



POLICE DEPARTMENT
City of Benicia

SANDRA SPAGNOLI

Chief of Police

May 6, 2009

The Honorable Ramona Garrett
Presiding Judge of the Superior Court
Solano Superior Court
600 Union Avenue
Fairfield, CA 94533

Dear Judge Garrett:

I have reviewed the Solano County Grand Jury's report issued April 7, 2009 entitled "Carry Concealed Weapons License". I am responding pursuant to, and in the manner described in, California Penal Code Section 933.05.

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.

Response to Finding 1a: Agree.

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.

Response to Recommendation 1a: Implemented; Transparency and policy review have been the consistent practice of the Benicia Police Department. Our current policy meets all current legal standards.

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.

Response to Finding 1b: Agree.

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.

Response to Recommendation 1b: Implemented. Fees charged have historically been in line with the actual costs incurred by the Benicia Police Department.

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.

Response to Finding 1c: Disagree. The Benicia Police Department does not informally discourage potential applicants from applying. All citizens who inquire about our CCW process are provided with our department policy, which outlines the complete process and provided with an application. Potential applicants are allowed to decide on their own to apply or not to apply.

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.

Response to Recommendation 1c: It is not our practice to discourage anyone from applying for a CCW should they request to initiate the CCW process.

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. The Grand Jury determined that the proper address to send the denials to is:

State of California, Department of Justice
Division of Law Enforcement
P.O. Box 160487
Sacramento, CA 95816-0487
Attention: Alison Y. Merrilees, Deputy Attorney General, Bureau of Firearms

Response to Finding 2: Agree.

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. 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.

Response to Recommendation 2: A review of our records show that we did not deny any CCW applications in 2008.

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.

Response to Finding 3: The Benicia Police Department has a formal application process upon receiving a CCW application. It is a two phase process and if the applicant is unsuccessful at any time, the applicant is notified in writing. The Benicia Police Department does not have an "informal pre-screening" of CCW applicants.

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.

Response to Recommendation 3: It is our practice to issue denial letters to applicants who are not successful in the screening process. Again, the Benicia Police Department has a two phase process and the applicant receives a denial letter in the event their application is not granted. This process is codified in our existing department policy.

Finding 4: While all sections of the statutes may have been met by the applicant, the statutes still leaves 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.

Response to Finding 4: Agree.

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.

Response to Recommendation 4: The Benicia Police Department maintains a fair and transparent CCW process which meets current legal standards.

If there are any further questions regarding this issue, please have your staff contact Lieutenant Mike Daley at (707) 746-4259 or via e-mail at mdaley@ci.benicia.ca.us.

Sincerely,



Sandra Spagnoli
Police Chief