CCW In California:
A Disaster Analyzed
By Jim March, edited by Oscar Valencia and Chuck Michel
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The debate surrounding permits to carry concealed weapons is generations old in this state. This report will seek to take a "detailed view" and explore the mechanisms and driving forces behind the rampant illegality, favoritism, bias, nepotism and corruption documented herein.

This work is by no means exhaustive; rather than attempt to examine every single problem, it gives an overview of most of the types of problems found in California's various law enforcement agencies. We know other Sheriffs discriminate against town residents as happens in Marin, Sonoma, Contra Costa. It's impossible to tell how much outright corruption is going on as found in Sacramento or "CCW as a political token" as in Sacramento, Los Angeles, Contra Costa and others.

As an "added bonus", it appears provisions of state law may have been ignored by the Commission on State Mandates or there was a communications breakdown between state and local government or the local agencies are ignoring the CoSM. Or the locals and the CoSM disagree? See also Appendix D; good luck sorting that one out.

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INTRODUCTION: About the author

I work as a contract computer technician, specializing in technical support of PCs, Macintoshes, Local Area Networks plus a bit of techwriting on the side. I’ve never been interested in a career in law enforcement.

Three years ago, a friend and neighbor was the victim of fraud. I was witness to some elements and investigated others; because this friend was severely dyslexic I helped him document what was going on and ultimately published the details on the World Wide Web. The perps didn’t expect this; they were relying on my friend’s poor communication skills to render him unable to effectively complain.

The crooks didn’t like me one bit. They offered $10,000 to anyone willing to put me in the hospital and "torch" my motorcycle (a sportbike).

I was a former gun owner at that point, I’d owned a total of one low-end Taurus revolver and sold it years earlier. But I remembered hearing about "CCW permits", I did a search of California law, read Penal Code 12050-54 and decided I plausibly had "good cause for issuance".

I was living in San Leandro at the time. A call to SLPD proved fruitless; their claim was that they simply didn’t issue permits. Alameda County Sheriff’s office staff explained that due to an agreement with SLPD, I would not be considered by that office and as with SLPD, I was denied access to the application forms.

I knew what they were doing was "morally wrong" but I didn’t understand exactly what laws and/or constitutional elements they were violating, or why, or what else they were up to.

Two years passed. I became involved in the gun rights movement, I gathered information, I exchanged information across the Internet. I also moved to Richmond in Contra Costa County for unrelated reasons, and learned that CC County was just as fouled up as Alameda. Finally, on 3/15/99 I filed suit against Sheriff Warren E. Rupf of Contra Costa, the Contra Costa County Government, the City of Richmond and the Richmond Police Department. Richmond were defendants due to their policy of blanket zero-issuance in violation of Salute vs. Pitchess 61 Cal. App. 3d 557 requiring an “individual determination and investigation in the case of every applicant”, the Sheriff for his policies of excluding middle-income, lower income and high minority-population areas from any possibility of CCW issuance and his strong tendency to issue solely to those connected with the criminal justice system plus his personal political allies and supporters, including campaign contributors. Both the Richmond Police and the Sheriff engaged in denials of the blank application forms to attempted applicants, preventing them from ever proving they were denied and eliminating comparisons between successful applicants and denied.

See also the Contra Costa County chapter beginning on page 8 for more details and the outcome of that suit.
OVERVIEW: WHAT EXACTLY IS HAPPENING

In urban counties such as Alameda, Contra Costa, Sonoma, Marin, San Mateo, Sacramento and Santa Clara, there’s a very clear predictable pattern:

1) All of the PD Chiefs and Sheriffs hate the idea of issuing permits (either completely, or they hate issuing them to strangers or those people who do not personally benefit them).

2) The Sheriffs get campaign contributions from wealthy long-term permitholders. It’s not accidental; they issue to people who are likely financial supporters based mostly on wealth and connections.

3) The Sheriffs issue permits to major political figures who can boost their current and future political careers.

4) Depending on the county, these wealthy permitholder/contributors often live in unincorporated areas, or small wealthy towns that purchase contract law enforcement services from the Sheriff.

5) The Sheriffs therefore curtail their areas of permit issuance, avoiding issuing to towns with a PD Chief.

Los Angeles County deserves special mention. There, demographics put wealthy campaign contributors inside towns were traditionally Sheriffs don’t issue; to bypass the longstanding illegal agreement with the LAPD and others, Sheriff Baca created a special reserve deputy program especially for "cronies" with automatic CCW and limited training, with shocking and tragicomic results.

In short, by limiting permit availability the value of a permit is raised. That makes them a major political favor to be handed out; this doesn't help PD Chiefs much, but for Sheriffs it's a bonanza that can lead to chaos.

Subsequent chapters are going to deal with the horrifying realities in each of the Counties mentioned above.

LEGAL NOTES: WHY A SHERIFF CANNOT DISCRIMINATE AGAINST TOWN RESIDENTS

1) Per the Salute vs. Pitchess (61 Cal. App. 3d 557) decision (attached, appendix A), issuing authorities must "make an individual investigation and determination into every application"; this binding precedent seems to exclude the possibility of blanket-blocking access to an entire town. See also the Contra Costa County chapter.

2) A Sheriff cannot legislate! Penal Code 12050 subsection G allows PD Chiefs to "get out of the CCW biz", passing the entire responsibility for issuance, renewals and modifications to the Sheriff. It's very clear that ALL such authority is transferred, not piecemeal (see also the Marin chapter.) There is no such mechanism allowing Sheriffs to "dump" applicants back on a PD Chief. To allow a Sheriff to create such a mechanism violates separation of powers principles and even if he did have such rulemaking authority (or pressured a County Board of Supes into creating him an ordinance) it would run afoul of state gun law preemption statutes.

