

# Let The Sheriff Do Her Job

## Summary

The newly appointed Sheriff has come under criticism for revoking Concealed Weapons Permits issued by the previous administration, believed in many cases to be political favors, to non-law-enforcement persons. The protest has come from certain elected officials, a number of permit holders, and the media as a violation of Second Amendment rights. Nothing could be further from the truth.

The Grand Jury feels strongly that this criticism is unfounded and not warranted. Although policy matters are outside the purview of the Grand Jury, the fact must be acknowledged that, in this instance, no written Carry Concealed Weapons Policy (CCW) existed and it is high time one is adopted. The thorough review of the actions of the prior administration is necessary for public safety. There should be a fresh review of all non-law-enforcement permits in order to start anew in a legally proper manner.

Actions by the new Sheriff's administration are part of a comprehensive effort to adopt a policy for the issuance of permits and the establishment of a proper legal process to be followed by applicants. Those who are deserving and qualified will get their permits. Those who are not will be denied.

## Reason for Investigation

Critical comments have been made in the print media and by certain elected officials concerning the recall of CCW permits. The

County of Orange, unlike any of the other surrounding counties, did not have in place a written CCW Policy.

In order to review the entire issue it is appropriate to examine those permits that have previously been granted. Anything less would be wrong. It is a matter of public safety.

## Method of Investigation

The Grand Jury has interviewed County Supervisors and members of the Sheriff's Department. Newspaper editorials and articles have been read as well as the CCW application form. The Penal Code has been researched along with case law and the opinion letter of the Attorney General issued in 1977. The CCW policies of San Diego, Los Angeles, and Riverside Counties have been reviewed and considered. The most recent Federal District Court decision dealing with the Second Amendment and the license issue has been analyzed and considered.

## Background and Facts

Penal Code Section 12050 gives a sheriff of a county the power to issue licenses to carry concealed weapons. A sheriff has discretion to make sure that the resident applicant meets the criteria of "good cause," proper training, good moral character, and residency.

The County of Orange has no written policy. Neighboring counties of San Diego, Los Angeles, and Riverside each have in place

written statements of both policy and process.

It has been alleged that the prior administration issued a number of licenses to persons whose main qualification appeared to be political and financial support. That administration had no written policy in place and, in many instances, did not insure the application process was followed consistently as to the implementation of "good cause".

Following her appointment, the new administration caused a review to be conducted as to various important issues, among them CCW licenses previously issued to non-law-enforcement individuals. In the review process the previously granted licenses will be examined in order that a policy could be adopted and the application process followed. Under the process all individuals will be allowed to apply. If an applicant meets the threshold qualification of "good cause" and the other criteria of good character, training and residency, previously issued licenses may remain in force and new licenses can be granted.

This is not a matter of right. It is a privilege. The language of the Penal Code gives the Sheriff discretion to grant or deny licenses. The Office of the Attorney General issued an opinion letter on the subject concluding: "A local sheriff, police chief, or police commission has the duty to consider, investigate, and make a determination, on an individual basis, as to every license application under section 12050." (IL 77-122 formerly OPAG 77-30 dated 8/23/77) The statutory scheme in

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place in California is very clear on the subject.

An orderly society is the goal. Public safety is the paramount consideration. The fact that public clamor has reached the ears of politicians is irrelevant. The immediate revocation will get the issue back to square one. At that time, deserving individuals will qualify and others will be denied. Unnecessary interference causing delays in implementing corrective actions involving the issuance of CCW permits is a waste of county resources and these efforts could be redirected toward more vital issues facing the citizens of Orange County.

### Findings

In accordance with California Penal Code Sections 933 and 933.05, each finding will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. The 2008-2009 Orange County Grand Jury has arrived at the following findings:

F.1: The California Penal Code gives the Sheriff the power to establish both a policy and an application process for the issuance of concealed weapons permits/licenses. This includes the power to revoke prior licenses/permits not issued in conformity with the code.

*Response to Finding 1 is required from the Board of Supervisors and the Orange County Sheriff-Coroner.*

### Recommendations

In accordance with California Penal Code Sections 933 and 933.05, each recommendation will be responded to by the government entity to which it is addressed. The responses are to be submitted to the Presiding Judge of the Superior Court. Based on the findings, the 2008-2009 Orange County Grand Jury makes the following recommendation:

R.1: Allow the Sheriff to continue her legally permissible actions in establishing a CCW license permit policy and the adherence to an application process. This includes the possible revocation of permits issued by the prior Sheriff and the review of each applicant to insure compliance with the mandates of the penal code as to "good cause", training, good moral character and residency.

*Response to Recommendation 1 is required from the Board of Supervisor and the Orange County Sheriff-Coroner.*

### Required Responses

The California Penal Code specifies the required permissible responses to the findings and recommendations contained in the report. The specific sections are quoted below:

§933.05

1. For purposes of Subdivision (b) of Section 933, as to each grand jury finding, the responding person

or entity shall indicate one of the following:

- (1) The respondent agrees with the finding.
- (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

2. For purposes of subdivision (b) of Section 933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

- (1) The recommendation has been implemented, with a summary regarding the implemented action.
- (2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.
- (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This timeframe shall not exceed six months from the date of publication of the grand jury report.

The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore.