportunity to make an oral presentation, a means of presenting evidence, an opportunity to cross-examine witnesses and respond to evidence, the right to representation by counsel, and a decision based on the record complete with reasoning for the result—the Pennsylvania State Police provides when enforcing the Firearms Disqualification Statute against individuals subject to Section 302 temporary emergency commitments.

13. For the last 7 years, any documents or communications relating to submission or input of Section 302 temporary emergency commitments by the Pennsylvania State Police into the PICS database.

14. Any documents or communications relating to the process or policy governing the submission or input of Section 302 temporary emergency commitments into the PICS database. Also include any and all written policies or procedures governing such submissions and include all training materials used to train persons deemed qualified to undertake the entry of such records into the PICS system or deemed qualified to supervise persons entering such records into the PICS system.

15. For the last 7 years, any documents or communications relating to submission of Section 302 temporary emergency commitments to the NICS database. Also include any and all written policies or procedures governing such submissions and include all training materials used to train persons deemed qualified to undertake the transfer of such records into the NICS system or deemed qualified to supervise persons transferring such records into the NICS system.

16. Any documents or communications relating to the process or procedures governing the manner in which sellers of firearms interact with the PICS database, including employees of the Pennsylvania State Police administering or maintaining the PICS database, as it pertains to individuals subject to Section 302 temporary emergency commitments. Also include any and all written policies or procedures governing such interactions and include all training materials used to train persons deemed qualified to participate in such interactions with the PICS system or deemed qualified to supervise persons participating in such interactions with PICS system.

17 Any documents or communications relating to enforcement of the 60-day deadline for an individual subject to a Section 302 temporary emergency commitment to sell or transfer his firearms to another eligible person who is not a member of the committed person's household under 18 Pa.

Const. Stat. § 6105(a)(2)(i). Also include any and all written policies or procedures used to train persons enforcing the deadline or deemed qualified to supervise persons enforcing the deadline.

18. For the last 7 years, any documents or communications relating to an application for relief under one of the three post-deprivation procedures available pursuant to 18 Pa. Const. Stat. §§ 6105(f), 6111.1(e), 6111.1(g) by an individual subject to a Section 302 temporary emergency commitment. This request includes but is not limited to the address of the individual seeking relief, the facility in which the 302 commitment took place and any subsequent action related to the PICS database arising out of the application.

19. For the last 7 years, any and all documents relating to arrests, detentions, incarcerations, stop and frisks, charges, and/or court proceedings that relate to (a) an individual subject to a Section 302 temporary emergency commitment, (b) *during* the 60-day transfer period under 18 Pa. Const. Stat. Ann. § 6105(a)(2)(i). This includes, but is not limited to, any and all documents relating to violent crimes and/or incidents concerning the discharge of a firearm, *during* the 60-day transfer period under 18 Pa. Const. Stat. Ann. § 6105(a)(2)(i).

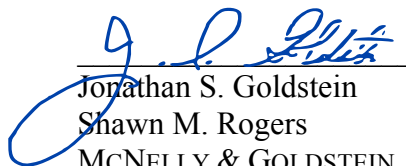
20. For the last 7 years, any and all documents relating to instances where the Pennsylvania State Police targeted for investigation individuals subjected to a Section 302 temporary emergency commitment, within a one-year period following the 60-day transfer period under 18 Pa. Const. Stat. Ann. § 6105(a)(2)(i). This request includes, but is not limited to, all any and all documents concerning search warrants, arrests, incident reports, police encounters, the entry of court orders and the commencement of forfeiture proceedings by the Pennsylvania State Police (or other Pennsylvania law enforcement agency), either systematically or on an *ad hoc* basis.

21. Any documents or communications relating to the Pennsylvania State Police's duties and responsibilities in enforcing the Firearms Disqualification Statute against individuals subject to Section 302 temporary emergency commitments (or against individuals committed under sections 303 or 304).

22. For the last 7 years, any and all documents related to the issuance of hunting licenses to individuals subject to Section 302 temporary emergency commitments (or commitments under sections 303 or 304) under the following circumstances: (a) in total; (b) without an ancillary archery permit; and/or (c) with an ancillary permit for a muzzleloader. This requests includes, but is not limited to, all policies and procedures for how the Pennsylvania State Police revokes or arranges the revocation of any such license by a person who becomes subject to the Firearms Disqualification Statute while in possession of any such license.

23. For the last 7 years, any and all documents related to the issuance of the following to individuals subject to Section 302 temporary emergency commitments (or commitments under sections 303 or 304): (a) Act 235 permits; (b) license to carry concealed firearms; and/or (c) a Pennsylvania License to Sell Firearms. This requests includes but is not limited to all policies and procedures for how the Pennsylvania State Police revokes or arranges the revocation of any such license by a person who becomes subject to the Firearms Disqualification Statute while in possession of any such license.

