

Carry Concealed Weapons License

AMENDED

2008-2009 Grand Jury

REASON FOR INVESTIGATION

The Grand Jury elected to investigate policies and procedures related to obtaining a license to carry a concealed weapon in Solano County due to a complaint from a private citizen.

GRAND JURY ACTIONS

- Contacted law enforcement offices in all cities in Solano County, the Sheriff's Office and the California Department of Justice(CDOJ), Bureau of Firearms regarding policies and procedures for a member of public to obtain a license to carry a concealed weapon
- Posed as applicants for CCW licenses in all Cities in Solano County
- Contacted the California Department of Justice, Bureau of Firearms concerning the number of persons authorized by Solano County Law Enforcement Agencies to hold a Concealed Weapons License
- Reviewed documents requested and submitted relating to the application process
- Interviewed the complainant

BACKGROUND/SUMMARY

Application information requested by the Grand Jury was received from the California Department of Justice (CDOJ) and from the various Law Enforcement Agencies within Solano County. California Penal Code §12050 through §12054 is the authority for issuance of Carry Concealed Weapons (CCW) licenses. These sections specifically delineate the authority and discretion of the Sheriff of a county and the Police Chief of cities located within a County to issue a license to carry a concealed weapon on their person or within a motor vehicle. The statute specifies in §12050 subsection (A & B) the Sheriff and local Police Chief are authorized to impose any restrictions, which they deem warranted. The Sheriff is authorized to issue licenses to any citizen anywhere within Solano County, regardless of city boundaries, as his authority is limited only by the borders of the county. However, each Chief of Police is authorized to issue a license for only those citizens residing and/or working within the borders of his city. The cost to the Solano County applicant ranges from approximately \$173-\$380 for initial application, and from approximately \$85-\$155 for renewal. These costs are charged to the applicant regardless of whether or not the license is issued.

The Grand Jury was informed by the Sheriff and the Chiefs of Police of the cities of Solano County that they have developed an informal policy concerning the issuance of CCW licenses. The Sheriff has the authority to issue a CCW license to persons residing and/or working anywhere within the County; however, the agencies agreed the Sheriff would have the authority to issue a CCW license in areas under his exclusive jurisdiction (for example, unincorporated areas of the County). The Chiefs of Police would have the authority to issue CCW's for areas under their jurisdiction. The purpose of this policy is to allow the Chiefs of Police to have more control over the issuance of CCW licenses to persons residing or working within their jurisdiction.

Although not specifically intended as an appeal process, the law does permit applicants denied a license by a Chief of Police to reapply to the County Sheriff for a license. To initiate this process, the applicant must have been denied a license in writing by the Chief of Police. However, if a citizen has gone through the full process, including payment of all fees to the local Police Department is denied and then elects to apply to the Sheriff's Office for a CCW; he will be required to pay the Sheriff's Office application fees.

The Sheriff's office and the several cities use, in principle, the wording of the state statute as their individual policy. However, the procedures vary from agency to agency and the individual agencies may add additional qualifications, which is allowable under the statute. Each agency has their own fee schedule, which is intended to cover the costs of the licensing process. These costs include, but are not limited to the fixed fees required by the CDOJ, Bureau of Firearms for processing an applicant through the forms and procedures required by statute in order to determine the person applying has no legal bar to their application. There are various stages of the investigative process. An applicant must successfully complete each stage of the process prior to being eligible to begin the next stage, and must provide specific verifiable information. The process is designed to ensure that the issuing agency exercises due diligence in the issuance of CCW licenses.

Licenses may be issued for the following applicant categories and time frames:

- Resident – valid for two years
- Judicial – valid for three years
- Reserve Peace Officer – valid for four years
- Custodial (Correctional Peace Officer) – valid for four years
- Non-resident temporary – valid for 90 days

It should be noted that CCW licenses are not necessarily valid for the entirety of these periods, and may actually be in effect for much shorter times. State law specifies that maximum time for CCW licenses to be in effect. A resident CCW license, for example, “is valid for any period of time not to exceed two years from the date of the license.” Penal Code §12050, subd. (a)(2)(A)(i). Furthermore, the licensing authority is required to revoke a CCW license after being notified by Department of Justice (DOJ) that a CCW license holder is prohibited by state law from possessing firearms. Penal Code §12050, subd. (e)(1). As a result, a CCW license may be valid for a much shorter time than the maximum period allowed by law.

Licenses may be reissued at the end of the specified time frame or revoked for cause at any time at the discretion of the issuing official. Re-issuance of a CCW license requires that applicant fingerprints (Live Scan) be resubmitted for review by the CDOJ, Bureau of Firearms. Renewal fees will apply.