3) Doing town-discrimination can lead to a racial and/or economic imbalance in permit issuance. See also the Contra Costa chapter, where this sort of thing is analyzed with demographics data. Before studying the CCW mess I would have told you that Jim Crow was over; I can now state with solid authority that it is most definitely alive and well. Chiefs and Sheriffs are crafting their issuance policies in part on racial demographics.

4) To have any credibility supporting town-discrimination, a Sheriff would have to monitor the legal status of the various PD Chief's issuance policies and practices. After all, if the Sheriff makes the Chief the sole CCW authority in that town, the Sheriff is voluntarily supporting whatever illegality the Chief is guilty of. The Sheriff would be equally liable for problems like zero-issuance or gov't-employee-only issuance, violations of the time requirements in PC12052.5, outright corruption or racism, excess fees per PC12054, etc.
ALAMEDA COUNTY: CASE STUDY #1

San Leandro: To quote myself in the introduction:

"A call to SLPD proved fruitless; their claim was that they simply didn’t issue permits."

That may be true, or not. What’s interesting is that while the Sheriff told me I wasn’t allowed to apply through them, the Sheriff DID issue to a small number of San Leandro residents, including people connected to the San Leandro police department.

This structure seems similar to the policies of Sheriff Pitchess of LA struck down by the courts in Salute vs. Pitchess (61 Cal. App. 3d 557 (1976), attached). The Alameda County Sheriff’s department told me that as a resident of San Leandro, they would not even consider me. They didn’t want to hear details of my "good cause", and neither department gave me a CCW application to fill out.

Not wanting to allow people to apply on paper is a widespread trick. If a Freedom Of Information Act request shows that everyone who applies gets issues, well gee, there’s no discrimination, right? WRONG.

Alameda County Sheriff’s Office:

Take a look at the letter on the next page. Here we have a very determined individual (not me) who wants to remain anonymous for the moment. He complained to his County Board of Supervisors over the blanket denial; in response, Plummer wants him to "write a letter on the issue and mark it personal to the Sheriff".
August 9, 1993

Mr.

Dear Mr.:

Supervisor Mary King has sent me a copy of a letter she wrote to you on July 27, 1993. I will attempt to answer your question regarding gun permits.

First, I have never issued Supervisor Don Perata a concealed weapons permit. Second, since you are a resident of Plummer, you fall under my jurisdiction, and I would issue you a permit if, in my opinion, you qualify.

I have four requirements, all of which must be met prior to the issuance of a concealed weapons permit. They are:

1. There must be a need.
2. Applicant must pass a psychiatric examination.
3. Applicant must possess a liability insurance policy of $1,000,000.00.
4. Applicant must prove to my Rangemaster that he or she is proficient with the weapon.

If you desire a permit, you should write a letter to me pointing out your need. Please mark the letter personal.

Thank you for your interest.

Sincerely,

Charles C. Plummer
Sheriff

CCP/3A

cc: Supervisor Mary King
    Supervisor Don Perata

No application, therefore no denial on paper, therefore no record of discrimination. And the only reason the guy got this far was determination and the fact that he lived on unincorporated territory.

Next:

Plummer’s current policies require a $1 million personal liability insurance policy; according to Penal Code 12054(d) starting on 1/1/99, that’s flat-out illegal. 12054(d) reads:

(d) Except as authorized pursuant to subdivisions (a), (b), and (c) no requirement, charge, assessment, fee, or condition that requires the payment of any additional funds by the applicant may be imposed by any licensing authority as a condition of the application for a license.

Subdivisions “A” through “C” authorize the payment of local agency fees, fingerprinting costs, a psychological evaluation fee with a $150 fee cap and the like. Other than those specific billable items, law enforcement
cannot put in requirements designed to price CCW out of the realm of working-class citizens. The word “condition” is important, because it’s applicable to required fees that don’t go to the issuing agency directly.

Plummer has issued two permits in San Leandro to law enforcement people and a small number to others. So why are some people able to cut a deal with the Sheriff and not others? Understand, this isn’t about different issuance standards applied to different people; with some caveats involving equal protection principles, that’s legal. This is different APPLICATIONS PROCEDURES being applied...that’s insane and illegal.

Here’s proof: This page of their current CCW policy manual details their application procedures, and as you can see, people are supposed to fill out the application form and send it in:

CIB P&P 2.05.0
Page 2

B. STANDARD. These licenses may be issued to qualified residents who live within Alameda County. Such CCW licenses are valid for any period of time not to exceed two years.

C. JUDGES/COMMISSIONERS. This license may be issued to California judges and full-time court commissioners and to federal judges and magistrates of federal courts. Such CCW licenses may be valid for any period of time not to exceed three years.

D. RESERVE PEACE OFFICER. These licenses may be issued to reserve peace officers appointed pursuant to section 830.6 of the Penal Code. Such CCW licenses are valid for any period of time not to exceed four years, except that such license shall be invalid upon the conclusion of the person’s appointment as a reserve police officer.

II STANDARDS FOR ISSUANCE OF A CCW LICENSE.

1. The applicant’s primary residence must be in Alameda County, unless they are applying for a 90-day Employment license or as a Reserve Peace Officer.

2. The applicant must be of good moral character.

3. The applicant must demonstrate that good cause exists for issuing a concealed weapon permit.

III APPLICATION PROCESS

Applications for Concealed Weapon Licenses are processed in phases. Applicants must successfully complete each phase before proceeding to the next. If an application is rejected at any time during this process, the applicant will be notified of that action by the Division Commander, Law Enforcement Services.

An applicant must live within Alameda County unless: 1) they are applying for a 90-day employment license or 2) if they are an active reserve police officer with a law enforcement agency in Alameda County. If the applicant lives in an incorporated city, they must first seek a permit from their local chief of police. If they are unsuccessful, they must so state in their application to this office as set forth in this order.