Plaintiffs John Doe I and John Doe II
By their attorneys,

A handwritten signature in blue ink, appearing to read "Jonathan S. Goldstein", is written over a horizontal line. A large blue scribble is present to the left of the signature.

Jonathan S. Goldstein
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Attorneys for Plaintiffs

Dated: November 3, 2017

CERTIFICATE OF SERVICE

I, Shawn M. Rodgers, Esq., hereby certify that on the 3rd day of November, 2017, the foregoing Requests for Production of Documents were served by first-class mail and/or e-mail, to the following individual(s).

Kathy Le
Deputy Attorney General
Office of Attorney General
21 South 12th Street, 3rd Floor
Philadelphia, PA 19107-3603
Telephone: (215) 560-1581
Fax: (717) 772-4526
Email: kle@attorneygeneral.gov

Attorney for Defendant Colonel Tyree V. Blocker, in his official capacity as the Commissioner of the Pennsylvania State Police

/s/ Shawn M. Rodgers
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Attorneys for Plaintiffs

EXHIBIT B

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JONE DOE I, <u>et al.</u> ,	:	CIVIL ACTION
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
COLONEL TYREE V. BLOCKER, in his	:	
official capacity as Commissioner of the	:	
Pennsylvania State Police	:	
	:	
Defendants.	:	NO. 16-6039

**DEFENDANT’S RESPONSES AND OBJECTIONS TO PLAINTIFFS’
FIRST SET OF REQUESTS FOR PRODUCTION OF DOCUMENTS**

Defendant Pennsylvania State Police (“PSP”) Commissioner Tyree Blocker, by undersigned counsel, hereby responds to Plaintiffs’ First Set of Requests for Production of Documents addressed to Defendant Colonel Tyree V. Blocker, served on November 3, 2017, as follows:

REQUEST NO. 1:

All documents or communications identified, reviewed, or considered by you in responding to Plaintiffs’ First Set of Interrogatories.

RESPONSE TO REQUEST NO. 1:

Defendant will produce any responsive, non-privileged documents within his possession custody, and control.

REQUEST NO. 2:

All documents or communications you intend to introduce as exhibits at any hearing or trial in this matter.

RESPONSE TO REQUEST NO. 2:

Defendant will produce all responsive documents.

REQUEST NO. 3:

Any documents or communications supporting your contention that individuals subject to a Section 302 temporary emergency commitment are denied Second Amendment protections.

RESPONSE TO REQUEST NO. 3:

Defendant objects to this Request as vague and ambiguous. Defendant will interpret this Request as seeking documents supporting the legal argument set forth in Section II.F.4 of Defendant's Motion to Dismiss (doc. no. 13) titled "Plaintiffs have no protected interest in obtaining a firearm because of the section 302 commitment." Subject to these objections, Defendant will produce any responsive, non-privileged documents within his possession, custody, or control.

REQUEST NO. 4:

Any documents or communications supporting your contention denying Second Amendment protections to individuals subject to Section 302 temporary emergency commitments will improve public safety.

RESPONSE TO REQUEST NO. 4:

Defendant will produce any responsive, non-privileged documents within his possession, custody, or control.

REQUEST NO. 5:

Any documents or communications supporting your contention that denying traditional pre-deprivation due process protections (such as evidentiary hearing before an impartial tribunal, consultation with counsel, etc.) to individuals subject to Section 302 temporary emergency commitments is justified by public health and safety concerns.

RESPONSE TO REQUEST NO. 5:

Defendants object to this Request on the grounds that it is duplicative of Request No. 4. Subject to and without waiving the foregoing objection, Defendant will produce any responsive, non-privileged documents within his possession, custody, or control.

REQUEST NO. 6:

Any documents or communications supporting your contention a two-hour examination by a physician is sufficient to justify denying Second Amendment protection to an individual subject to a Section 302 temporary emergency commitment and that such a commitment meets what you understand to be the definition of “adjudicated as a mental defective” or “committed to a mental institution” found at 27 C.F.R. § 478.11 in the Code of Federal Regulations.

RESPONSE TO REQUEST NO. 6:

Defendant will produce any responsive, non-privileged documents within his possession, custody, or control.

REQUEST NO. 7:

Any documents or communications supporting your contention a meaningful pre-deprivation hearing could not be held during the 60-day transfer period under 18 Pa. Const. Stat. Ann. § 6105(a)(2)(i).

RESPONSE TO REQUEST NO. 7:

Defendant will produce any responsive, non-privileged documents within his possession, custody, or control.

REQUEST NO. 8:

Any and all documents concerning the Commonwealth’s policies and procedures related to the tracking of firearms or the tracking of known firearms owners during the 60-day transfer period under 18 Pa. Const. Stat. Ann. § 61-5(a)(2)(i), which defines the pendency between a Section 302 temporary emergency commitment and the date upon which all firearms are to be surrendered.

RESPONSE TO REQUEST NO. 8:

Defendant will produce any responsive, non-privileged documents within his possession, custody, or control.

REQUEST NO. 9:

Any and all documents for the last 7 years, which relate to interactions between the Pennsylvania State Police (or other law enforcement agency) and individuals subject to a Section 302 temporary emergency commitment, for a period of one-year following the 60-day transfer period under 18 Pa. Const. Stat. Ann. § 6105 (a)(2)(i). This requests [sic] includes, but

is not limited to, search warrants, arrests, incident reports, police encounters, the entry of court orders and the commencement of forfeiture proceedings.

RESPONSE TO REQUEST NO. 9:

Defendants object to this Request on the grounds that it is overly broad, unduly burdensome to comply with, and not proportional to the needs of this case. PSP does not maintain data regarding individuals subject to a Section 302 commitment in a manner that would allow the information sought to be gathered without great burden and expense. The burden and expense on Commonwealth Defendants of responding outweighs any benefit such information could confer on Plaintiffs in their prosecution of this lawsuit.

REQUEST NO. 10:

For the last 7 years, any documents or communications relating to notification by a judge of a Pennsylvania court of common pleas, Pennsylvania mental health review officer, or Pennsylvania county mental health and mental retardation administrator to the Pennsylvania State Police concerning a Section 302 temporary emergency commitment.

RESPONSE TO REQUEST NO. 10:

Defendants object to this Request on the grounds that, as written, it is overly broad, unduly burdensome to comply with, and not proportional to the needs of this case. The burden and expense on Commonwealth Defendants of responding outweighs any benefit such information could confer on Plaintiffs in their prosecution of this lawsuit. Moreover, as written, this Request seeks personal identifying information of individuals subject to Section 302 commitments, which by law PSP cannot divulge.

Subject to and without waiving these objections, Defendant will produce statistics regarding notifications of Section 302 commitments received by PSP without providing any individual identifying information.

REQUEST NO. 11:

Any documents or communications relating to the process or policy governing the intake of Section 302 temporary emergency commitment notifications by the Pennsylvania State Police. This request includes, but is not limited to, documents related to the PICS and NICS reporting systems. For each instance, this shall include, but is not limited to, policies and procedures concerning the following: (i) the date of the submission or input; (ii) the name of the individual committed; (iii) the address of the individual committed; (iv) the facility in which the 302 commitment took place; and (v) for any subsequent action by the Pennsylvania State Police involving that individual, including but not limited to removal or expungement from the PICS (or NICS) database.

RESPONSE TO REQUEST NO. 11:

Defendant objects to this Request to the extent it seeks any information regarding the operation of the NICS reporting system, which is not within the possession, custody, and control of Defendant. Subject to and without waiving this objection, Defendant will produce documents regarding the process or policy regarding intake of Section 302 commitment notifications by PSP, including input into the PICS system and PSP's notification to the NICS system.

REQUEST NO. 12:

Any documents or communications relating to the due process protections—including but not limited to, notice, a neutral arbiter, an opportunity to make an oral presentation, a means of presenting evidence, an opportunity to cross-examine witnesses and respond to evidence, the right to representation by counsel, and a decision based on the record complete with reasoning for the result—the Pennsylvania State Police provides when enforcing the Firearms Disqualification Statute against individuals subject to Section 302 temporary emergency commitments.

RESPONSE TO REQUEST NO. 12:

Defendant objects to this Request to the extent it seeks information regarding individual cases on the grounds that it is overly broad, unduly burdensome to comply with, and not proportional to the needs of this case. The burden and expense on Commonwealth Defendants of responding outweighs any benefit such information could confer on Plaintiffs in their prosecution of this lawsuit. Moreover, by law PSP cannot divulge individual identifying information.

Subject to and without waiving these objections, Defendant will produce any responsive, non-privileged documents within his possession, custody, or control regarding the due process protections afforded generally to individuals subject to Section 302 commitments.

REQUEST NO. 13:

For the last 7 years, any documents or communications relating to submission or input of Section 302 temporary emergency commitments by the Pennsylvania State Police into the PICS database.

RESPONSE TO REQUEST NO. 13:

Defendant objects to this Request as duplicative of information sought in Request No. 11. Defendant further objects to this Request to the extent it seeks information regarding individual cases on the grounds that it is overly broad, unduly burdensome to comply with, and not proportional to the needs of this case. The burden and expense on Commonwealth Defendants of responding outweighs any benefit such information could confer on Plaintiffs in their prosecution of this lawsuit. Moreover, by law PSP cannot divulge individual identifying information.

Subject to and without waiving this objection, Defendant will produce statistical data regarding submissions of Section 302 commitments into the PICS database, without providing any individual identifying information.

REQUEST NO. 14:

Any documents or communications relating to the process or policy governing the submission or input of Section 302 temporary emergency commitments into the PICS database. Also include any and all written policies or procedures governing such submissions and include all training materials used to train persons deemed qualified to undertake the entry of such records into the PICS system or deemed qualified to supervise persons entering such records into the PICS system.

RESPONSE TO REQUEST NO. 14:

Defendant will produce any responsive, non-privileged documents within his possession, custody, or control.

REQUEST NO. 15:

For the last 7 years, any documents or communications relating to submission of Section 302 temporary emergency commitments to the NICS database. Also include any and all written policies or procedures governing such submissions and include all training materials used to train persons deemed qualified to undertake the transfer of such records into the NICS system or deemed qualified to supervise persons transferring such records into the NICS system.

RESPONSE TO REQUEST NO. 15:

Defendant objects to this Request to the extent it seeks any information regarding the operation of the NICS reporting system, which is not within the possession, custody, and control of Defendant. Defendant further objects to this Request to the extent it seeks information regarding individual cases on the grounds that it is overly broad, unduly burdensome to comply with, and not proportional to the needs of this case. The burden and expense on Commonwealth Defendants of responding outweighs any benefit such information could confer on Plaintiffs in their prosecution of this lawsuit. Moreover, by law PSP cannot divulge individual identifying information.

Subject to and without waiving this objection, Defendant will produce documents relating to PSP's processes or policies regarding PSP's notification of Section 302 commitments to the NICS system.

REQUEST NO. 16:

Any documents or communications relating to the process or procedures governing the manner in which sellers of firearms interact with the PICS database, including employees of the Pennsylvania State Police administering or maintaining the PICS database, as it pertains to individuals subject to Section 302 temporary emergency commitments. Also include any and all written policies or procedures governing such interactions and include all training materials

used to train persons deemed qualified to participate in such interactions with the PICS system or deemed qualified to supervise persons participating in such interactions with PICS system.

RESPONSE TO REQUEST NO. 16:

Defendant will produce any responsive, non-privileged documents within his possession, custody, or control.

REQUEST NO. 17:

Any documents or communications relating to enforcement of the 60-day deadline for an individual subject to a Section 302 temporary emergency commitment to sell or transfer his firearms to another eligible person who is not a member of the committed person's household under 18 Pa. Const. Stat. § 6105(a)(2)(i). Also include any and all written policies or procedures used to train persons enforcing the deadline or deemed qualified to supervise persons enforcing the deadline.

RESPONSE TO REQUEST NO. 17:

Defendant objects to this Request to the extent it seeks information regarding individual cases on the grounds that it is overly broad, unduly burdensome to comply with, and not proportional to the needs of this case. The burden and expense on Commonwealth Defendants of responding outweighs any benefit such information could confer on Plaintiffs in their prosecution of this lawsuit. Moreover, by law PSP cannot divulge individual identifying information.

Subject to and without waiving this objection, Defendant will produce any documents responsive to this request that does not pertain to individual cases of Section 302 commitments.

REQUEST NO. 18:

For the last 7 years, any documents or communications relating to an application for relief under one of the three post-deprivation procedures available pursuant to 18 Pa. Const. Stat. §§ 6105(f), 6111.1(e), 6111.1(g) by an individual subject to a Section 302 temporary emergency commitment. This request includes but is not limited to the address of the individual seeking relief, the facility in which the 302 commitment took place and any subsequent action related to the PICS database arising out of the application.

RESPONSE TO REQUEST NO. 18:

Defendant objects to this Request to on the grounds that it is overly broad, unduly burdensome to comply with, and not proportional to the needs of this case. The burden and expense on Commonwealth Defendants of responding outweighs any benefit such information could confer on Plaintiffs in their prosecution of this lawsuit. Moreover, by law PSP cannot divulge individual identifying information.

REQUEST NO. 19:

For the last 7 years, any and all documents relating to arrests, detentions, incarcerations, stop and frisks, charges, and/or court proceedings that relate to (a) an individual subject to a Section 302 temporary emergency commitment, (b) during the 60-day transfer period under 18 Pa. Const. Stat. Ann. § 6105(a)(2)(i).