The agencies may require the applicant to:

- Show good cause for the issuance of the license
- Submit to a background investigation to determine good moral character
- Show the physical capacity to handle a firearm
- Have their knowledge tested as to their ability to properly handle the weapon or weapons they are proposing to carry

- Submit the weapon(s) for inspection to determine if they are safe to fire
- Demonstrate an appropriate level of marksmanship to determine if the person can safely and accurately handle a firearm
- Complete a course of firearms training paid for by the applicant
- Provide proof of personal liability insurance
- Be at least 21 years of age
- Be free of any State or Federal criminal convictions
- Provide proof of ownership and registration of the weapon(s) to be licensed for concealment
- Provide letters of character reference
- Be free from any mental or physical condition that may make the applicant unsuitable to carry a concealed weapon
- Submit for inspection any ammunition the applicant proposes to use in the weapon(s) under license
- Specify make, model, serial number, and caliber of weapon(s) to be concealed (a maximum of two weapons)

Costs associated with meeting any of the above criteria are borne by the applicant. The Sheriff and each Police Chief in the county have granted licenses. The total number of licenses within Solano County, at the time of the Grand Jury investigation, is 124. While the process is difficult and in some ways convoluted, it nevertheless can be successfully achieved.

Under the law, the licensing authority is only required to submit “the previous identification numbers and other data that would provide positive identification in the files of the Department of Justice on the copy of any subsequent license submitted to the department in conformance with Penal Code §12053 and no additional fingerprints shall be required” for renewal applicants. (Ibid.) Accordingly, DOJ reviews the Criminal Identification Information (CII) number and manual thumbprint on each renewal application to verify the identity and criminal history of each renewal applicant. This practice ensures the accuracy of the DOJ response data that is forwarded back to the issuing LEA regarding the renewal applicant’s eligibility to purchase and possess firearms.

Under the statute, the authorizing official may deny the license, regardless of successful completion of the process, if the issuing authority does not agree that there is sufficient cause for the applicant to carry a concealed firearm.

Penal Code §12053(b) requires the agencies involved in the issuance of CCW licenses to notify the CDOJ, Bureau of Firearms of the denial of a license and requires the CDOJ, Bureau of Firearms to retain records of denials. The Grand Jury has found that some local Police Departments may have an informal policy of denying applicants access to the process by indicating that they simply do not issue CCW licenses.

According to the Sheriff, he has complied with all requirements of the statutes. However, at the time of the Grand Jury’s investigation, the CDOJ, Bureau of Firearms claimed they had no record of receiving reports of denial from any of the law enforcement agencies within Solano County during calendar year 2008. However, during a subsequent interview, the Sheriff stated that he has received confirming correspondence from CDOJ indicating that records of denial have been received from the Sheriff’s Office.

There also appears to be a disparity between the reported number of applications denied by the individual Chiefs of Police, and the number of denials referred to the Sheriff's Office. The Chiefs of Police of Solano County claim that they have denied no completed applications. However, the Sheriff reports that he has received complaints from individual citizens who have been denied access to the application process or have been otherwise denied licenses by Chiefs of Police within the County.

FINDINGS AND RECOMMENDATIONS

Finding 1a - The procedures for obtaining a license to carry a concealed weapon(s) are lengthy and convoluted. According to State law, applications may be denied if the Sheriff or Police Chief feels that the applicant has not provided sufficient "good cause" for issuance of the license.

Recommendation 1a - Since the final reason for denial of a CCW license may simply be the result of a difference of opinion between the applicant and the issuing authority regarding the need for the license, it should be incumbent upon the Sheriff or Police Chief to make the process as transparent as possible. This will avoid the appearance of favoritism or unwarranted discrimination. The law enforcement agencies should review their individual policies for issuance of CCW licenses to ensure they are basing their final decision on the most significant issues, which are: the safety and security of both the applicant and the citizens of the county.

Finding 1b - The cost to the applicant varies considerably from jurisdiction to jurisdiction, which indicates that there may not be an objective basis for some of the fees. The applicant bears the expense of the process whether or not the application is approved.

Recommendation 1b - The fees charged to the applicant should be reviewed to determine that they are in line with the actual processing costs incurred by the law enforcement agency. This may help to limit the wide variation in fees from jurisdiction to jurisdiction.

Finding 1c - There may be an informal policy among some law enforcement agencies to deny access to the application process and/or discourage applicants from initiating the process.

Recommendation 1c - All personnel employed in the headquarters of a law enforcement agency, from the front desk on up, should be instructed to not discourage applicants from initiating the CCW license process, nor to otherwise interfere with the process. Any law-abiding citizen has the right to apply for a license. The final decision and authority to issue the license lies with the chief executive of the agency: the Sheriff or Police Chief, and with no one else.

Finding 2 - The Sheriff and the Police Chiefs of the cities located within Solano County have indicated that they have fully met the requirements of California Penal Code §12053(b) requiring notification of denials. However, the Deputy Attorney General in charge of the firearms bureau of the State asserts she has not received any notification of denials from Solano County for 2008. This may simply be due to a paperwork transmittal problem among various sections within the California Department of Justice.

After receiving a copy of the Solano County Grand Jury CCW report, the California Department of Justice (CDOJ) wrote to the Grand Jury to explain/clarify some aspects of the CCW application, background check, issuance, denial and communication procedures.