A. NEW APPLICANTS: Mail the following documents:
   1. CCW Application Information Sheet and the “Notice to Concealed Weapon License Applicants” regarding policy on application retention and non-refundable fees.
This is perfectly proper. And in a letter to the person requesting this information, these basic procedures are confirmed to be unchanged from 1987:

Alameda County Sheriff's Office

LAKESIDE PLAZA, 1401 LAKESIDE DRIVE, 12TH FLOOR, OAKLAND, CA 94612-4305

CHARLES C. PLUMMER, SHERIFF
MARSHAL, CORONER, PUBLIC ADMINISTRATOR
DIRECTOR OF EMERGENCY SERVICES

May 14, 1999

RE: Public Records Act Request

Dear Mr.

This is my second letter to you trying to give you the information you have requested regarding the way the Alameda County Sheriff's Office handles "Concealed Weapons Permits" applications.

In an attempt to provide all the information I can regarding your request, I am going to list your requests (from your letter dated 4/26/99) and then describe my answers.

Your request #1. "Applications forms...or which have been used for that purpose during the past ten years. Answer. I have requested any and all old forms from our Central Identification Bureau (CIB), and have been advised the forms have been the same since 1987. These are the forms contained in the first packet I mailed to you.

Your request #2. "...and any other information pertaining to the handling and processing of applications for or denial of issuance of CCW's to individual private parties". Answer. We already provided documents regarding this process.

Your request #21. Your asking to know the current number of outstanding CCW permits. Answer. As of January 1999, there are 127 valid permits. Your request also states that I (Sergeant Knudsen) stated there are no files listing concealed weapons permits. I believe you are referring to my stating there are no files regarding the persons who have been turned down over the years by Sheriff Plummer. This is one of the items you listed in your first request. I take this paragraph to mean you are requesting the names of the people who currently possess a CCW permit. As such, see attached lists.

See the problem? If people are supposed to apply via application form from 1987 to present, why was this same guy told in a letter signed by Plummer in 1993 to "write a letter directly to Plummer outlining his need"?

This isn't just different standards being applied to different people, it's different applications procedures. Since this individual wasn't a crony and Plummer had no intention of issuing, Plummer didn't want a traceable record of denial that could be compared to the issuance records which are also public information that can be discovered via Freedom Of Information Act query, discovery motion, etc.

Plummer is the Sheriff that issued a permit to the otherwise strongly anti-gun politician Don Perata. Perata's claimed "good cause for issuance" was that he was "afraid of pro-self-defense types attacking him", never mind that no such "second amendment assassination" has ever taken place in the US. The truth is, Perata is a member of the aristocracy; aristocrats have usually been armed as opposed to "serfs" all through history. It's disgusting.
CONTRA COSTA COUNTY: CASE STUDY #2

Richmond PD:

On 3/9/99 I had a meeting with Lt. Wayne Willett of the Contra Costa County Sheriff’s office. On that date I was told that as a Richmond resident, there was no way I was going to be allowed to apply for a permit regardless of any claimed "good cause for issuance" because according to him, Richmond PD had stopped issuing permits entirely and had asked the Sheriff’s office to "support" this. Lt. Willett said that the same situation existed in Pittsburg, another lower-income high-minority-population town.

According to Willett, the only way the Sheriff would even begin to consider me would be if I obtained a letter direct from the Richmond Chief saying I had his permission to seek a CCW permit from the Sheriff.

On 3/10/99 I sought a CCW application from Richmond PD. None were available; per the Chief’s staff he would not even discuss CCW with me or anyone else.

On 3/11 I sought a meeting with the Contra Costa County Counsel’s office to discuss what I felt were clearly illegal actions. I was told that as a private citizen, they couldn’t talk to me unless I had a lawsuit on file.

OK, no problem. On 3/15/99 I filed suit. I sued Sheriff Rupf, the County, Richmond City and the Richmond PD for bias, racist policies, illegal procedures including the regular blanket denials of blank application forms, etc. I expected to be able to investigate via discovery motion patterns of "cronyism", issuance to the wealthy and politically connected, maybe even nepotism and outright corruption.

The first result was that Richmond agreed there was a problem. Richmond realized that blanket-zero-issuance is illegal per Salute vs. Pitchess, and that they had to make the blank application forms available to any city resident. City Attorney’s office staffer Wayne Nishioka, Esq brokered the agreement between myself and then-Chief Duncan in late May through early April of ’99. Duncan appointed Captain Ray Howard to oversee the permit system at Richmond PD; by late April permit application forms were found, revised for new laws and I finally applied in late April or early May, I can’t recall which.

My application was delayed approximately six weeks while a correction to the DOJ’s records were made. I am not, nor have I ever been, a felon. DOJ thought otherwise; it took a bit to sort that out but they did reverse themselves. That delayed the process into August of ’99, when Chief Joe Samuels took over in Richmond.

Chief Samuels brought the permit processing to a dead halt. He took Captain (now Assistant Chief) Howard off of CCW processing and gave it to a Sergeant name of Larry Brady. Samuels and Brady raised the initial non-refundable fee to have an application examined to $100, five times the maximum specified in Penal Code 12054. They instituted a $1million legal liability requirement for any permitholder, directly contrary to Penal Code 12054(d). And after repeated phone calls in late December of ’99 and January of 2k, Samuels finally wrote me an official letter of denial, falsely accusing me of having issued a death threat, falsely claiming I had received court-ordered "counseling" seven years ago and claiming I had "no good cause for issuance".

The truth according to Ray Howard is that in Samuel’s entire three-year tenure as the Oakland PD Chief, he’d never so much as saw a CCW application cross his desk. He personally sat on my application for five months, in violation of Penal Code 12052.5:

12052.5. The licensing authority shall give written notice to the applicant indicating if the license is approved or denied within 90 days of the initial application for a new license or a license renewal or 30 days after receipt of the applicant’s criminal background check from the Department of Justice, whichever is later.

8
Gentle readers, if the police cannot obey the laws regarding permit issuance, how can the general public be expected to obey the laws requiring these permits before making preparation for their personal defense?

**Contra Costa County Sheriff’s Office (Sheriff Rupf):**

Two days after I filed suit, I received the following letter from Lt. Willett:

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**County of Contra Costa**

**Office of the Sheriff-Coroner**

*Warren E. Rupf*

Sheriff

March 17, 1999

Mr. James March
2300 Humphrey Street, #6
Richmond, CA 94804

Dear Mr. March:

Attached is an application for a Concealed Weapon Permit and the instruction sheet regarding the procedures to obtain a new permit through the Contra Costa County Office of the Sheriff. Please take notice that a $30.00 non-refundable application fee must be submitted with the application.

During our meeting on March 9, 1999 I referred you to the Richmond Police Department to apply for a CCW because you reside in that city. On March 15, 1999 you stopped by my office and told me that the Richmond P.D. would not help you regarding your application. You informed me you had filed a lawsuit and gave me a copy of the summons as a "courtesy."

You may certainly apply to this Office for a CCW. However, it is unlikely that you will be approved for a CCW for the following reasons:

1. The jurisdiction where you reside is where you should apply for a CCW. You reside in the City of Richmond. The Chief of Police of the Richmond Police Department is the proper authority in your case.


If there is some additional information you would like me to have that pertains to your situation or if you have any questions about the application process, please communicate in writing, I will provide a prompt response. Thank you for your courtesy in this matter.

*WARREN E. RUPF, SHERIFF-CORONER*

Lt. Wayne Willett, Professional Standards & Resources
Ph. # (925) 335-1519

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Point #2 is a non-issue, a mistake by the DOJ that the Sheriff’s office can hardly be blamed for.

Point #1 is far more interesting: exactly as described verbally on 3/9/99, the Sheriff’s office planned on discriminating against me based on Richmond residency.

Attached to this letter was the "application form" and some policy/fee information. The one-page application:

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**Contra Costa County Office of the Sheriff**

**Application**

**Concealed Weapon Permit**

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**Last Name**

**First Name**

**Middle Name**

**Residence Address**

**City**

**Zip**

**Residence Telephone Number**

**Business Address**

**City**

**Zip**

**Business Telephone Number**

**Date of Birth**

**Height**

**Weight**

**Hair**

**Eyes**

**** REASON FOR APPLICATION: **Explain, in detail, your need for a permit to carry a concealed weapon. Include any incidents, dates, locations, names of police agencies, and incident report numbers, if known, and telephone numbers of references that can support your claimed need. (Use reverse if needed or attach additional pages.)****


*** IMPORTANT NOTICE: **The application fee is not refundable in the event the permit is denied. This application DOES NOT constitute the issuance of a license, only an application for same.***


*** RELEASE: **Having made application with the Contra Costa County Office of the Sheriff and desiring to be informed as to my previous record and character, I hereby authorize you to furnish the Contra Costa County Office of the Sheriff any and all information pertaining to my employment, reputation, finances, credit status and banking records and to ascertain any and all information which may concern my record and character, whether name is of record or not, and release my present and past employers, references, and all persons whatsoever from any charge because of furnishing said information.***


Applicant’s Signature

Witness

Dated at ______________________ , California, this __________ day of ________, 1999.

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First problem, this application is NOT official. As far back as 1976 all CCW applications need to record the "occupation" of the applicant. The Salute vs. Pitchess decision (see Appendix A) quoted the relevant part of PC12051 and the details haven’t changed since.
A look at the policy info attached explains what’s going on:

**PROcedures to Obtain a New Concealed Weapon Permit**

**APPLICATION** A formal application shall be completed by each applicant. The application must be legible and complete. Under the section asking why you desire this permit, elaborate extensively. Personal convenience, personal protection, position or job classification in itself will not constitute good cause for issuance of a permit. Your justification for need is considered when making the determination whether or not to issue a permit. Use the back of the application, if necessary. Submit the entire package with a personal check, or money order in the amount of $30 to the Sheriff or his designee. Payment should be made to Contra Costa County. This application fee is not refundable in the event the permit is denied.

**Personal Interview** Applicant will be interviewed by the Sheriff or his designee. If it is determined that a valid need for the applicant to carry a concealed weapon exists, and applicant’s legal residence or employment is within the jurisdiction of the office of the Sheriff, applicant will be given a comprehensive background questionnaire to complete. Denials at this stage of the application process will be made in writing.

**Review** The Sheriff or his designee will review the completed application package. The applicant will be notified in writing or by phone within three weeks as to the result of this review and the subsequent decision.

**Firearms Qualification** If the application is accepted, you will be required to complete a course of training. The law now requires that all applicants & renewals complete a firearm use/safety training class. The Sheriff’s Office sponsors a 4 - 5 hour class that satisfies this requirement. The registration fee for this class is $60. Cost of ammunition and classroom materials is extra. We will also accept a certificate of completion for a firearms use/safety course that has been taken in the previous calendar year. This must be a California State Peace Officer Standard & Training approved course presented by a community college. If a permit is issued, the applicant must complete the training course prior to each renewal. Standard permits are valid for two years. Applicants who wish to register for the Sheriff’s Office sponsored class may contact Linda Keremien at Ph. (925) 335-1542.

**Record Check** Applicant’s fingerprints are forwarded to the Department of Justice for processing. It can take 10 to 12 weeks to receive notification of clearance from the Department of Justice. When such notice is received, a background investigation is conducted. The facts gathered by the investigating officer and his recommendation are forwarded to the Sheriff, who makes the final determination regarding issuance of the license. A minimum of ninety (90) days processing time can be anticipated for issuance of a new concealed weapon permit. Your patience will be greatly appreciated.