RESPONSE TO REQUEST NO. 19:

Defendants object to this Request on the grounds that it is overly broad, unduly burdensome to comply with, and not proportional to the needs of this case. PSP does not maintain data regarding individuals subject to a Section 302 commitment in a manner that would allow the information sought to be gathered without great burden and expense. The burden and expense on Commonwealth Defendants of responding outweighs any benefit such information could confer on Plaintiffs in their prosecution of this lawsuit. Moreover, as written, this Request seeks personal identifying information of individuals subject to Section 302 commitments, which by law PSP cannot divulge.

REQUEST NO. 20:

For the last 7 years, any and all documents relating to instances where the Pennsylvania State Police targeted for investigation individuals subjected to a Section 302 temporary emergency commitment, within a one-year period following the 60-day transfer period under 18 Pa. Const. Stat. Ann § 6105(a)(2)(i). This includes, but is not limited to, any and all documents concerning search warrants, arrests, incident reports, police encounters, the entry of court orders and the commencement of forfeiture proceedings by the Pennsylvania State Police (or other Pennsylvania law enforcement agency), either systematically or on an ad hoc basis.

RESPONSE TO REQUEST NO. 20:

Defendants object to this Request on the grounds that it is overly broad, unduly burdensome to comply with, and not proportional to the needs of this case. PSP does not maintain data regarding individuals subject to a Section 302 commitment in a manner that would allow the information sought to be gathered without great burden and expense. The burden and expense on Commonwealth Defendants of responding outweighs any benefit such information could confer on Plaintiffs in their prosecution of this lawsuit. Moreover, as written, this Request seeks personal identifying information of individuals subject to Section 302 commitments, which by law PSP cannot divulge.

REQUEST NO. 21:

Any documents or communications relating to the Pennsylvania State Police's duties and responsibilities in enforcing the Firearms Disqualification State against individuals subject to Section 302 temporary emergency commitments (or against individuals committed under sections 303 or 304).

RESPONSE TO REQUEST NO. 21:

Defendant will produce any responsive, non-privileged documents within his possession, custody, or control.

REQUEST NO. 22:

For the last 7 years, any and all documents related to the issuance of hunting licenses to individuals subject to Section 302 temporary emergency commitments (or commitments under sections 303 or 304) under the following circumstances: (a) in total; (b) without an ancillary archery permit; and/or (c) with an ancillary permit for a muzzleloader. This requests [sic] includes, but is not limited to, all policies and procedures for how the Pennsylvania State Police revokes or arranges the revocation of any such license by a person who becomes subject to the Firearms Disqualification Statute while in possession of any such license.

RESPONSE TO REQUEST NO. 22:

Defendant objects to this Request on the grounds that PSP is not responsible for issuing or revoking hunting licenses, thus these documents are not within his possession, custody, or

control. Moreover, as written, this Request seeks personal identifying information of individuals subject to Section 302 commitments, which by law PSP cannot divulge.

Subject to and without waiving the foregoing objections, Defendant will produce any PSP policies and procedures for notifying the entities responsible for issuing or revoking hunting licenses of Section 302 commitments.

REQUEST NO. 23:

For the last 7 years, any and all documents related to the issuance of the following to individuals subject to Section 302 temporary emergency commitments (or commitments under sections 303 or 304); (a) Act 235 permits; (b) license to carry concealed firearms; and/or (c) a Pennsylvania License to Sell Firearms. This requests [sic] includes but is not limited to all policies and procedures for how the Pennsylvania State Police revokes or arranges the revocation of any such license by a person who becomes subject to the Firearms Disqualification Statute while in possession of any such license.

RESPONSE TO REQUEST NO. 23:

Defendant objects to this Request on the grounds that PSP is not responsible for issuance of the listed licenses and permits, thus these documents are not within his possession, custody, or control. Moreover, as written, this Request seeks personal identifying information of individuals subject to Section 302 commitments, which by law PSP cannot divulge.

Subject to and without waiving the foregoing objections, Defendant will produce any PSP policies and procedures for notifying the entities responsible for issuing the listed licenses and permits.

JOSH SHAPIRO
ATTORNEY GENERAL

BY: /s/ Kathy A. Le
KATHY A. LE
Deputy Attorney General
Attorney I.D. No. 315677

Office of Attorney General
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KENNETH L. JOEL
Chief Deputy Attorney General
Chief, Litigation Section

Dated: January 19, 2018

Counsel for Defendant Blocker

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

JONE DOE I, <u>et al.</u> ,	:	CIVIL ACTION
	:	
Plaintiffs,	:	
	:	
v.	:	
	:	
COLONEL TYREE V. BLOCKER, in his	:	
official capacity as Commissioner of the	:	
Pennsylvania State Police	:	
	:	
Defendants.	:	NO. 16-6039

CERTIFICATE OF SERVICE

I, Kathy A. Le, hereby certify that Defendant’s Responses and Objections to Plaintiffs’

First Set of Requests for Production of Documents was sent by electronic on January 19, 2018

to:

Jonathan Goldstein
Shawn Rodgers
McNelly Goldstein
11 Church Rd.
Hatfield, PA 19440
jonathan.goldstein@gmail.com
srodgers@mcnellygoldstein.com

BY: /s/ Kathy A. Le
KATHY A. LE
Deputy Attorney General

EXHIBIT C

Sweeney, John P.