In order to correct any misunderstandings between the California Department of Justice and local law enforcement, CDOJ will send an Information Bulletin to all law enforcement agencies in the State describing the proper law enforcement procedure for reporting CCW license information to CDOJ. The Bulletin will include the following information:

California law requires all initial CCW applicants to submit fingerprints to DOJ to establish their identity so that DOJ can determine whether applicants are eligible to lawfully possess firearms. (§12052, subd. (a)). No license may be issued by a licensing authority until after the DOJ makes a determination about the applicant's eligibility to possess firearms. (Ibid) Without fingerprints, however, DOJ has no way to positively determine the identity of an applicant. If a licensing authority were to submit information about a "denial" of a CCW license for which DOJ never received any fingerprints, DOJ would have no way to identify the person, or link the denial with DOJ's earlier determination of the person's identity and eligibility.

The proper procedures:

- (1) Local licensing authorities should not send records of CCW license denials to DOJ unless the applicant has submitted fingerprints to DOJ at the time of his or her initial CCW license application. Without such fingerprints, DOJ has no way to match the denial with its own applicant records and verify the identity of the denied applicant.
- (2) All initial CCW applicants must be processed via the state's Livescan fingerprint identification process via a Law Enforcement Agency (LEA)/Public Live Scan.
- (3) If a CCW license is denied by the licensing authority after the applicant has submitted fingerprints to DOJ via Livescan and DOJ has transmitted information about the applicant's eligibility to lawfully possess firearms back to the licensing authority, information about the denial should be mailed to DOJ at Bureau of Firearms, Firearms Licensing and Permit Section (CCW), P.O. Box 981118, West Sacramento, California 95798-1118.
- (4) The process for renewing an applicant's CCW license is handled differently than the initial application process. LEAs should forward a copy of each renewed CCW license (with the licensee's right thumbprint) and its accompanying fee in the form of a check/money order to DOJ at the following address: Bureau of Criminal Identification and Information (BCII), P.O. Box 903417, Sacramento, California 94203-4170
- (5) If a CCW license is revoked by the local licensing authority, information about the revocation should immediately be sent to the following address: Bureau of Firearms, Firearms Licensing and Permit Section (CCW), P.O. Box 981118, West Sacramento, California 95798-1118.

Recommendation 2 - In order to comply with the requirements of California Penal Code §12053(b), the Sheriff and the Police Chiefs should resubmit all previous reports of denials to the address indicated above in item (3). All parts of the statutes involved must be complied with in full. The Sheriff and the cities need to meet the requirements of Penal Code §12053(b) of the statute by properly reporting all CCW license denials.

Finding 3 - There is an informal pre-screening policy among the Police Departments of the County to determine whether or not the applicant has sufficient good cause to carry a concealed firearm. If the applicant cannot satisfy the individual Police Department's criteria for good cause, he may be discouraged from initiating the application process. While this may not seem fair to the applicant and since he has not been given full access to the process, it may obviate the time and expense involved in going through the entire procedure. In the event of a pre-application denial, the applicant still has the option to apply to the Sheriff for a CCW license. According to the statutes, however, in the event of a denial, the applicant must be denied in writing following completion of the application process. This particular procedure does not allow for the circumstance where the applicant is denied during an informal pre-screening by the Police Department.

Recommendation 3 - Since there are numerous denials taking place during the screening process (prior to an application being submitted) the Police Departments should provide the applicant with a denial letter (perhaps a form letter addressed to the applicant). The applicant may then submit an application for a CCW license to the Sheriff.

Finding 4 - While all sections of the statutes may have been met by the applicant, the statutes still leave the final decision for issuance of a license in the hands of law enforcement officials. It still may be denied if the issuing authority does not agree that the applicant has sufficient good cause to carry a concealed weapon.

Recommendation 4 - Transparency is an important aspect of the CCW process. Without the full and open disclosure of every aspect of the process including proper reporting of denials, charges of favoritism or worse can be suspected in the issuance of CCW licenses. It is incumbent upon the issuing authority to ensure fairness at all levels of the application process.

COMMENTS

The decision to issue or not issue a CCW license is delegated by state law to the County Sheriff and Police Chiefs of incorporated cities within the County and to no other elected or appointed official within said County. An applicant may be denied issuance of a CCW license during an informal pre-screening or after successful completion of the entire process. This seems unfair and could be construed as arbitrary, but is allowable under current law. Full compliance by law enforcement agencies with the various statutes governing the application procedures is absolutely necessary in order to ensure public confidence in the objective nature of the process.

RESPONDING AND AFFECTED AGENCIES

Solano County Sheriff/Coroner's Office
Benicia Police Department
Dixon Police Department
Fairfield Police Department
Rio Vista Police Department
Suisun City Police Department
Vacaville Police Department
Vallejo Police Department

COURTESY COPIES

State of California, Department of Justice, Bureau of Firearms
Solano County Board of Supervisors
Solano County Administrative Officer
Solano County District Attorney