**Approval/Denial of Request** Successful applicants will be notified by phone and will be required to pick up their permit at the Sheriff’s Records Unit, where all remaining fees must be paid. Those applicants whose permit requests are denied will be so informed either in person or by mail. All fees are non-refundable, even if the request for a concealed weapon permit is denied, as fees are for processing costs and not for the actual permit.

**Fees**

Initial application fees are collected in the following order:

1. $30 non-refundable application fee must be submitted with the application.
2. All DOJ fees must be paid when fingerprints are taken.
3. The remaining $138 county fees must be paid when the license is picked up.

*The registration fee for the firearms use/safety training class sponsored by the Sheriff’s Office is $60.*
Spot it yet? The "Application" was really no such thing. Look at paragraphs one and two; if you make it to the "personal interview" stage, you get a "questionnaire" to fill out and any denials at that point are "in writing". If you're denied based purely on the bogus "application", you get a VERBAL denial which is harder to challenge. The "questionnaire" is the real application, with all the details such as occupation. However, Penal Code 12051 section 3C contains this gem:

(C) An applicant shall not be required to complete any additional application or form for a license, or to provide any information other than that necessary to complete the standard application form described in subparagraph (A), except to clarify or interpret information provided by the applicant on the standard application form.

Oooops. The whole process was illegal. Like Plummer, Rupf didn't want to leave a paper trail of denials.

In Rupf's case, I can tell you exactly why that is. During the discovery phase of my trial, I wasn't able to force him to reveal the exact "good cause for issuance" statements for his existing permitholders, despite that being public info per CBS vs. Block, (1986) 42 Cal.3d 646. They fought tooth and nail, and I gave up messing with them because I didn't need it, as I'll explain below.

What I did get was a complete roster of permitholders. Three days of cross-referencing those names (along with their cities) against Rupf's campaign donor statements produced over $21,000 worth of campaign contributions made by permitholders. Permitholders included the treasurer of Rupf's campaign fund, several people known to hang out with the DA, former political appointees and officeholders including one ex-board-of-supes member famous for his anti-self-defense stance while in office. More digging showed that relatives of long-term cronies also had easy access to permits. And remember, I was only able to examine money coming from individuals; a lot of money was from businesses, and in most cases I have no way of tracing that cash to an individual who may have a permit; the total cash-from-permitholder pool could total $40,000. One permitholder by the name of Kim Fang recently died in a shootout with home invaders; while his actions that day were perfectly proper, he had donated $700 to Rupf and a lot more than that to Sheriff Rainey who had first issued him a permit based on "undocumented telephone threats". A family of small business owners gave $3,000 and had three permitholders at various times, another individual gave $1,000. About $350 was more typical; of 410 permitholders total, 66 were contributors.

That doesn't sound like a lot, but Rupf's published CCW policy manual created two weeks after I filed suit explains that "criminal justice system employees" (current and retired) have "prima facie good cause". Those people made up the majority of the permitholders.

Contact the author for a complete roster of permitholders and Rupf's complete campaign finance disclosure forms. See also the end of this chapter for Internet links to Rupf's current policy manual, my critique of it detailed in my trial brief and other such documents.

It should be understood that this "Posse/contributor/permitholder" structure long pre-dates Sheriff Rupf. It even pre-dates Sheriff Rainey, who clearly maintained it in a similar fashion before handing it off to Rupf.

In April of 1997 a local lawyer name of Steve Jacobsen filed an FOIA request for Rupf's permitholder data. Jacobsen received the complete permit issuance paperwork on the 18 successful permit applicants between 1/1/96 and the first quarter of '97. 10 of these were "law enforcement related", mostly reserve deputies and retired Federal agents. The others were a mix of "plausibly legitimate" issuance and "obvious cronies".

In the latter category was a major clue as to what's going on: a guy received a permit based on NO "good cause" whatsoever. Frank Edward Nunes Jr. is a rancher who listed the need to defend his ranch from trespassers as a reason for issuance, but since this ranch was both his home and place of business, no CCW would possibly be
required for the purposes stated. The text was heavily redacted but a personal interview revealed the details. Because Nunes lived on (and owned) his ranch which was his place of business, he was allowed to carry openly or concealed **without** a permit under long-standing Calif law; nothing he listed could possibly require a permit. The redacting was to reduce the odds someone would sort this out short of paying him a visit. Which I did.

Nunes’ uncle is Frank Pereira, who once held the political appointment of UnderSheriff back in the ’60s and is another long-time permitholder, as is his son John who first obtained a permit under Sheriff (now Senator) Rainey. Nunes and both the Pereiras are members of a social/political club known as the "Sheriff’s Posse”. There used to be an organization known as the “Sheriff’s Posse” that performed equestrian search and rescue and later devolved down to a ceremonial parade unit. This ended when one guy broke his neck in mid-parade (late ’60s/early ’70s). The “Posse” of today has no official law enforcement connections whatsoever, it’s purely a way for local businessmen to get “personally connected” to the Sheriff’s office, donate money at Posse dinners paid for by the Sheriff’s reelection funds and in large part, gain CCW permits. Not all Posse members joined to gain CCW, but more than 50% of the entire county’s CCW permits seem to be held by Posse members. Frank had stray 9mm live rounds scattered across his kitchen table and a rifle behind the door – based on these and other clues (such as his claimed NRA membership) I would guess he would be rather unhappy with Rupf had his nephew’s CCW permit been turned down. Frank and other Posse members have told me that by and large, it's a "pro-self-defense" organization – I believe Rupf issued CCW to any of these guys that wanted one because otherwise he'd lose their financial support. And we know from the example of the shall-issue states that not all pro-gun people go to the trouble of obtaining the CCW permits even though they support the concept and want them available. In short, if the Posse had thought Rupf was a "member of the Sarah Brady fanclub" they'd have dried up his cash flow. This isn't direct retail corruption, it's a form of "wholesale" corruption that may or may not fit the FBI's definition of a criminal offense – but it is MOST DEFINITELY a violation of the state's equal protection constitutional clause at Article 1, Section 7B: "A citizen or group of citizens may not receive privileges or immunities not granted on the same basis to all citizens."