From: Shawn Rodgers <TRODgers@mcnellygoldstein.com>
Sent: Monday, February 26, 2018 4:57 PM
To: Le, Kathy
Cc: Jonathan Shae Goldstein; Sweeney, John P.; Woodward, Sky
Subject: Doe, et al. v. Blocker

[External Email]

Kathy,

I am writing to confirm our meet and confer call today.

You reported on the state of your document and data search and we agreed to provide you an additional two weeks from today to complete your production of documents and data in response to our requests.

You agreed to stipulate to an amendment of the Complaint to substitute one or more new Doe Plaintiffs for one of the existing Doe Plaintiffs. We will be sending the proposed stipulation to you shortly.

Shawn M. Rodgers, Esq.



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EXHIBIT D



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*** OF COUNSEL

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March 16, 2018

Honorable Joel H. Slomsky
James A. Byrne U.S. Courthouse, Room 13614
Eastern District of Pennsylvania
601 Market Street
Philadelphia, PA 19106-1748

BY FAX (267-299-5058)

RE: Doe I, et al. v. Blocker, U.S.D.C., E.D. Pa., No. 2:16-cv-6039-JHS

Dear Judge Slomsky:

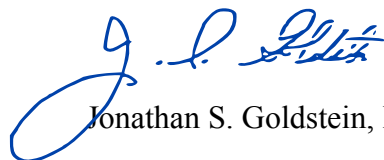
This firm represents Plaintiffs, John Doe I and John Doe II (“Plaintiffs”), in connection with the above-referenced matter. On November 3, 2017, Plaintiffs served discovery requests upon Defendant, Commissioner of the Pennsylvania State Police, Col. Tyree V. Blocker (“Defendant”). Defendant has not provided full and complete responses. On several occasions, the parties met and conferred. In particular, on February 26, 2018, after discussing the discovery that remains outstanding, Plaintiff agreed to allow Defendant an additional two weeks to furnish complete responses. The two weeks expired on Tuesday, March 13, 2018. Defendant has neither provided additional responses, nor contacted counsel for Plaintiffs.

Honorable Joel H. Slomsky
March 16, 2018
Page 2

Before resorting to motions practice to resolve this discovery impasse, Plaintiffs seek to request a telephone conference with the Court and opposing counsel. Yesterday, per your policies and procedures, Plaintiffs' counsel contacted Judicial Assistant Kelly Ann Haggerty. She advised counsel to send this letter via facsimile, requesting the teleconference.

We appreciate Your Honor's consideration and understanding of the situation. Please do not hesitate to contact me, or any of my colleagues, with questions or concerns.

Respectfully,

A handwritten signature in blue ink, appearing to read "J. S. Goldstein". The signature is stylized with a large, looping initial "J".

Jonathan S. Goldstein, Esq.

cc: Kathy Le, Esq. (via email, kle@attorneygeneral.gov)
John Sweeney, Esq. (via email, JSweeney@bradley.com)

EXHIBIT E



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March 30, 2018

*ADMITTED IN PENNSYLVANIA & NEW JERSEY

**ADMITTED IN PENNSYLVANIA & NEW YORK

^ADMITTED IN NEW JERSEY

+ OF COUNSEL

Kathy A. Le, Esquire
Kenneth L. Joel, Esquire
Office of the Attorney General
21 South 12th Street, Third Floor
Philadelphia, PA 19107-3603

Re: *Doe v. Blocker*, E.D.Pa. No. 16-6039

Dear Ms. Le and Mr. Joel:

On November 7, 2017, we served Plaintiffs' First Set of Requests for Production of Documents on Defendants. On January 19, 2018, Defendant served his Responses and Objections to the requests to produce, well beyond the due date and the extended due date for responses. As a result, the Defendant's objections to the requests for production are, under well-established law, waived:

Defendant's failure to make timely objections to plaintiffs' interrogatories and requests for production within the time proscribed by the rules constitutes a waiver of any objections it might have had. *Kansas-Nebraska Natural Gas Company, Inc. v. Marathon Oil Company*, 109 F.R.D. 12 (D. Ne. 1983); *Chubb Integrated Systems Limited v. National Bank of Washington*, 103 F.R.D. 52 (D.D.C. 1984); *Shenker v. Sportelli*, 83 F.R.D. 365 (E.D. Pa.1979); *Renshaw v. Ravert*, 82 F.R.D. 361 (E.D. Pa. 1979). Fed.R.Civ.P. 33 provides, in relevant part: "The party upon whom the interrogatories are served shall serve a copy of the answers, and objections if any, within 30 days after service of the interrogatories ... The court may allow a shorter or longer time." Fed.R.Civ.P. 34 states, in part: "The party upon whom a request is served shall serve a written response within 30

Doe v. Blocker
E.D.Pa. No. 16-6039
Page 2

days after the service of the request....” Judge Troutman granted defendant thirty (30) days from the date of his July 10, 1990 order to respond to plaintiffs' discovery requests. This extension allowed defendant more than four months from the date of service to respond to plaintiffs' discovery requests and interrogatories. Since no objections were made within that time, we will not entertain objections at this late date.

Klitsch v. Gen. Motors Corp., 1990 WL 192037, at *1 (E.D. Pa. Nov. 30, 1990).

To the extent that Pennsylvania State Police (PSP) has provided responses, many of the responses are duplicative of others. In addition, the documents produced are in large part non-responsive to Plaintiffs' requests.

Without waiving any right to pursue waiver or more complete answers, Plaintiffs address Defendant's individual objections as follows:

Request No. 9

Plaintiffs' Request No. 9 relates to interactions between the Pennsylvania State Police (PSP) and individuals subject to a Section 302 temporary emergency commitment, for a period of one-year following the 60-day transfer period under 18 Pa.C.S. § 6105 (a)(2)(i) (Request No. 9); Defendant objected that this request is “overly broad, unduly burdensome to comply with, and not proportional to the needs of this case.”

Interactions between PSP and Plaintiffs, go directly to the heart of this litigation. Information provided in response to these requests would elucidate for Plaintiffs and, ultimately, the court the manner in which such interactions occur.

Defendant does not assert that no responsive records exist, but rather that they are not kept “in a manner that would allow the information sought to be gathered without great burden and expense.” Plaintiffs request that Defendant provide information regarding the manner in which such records are kept so that the parties may reach an agreement on the type of existing and available documents that would be responsive to this request.

Requests Nos. 19 and 20

Plaintiffs' Requests No. 19 and 20 pertain to (1) arrests, detentions, incarcerations, stop and frisks, charges, and/or court proceedings that relate to (a) an individual subject to a Section 302 temporary emergency commitment, (b) during the 60-day transfer period under 18 Pa.C.S. § 6105(a)(2)(i). (Request No. 19); and (2) instances where the Pennsylvania State Police targeted for investigation the same group of individuals (Request No. 20).

Defendant lodges the same objections as to Request No. 9; therefore, Plaintiffs makes the same request that Defendant provide information regarding the manner in which such records are

Doe v. Blocker
E.D.Pa. No. 16-6039
Page 3

kept so that the parties may reach an agreement on the type of existing and available documents that would be responsive to this request.

Defendant also objects to the extent that the requests seek individual information, which Defendant contends the PSP cannot divulge by law, without citation to any statute or regulation prohibiting PSP from providing the requested materials. Further, Defendant fails to state if any portion of the requested documents do not fall within any such prohibition. Plaintiffs request that Defendant provide the requested documents, full citation to any prohibition on providing same, and/or any portions of the requested documents that do not fall within any such prohibition.

Request No. 18

Request No. 18 is for “any documents or communications relating to an application for relief under one of the three post-deprivation procedures available pursuant to 18 Pa.C.S. §§ 6105(f), 6111.1(e), 6111.1(g) by an individual subject to a Section 302 temporary emergency commitment.” Defendant objected that this request is “overly broad, unduly burdensome to comply with, and not proportional to the needs of this case.”

As with Request No. 9, the information sought is central to this matter and will advance Plaintiffs’ and the court’s understanding of the specific circumstances encountered by individuals who seek relief under Sections 6105(f), 6111.1(e), 6111.1(g). Plaintiffs request that Defendant provide information regarding the type of existing and available documents that would be responsive to this request.