Once I received the list of permitholders, I made contact with almost a dozen. Nine turned out to be Posse members, and not all of those were campaign contributors. The Posse can only be described as a "heavily armed good ol' boys club".

Rupf inherited this political support structure from previous Sheriff's, and since most Posse members were NRA members or otherwise held views contrary to the "self-defense prohibitionist" crowd, Rupf had to convince the Posse he was pro-gun. But in fact he has made frequent public speeches and editorials outlining a "Sarah Bradyesque" stance, either out of ideology or political expedience.

Different stated policies to different groups is an unfortunate norm in US politics. Rupf went further; he applied different CCW issuance standards to different groups, in the process flushing equal protection principles down a toilet.

So how did Rupf hide this madness?
A "cover page" describing the Sheriff’s policies back in '97 was among the Jacobsen documents:

Mr.

ATTACHED YOU WILL FIND:

(1) An original (blank) Concealed Weapons Permit application.

(2) The Sheriff requires extraordinary justification before considering someone for issuance of a concealed weapon’s permit and all requests are evaluated on a case by case basis either by in person or telephone. Applications are not handed or sent out unless the circumstances of the request warrant issuance. There were no denials of applicants who were provided applications.

(3) Attached are copies of the eighteen concealed weapon permits issued by the Sheriff from January 1, 1996 to April 7, 1997.

Of the eighteen permits issued:

1. Seven were to Police Reserves.
2. Three were to retired Federal Agents.
3. Three were transfers permits from other counties that the Sheriff did not issue.
4. Five others were issued, that are not involved in Law Enforcement.

As you can see, there’s no way to compare who was successful to who was denied. See paragraph 2 above. It was illegal, but it worked...on paper, there was no apparent discrimination. This also explains why I didn’t get a blank application back on 3/9/99, this policy was understood by then to be illegal but it was still being enforced. Willett’s letter of 3/17/99 "admits" this because it refers to me attempting to score on 3/9 yet I didn’t get even the bogus application until after I filed suit.

In the newest policy manual of 3/24/99, Sheriff Rupf claims he intends to destroy all denied application records after three months post-denial. I would think this is in violation of public records statutes, but in any case, Rupf has found a third method of preventing comparisons between the "good cause" of successful applicants versus denied.

The Sheriff’s 18-page CCW policy manual is available for viewing here: http://www.ninehundred.com/~equalccw/policy.html

My trial brief outlining what’s wrong with those policies in detail is here: http://www.ninehundred.com/~equalccw/mybrief.html
The Sheriff’s trial brief, in two major parts: http://www.ninehundred.com/~equalccw/ebrief.html and:
http://www.ninehundred.com/~equalccw/eresp.html

All of the papers (such as the above) related to the 12/22/99 trial plus more info is linked at: http://www.ninehundred.com/~equalccw/trial.html
Of special note is his insistence on not issuing to those towns with a PD Chief. The wealthiest incorporated towns have hired the Sheriff to perform patrol duties: Danville, San Ramon, Orinda and Lafayette. The wealthiest areas of the county are unincorporated: Alamo, Blackhawk, Kensington, Port Costa, etc. The Sheriff has eliminated all possibility of CCW access in the lower-income and high-minority zones such as Richmond, Pittsburg, Antioch, El Cerrito, San Pablo, Concord, Pinole and others. See Appendix B for demographics data on these areas; this is some of the strongest proof extant of a racial/socio-economic bias in CCW issuance anywhere, and it’s being orchestrated by a single individual: Sheriff Rupf.

And since Rupf will issue a permit to a "townie" who is also a deputy reservist, it raises the truly ugly possibility of people "buying a badge along with the CCW" as happened in LA.

Trial number one ended when the Judge realized I had never applied on paper. He ordered them to let me apply (they’d already reformed their policies to that degree) and said that I didn’t have standing to bring up the illegality in the current CCW policy manual or the equal protection claims until I was formally denied. I found this odd because back before I filed suit, I exhausted every remedy available to obtain the application forms; as can be seen from the Jacobsen FOI, denial of the application forms was regular policy. Effectively, the Judge allowed the Sheriff’s wrongdoing in denying me the app to delay matters for up to an additional year or more. My conclusion is that the matter was “too politically hot” for the Judge to want to touch.

My official application is now in process, as is that of several others in the county…upon denial, we’ll launch "lawsuit round two" with an actual lawyer.
May 18, 1969

Dear Mr. H:

Thank you for contacting the Sheriff's Office regarding a permit to carry a concealed weapon.

Due to an agreement with the Chiefs of Police and the Sheriff, permits to carry concealed weapons will not be issued to a resident of another jurisdiction unless a conflict of interest exists. There appears to be no conflict in your situation.

Sincerely,

ROBERT T. DOYLE, SHERIFF

DENNIS M. FINNEGAN, UNDER SHERIFF

DMF/ib

cc: Bernard Del Santo, Chief
San Anselmo Police Department

"In Partnership with our Community"
What we have here is proof of conspiracy.
The Marin Sheriff has agreed not to issue any permits to town residents based on a single large cross-jurisdictional agreement covering the entire county. As noted elsewhere, there is no legal basis for this sort of discrimination on the Sheriff’s part.

Yet individual people are being passed from Chiefs to the Sheriff for consideration based on "conflict of interest". That means that a Chief’s friends, family or business associates gain access to the Sheriff when nobody else in a town would; considering that most Chiefs in Marin have zero-issue policies and the Sheriff doesn’t, this in itself is cronyism and even nepotism. And unless you understood how this whole unpublished system worked, you’d never realize there was a problem because the Chiefs do NOT issue to their buddies, relatives, etc...the Sheriff does it for him!