Requests Nos. 10 and 13

Request No. 10 seeks “any documents or communications relating to notification by a judge of a Pennsylvania court of common pleas, Pennsylvania mental health review officer, or Pennsylvania county mental health and mental retardation administrator to the Pennsylvania State Police concerning a Section 302 temporary emergency commitment.” Request No. 13 asks for “any documents or communications relating to submission or input of Section 302 temporary emergency commitments by the Pennsylvania State Police into the PICS database.” Defendant objects to both on the grounds that it is “overly broad, unduly burdensome to comply with, and not proportional to the needs of this case,” and seeks personal identifying information of individuals subject to Section 302 commitments, which by law PSP cannot divulge.”¹ Notwithstanding the objection, Defendant agreed to provide “statistics regarding notifications of Section 302 commitments received by PSP.”

Plaintiffs suggest that, if Defendant is able to provide statistics of notifications, the request is neither overly broad nor unduly burdensome, as the information Defendant would

¹ As to Request No. 13, Defendant also objects on the grounds that it is duplicative of Request No. 11. Plaintiffs disagree. The two requests seek potentially distinct information. However, as Defendant has not objected to Request No. 11, Plaintiffs need only address the specific objections to Request No. 13.

Doe v. Blocker
E.D.Pa. No. 16-6039
Page 4

necessarily review is the same information regardless of whether PSP responds in full or simply offers the statistics.

Again, as with Requests Nos. 19 and 20, Defendant objects to the extent that the requests seek individual information, which Defendant contends the PSP cannot divulge by law, without citation to any statute or regulation prohibiting PSP from providing the requested materials. Further, Defendant fails to state if any portion of the requested documents do not fall within any such prohibition. Plaintiffs request that Defendant provide the requested documents, full citation to any prohibition on providing same, and/or any portions of the requested documents that do not fall within any such prohibition.

Requests Nos. 12, 15 and 17

Request No. 12 seeks “documents or communications relating to the due process protections—including but not limited to, notice, a neutral arbiter, an opportunity to make an oral presentation, a means of presenting evidence, an opportunity to cross-examine witnesses and respond to evidence, the right to representation by counsel, and a decision based on the record complete with reasoning for the result—the Pennsylvania State Police provides when enforcing the Firearms Disqualification Statute against individuals subject to Section 302 temporary emergency commitments.” Defendant objects “to the extent it seeks information regarding individual cases on the grounds that it is overly broad, unduly burdensome to comply with,” and, “by law PSP cannot divulge individual identifying information.” Request No. 15 seeks “any documents or communications relating to submission of Section 302 temporary emergency commitments to the NICS database. Also include any and all written policies or procedures governing such submissions and include all training materials used to train persons deemed qualified to undertake the transfer of such records into the NICS system or deemed qualified to supervise persons transferring such records into the NICS system.” Request No. 17 requests “documents or communications relating to enforcement of the 60-day deadline for an individual subject to a Section 302 temporary emergency commitment to sell or transfer his firearms to another eligible person who is not a member of the committed person’s household under 18 Pa. Const. Stat. § 6105(a)(2)(i).”

These requests do not seek individual data. Instead, Plaintiffs ask for documents and communications related to PSP’s policies and procedures concerning the due process protections afforded to affected individuals, reporting Section 302 temporary emergency commitments to NICS, and enforcement of the 60-day deadline to sell or transfer firearms.

Requests Nos. 22 and 23

Request No. 22 seeks “documents related to the issuance of hunting licenses to individuals subject to Section 302 temporary emergency commitments (or commitments under sections 303 or 304) under the following circumstances: (a) in total; (b) without an ancillary archery permit; and/or (c) with an ancillary permit for a muzzleloader.” Request No. 23 requests “documents related to the issuance of the following to individuals subject to Section 302 temporary emergency commitments (or commitments under sections 303 or 304); (a) Act 235

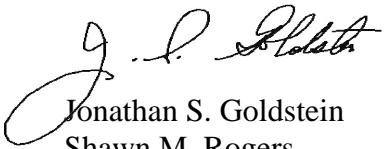
Doe v. Blocker
E.D.Pa. No. 16-6039
Page 5

permits; (b) license to carry concealed firearms; and/or (c) a Pennsylvania License to Sell Firearms.”

Defendant objected to both on the grounds that PSP is not responsible for issuing hunting licenses or firearms permits or licenses. Defendant agreed to produce “any PSP policies and procedures for notifying the entities responsible for issuing or revoking hunting licenses of Section 302 commitments.” Plaintiffs request that this production include documents in PSP’s possession that relate to the issuances of such licenses and permits, notwithstanding that PSP is not the issuer.

Plaintiffs request that PSP amend its responses to the Requests for Production at the same time as PSP serves its verified answers to Plaintiffs’ interrogatories. The amended responses to the production requests should be without objections, and a full and complete set of responsive documents should be turned over at that time. Plaintiffs will set up a meet and confer phone call next week if you need clarification as to our concerns.

Very truly yours,



Jonathan S. Goldstein
Shawn M. Rogers