These "elite people" are being bounced from the Chiefs to the Sheriff on an individual basis; this is NOT any sort of legal use of Penal Code 12050 subsection "G" allowing Chiefs to transfer ALL permit-related functions to the Sheriff.

The towns that are doing "blanket zero issuance" are of course in violation of Salute vs. Pitchess since they aren’t making an "individual determination and investigation in every case". And when the Sheriff "supports" a town’s policies, he makes himself just as illegal.

A basic rule of Marin County society is, "The higher up the mountain your house is, the better the view and the higher the property values (and the bigger the hot tub)". As is common in other counties, incomes in the unincorporated zones are generally higher than in town...so the Sheriff gets access to the wealthiest people for CCW jurisdiction. Compare Sheriff Doyle’s permitholder ranks with his campaign contributors and it’s a real good bet even an amateur investigator will find lots of matches.

Finally, if the Sheriff wanted to issue to a crony in a town, the easiest way around this cross-jurisdictional agreement would be to give the crony reserve deputy status. This became a widespread practice in LA County, with horrifying results.
Same as Marin, Sacramento and a lot more. Sheriff Piccinini is known for being somewhat reasonable if you’re on county land but if you’re in a town, forget it. Rohnert Park, Santa Rosa and most of the others are known for “blanket zero issue” policies which are illegal per Salute vs. Pitchess. They’ll issue to reservists and a few politicians, the exact same sort of garbage shot down specifically by the courts in the Salute case; since Piccinini isn’t monitoring CCW legality among the towns, any lawlessness on their part is a problem for him due to his above-stated “support” for whatever BS they pull.

We don’t yet know what else may be going wrong in this county. This alone is pretty bad; there’s no legal justification or rational reason for a Sheriff to discriminate against a large part of the populace.
SAN MATEO COUNTY: CASE STUDY #5

San Mateo County is unique. Instead of people applying to their Chief OR the Sheriff, they’ve changed it to "their Chief AND the Sheriff". You literally apply with your city PD first and if your application is approved there, it gets passed over to the Sheriff for final approval. This is utterly contrary to Penal Code 12050 where people in towns have a choice of agencies, and as in the Marin, Contra Costa, Sacramento, LA and other cases it’ll put the Sheriff on the wrong side of the law if the Chiefs do anything at all wrong - and many are zero-issue.

How do we know what’s wrong? The San Mateo City Police Department’s official website lays it all out: http://www.ci.sanmateo.ca.us/dept/police/faqs.html#Weapon

The San Mateo Police Department's policy and guidelines regarding the issuance of Concealed Weapons Permits comply with California Penal Code Sections 12050 through 12054 governing the issuance of such permits, and reflect the policy established within San Mateo County regarding the processing of applications.

Who may apply:

Any citizen residing within the City of San Mateo, over the age of 18 years, having a valid reason for obtaining a CCW permit may make application to the San Mateo Police Department. Only residents of this City will be considered.

Fees for service:

For each new application there is a non-refundable fee charged to process the background investigation, fingerprint cards, and other involved procedures. This fee is determined by the City of San Mateo to defray the personnel cost of processing an application, and is not returned if the applicant is denied a CCW permit. An additional state fee is charged to issue the permit.

Application process:

San Mateo County has developed a uniform application form for use throughout the various policing jurisdictions within the county. This application must be filled out and submitted, along with the fee for service. The application must include a written explanation regarding the need to carry a concealed weapon.

The application will be reviewed during a personal interview with the Services Lieutenant at the time of submittal. Following the interview, an appointment for fingerprint submission will be obtained. An additional fee will be collected by the technician to pay for the processing of the print cards by the State of California, as part of the background investigation. This may take 6 to 8 weeks to process.

Upon determination that the issuance of a CCW permit is in order, the Police Chief will forward a recommendation to issue the permit to the San Mateo Sheriff’s Office, along with copies of the application and background investigation. The Sheriff’s Office will continue the processing of the permit for issuance, and impose any clearly stated (if any) restrictions and/or condition the Chief has determined regarding the carrying of a concealed weapon. Reasonable limitations and restrictions imposed on an individual’s CCW permit affect the time, place and other restrictions under which the permittee may carry a concealed weapon.

For further information, please contact the San Mateo Police Department at (650) 522-7627.

Other details: wealthy areas like Atherton, Hillsborough and others "up in the hills" are under the direct patrol of the Sheriff, so a wealthy campaign contributor from those areas could cut a deal direct with the Sheriff. Sound familiar? The other way a wealthy campaign contributor living in a town could bypass the above quagmire would be to get reserve deputy status; see also the LA County section to see why having people pay for badges is a truly horrendous idea.
SACRAMENTO COUNTY: CASE STUDY #6

What follows in this chapter are the four key pages of a 1994 Sacramento County Sheriff’s office report on the Colafrancesco incident. James Colafrancesco was a wealthy campaign contributor to Sheriff Glenn Craig; he also knew then-UnderSheriff Lou Blanas and Mo Bailey, another member of the SCSO brass.

Colafrancesco flashed a gun at somebody during a verbal argument. When deputies responded, they found Colafrancesco’s CCW permit. Drunk out of his skull, Colafrancesco gave voluntary statements such as:

"It is all political. It is just a big political game. I am a major contributor of Lou Blanas and Glen Craig, and they gave me a concealed weapons permit. They told me not to screw around, and not to mess it up, and I have tried real hard not to. You can call Mo Bailey. You can call Lou Blanas. They know I'm a good guy. They know I would never point a gun at anyone."

Searching through his wallet, deputies found his honorary deputy Sheriff's badge. Upon confronting him with this, Colafrancesco babbled onwards:

"I already told you. I got that stuff due to some political ties I have. I am a major contributor to you guys [Sheriff's department] and through my political ties, I have been given certain things. I am probably going to lose them all now.

Could you please just call Mo Bailey or Lou Blanas so we can sweep this under the rug? Do we really have to do anything about this? Can't we just forget it happened?"

Best case of "In Vino Veritas" I've ever heard of.

During this same time period, Sheriff Craig was whipping up a media frenzy against "notorious" Isleton Police Chief Eugene Byrd. Prior to 1/1/98 PD Chiefs could issue to anyone in their county and horror of horrors, Byrd was issuing to anyone in Sacramento County willing to pay $150, go through the 16 hour training program Byrd designed and the state-mandated background check.

Craig slandered Byrd up one side and down the other. Reading the Colafrancesco report, you now know why: Byrd was a threat to Craig’s illicit profits.

In 1998, Craig retired and chose Blanas to succeed him. In the Sheriff’s race that year, Chief Byrd came in second to Blanas. The Sacramento Bee and other local media refused to publish the Colafrancesco papers that would have vindicated Byrd because they had been supporting Craig...newspapers lose credibility when they support a crook. As far back as 1996, Craig’s buddy Dan Lungren supported efforts to shut down Byrd’s alleged "permit mill" operation which was no such thing; this and other pro-totalitarian measures caused Lungren to lose the "gun vote" which he otherwise should have had in the Governor’s race against Davis...and the race was close enough that this loss hurt him badly.

Colafrancesco’s plea to have the whole thing "swept under the rug" actually happened; he ended up pleading guilty to a "disturbing the peace" charge and paying a $100 fine. Nauseated deputies slipped a copy of the report out the department’s back door after that.

As to Blanas, he now issues more-or-less fairly to people who are on county land. He knows that anybody he dumps is liable to come right back at him in court with the Colafrancesco papers rolled up like the newspaper you swat a puppy with. But that’s OK, because almost all of the minorities and a large percentage of the lower income residents are in Sacramento City; early in 1999 a SacCity resident tried to apply and couldn’t even get the blank application forms; he did however get this letter:
March 15, 1999

Tom Anderson
1615 "O" Street
Sacramento, CA 95814

Concealed Weapons Permits for City residents:

Beginning January 1999, per agreement with Sacramento Police Chief, Art Venegas, Jr., Sheriff Blanas will not issue concealed weapons to anyone that lives within the Sacramento City Limits.

Very truly yours,

SHERIFF, LOU BLANAS

Sergeant Don Buzihi
Special Investigations Bureau

My, doesn't this look familiar? Same 'ol crud: take the area with the highest minority population and lowest income and blanket-block all access to permits.

The next four pages are the original Colafrancesco papers:
SYNOPSIS OF CRIME

V-1 and S-1 engaged in a verbal argument outside a bar. S-1 then pushed back the jacket he was wearing, exposing a .45 caliber automatic on his waistband in a holster. S-1 placed his hand on the gun, as if in a drawing motion, and told V-1, that he “better go the fuck around or there is going to be trouble”. V-1 fled as S-1 was detained by a limousine driver. V-1 signed a citizen’s complaint for assault. S-1 was cited, cite number 479912.
to speak with COLAFRANCESCO. Immediately upon entering my patrol car, COLAFRANCESCO demanded to know what he was under arrest for. I advised him that he was under arrest for the rude or threatening display of a firearm, and that it was a misdemeanor in the State of California. I advised him that he was going to be issued a citation and released.

While I was looking through COLAFRANCESCO's wallet for his identification, I found two concealed weapons permits signed by Sheriff Glen Craig. I asked COLAFRANCESCO what he did for a living and he stated that he worked in construction. I was curious as to why a person who worked construction would need a concealed weapons permit. I asked COLAFRANCESCO what specific duties he had that required him to carry a concealed weapon and to have a concealed weapons permit. COLAFRANCESCO stated the following to me in summary:

{It is all political. It is just a big political game. I am a major contributor of Lou Blanas and Glen Craig, and they gave me a concealed weapons permit. They told me not to screw around, and not to mess it up, and I have tried real hard not to. You can call Mo Bailey. You can call Lou Blanas. They know I am a good guy. They know that I would never point my gun at anyone.}

I advised COLAFRANCESCO that the victim had stated that COLAFRANCESCO had just displayed the gun in a rude or threatening manner and that the victim had not said anything about COLAFRANCESCO pointing the gun at anyone.

At this time, COLAFRANCESCO stated the following to me in summary:
I advised him that a citizen had stated that he had displayed his firearm in a rude or threatening manner, and that the citizen was making a citizen's arrest. I advised COLA Francesco that I was not arresting him, that a citizen was arresting him. COLA Francesco then stated the following spontaneous statement:

I think he saw my gun when I was in the bathroom.

I advised COLA Francesco that the victim had stated that COLA Francesco had displayed the gun outside of Brother Oliver's. COLA Francesco stated the following to me in summary:

No I didn't. He saw it while I was in the bathroom. You're saying, that because I was taking a piss, I am being arrested?

I advised COLA Francesco that he was not under arrest for urinating. COLA Francesco then stated the following to me in summary:

What am I under arrest for?

I again advised COLA Francesco that he was under arrest for the rude or threatening display of a firearm.

While completing the citation, I opened COLA Francesco's wallet, in order to find a driver's license or a California identification card. While flipping through COLA Francesco's wallet, I noticed that it was a badge wallet. A badge wallet is a wallet commonly used by law enforcement personnel to hold items normally associated with a wallet, as well as a cut
out area to insert a badge. This cut out area is usually covered by a thin leather flap. I removed the thin leather flap and found a brass shield inside the wallet. This brass shield, at first glance, appeared to be a law enforcement badge. When given a closer look, there was a ribbon that ran across the shield that had the word "honorary" across it. Directly adjacent this badge was an identification card with COLAFRANCESCO’s picture on it, which stated that he was an honorary deputy sheriff with the County of Sacramento. This honorary deputy sheriff identification card was signed by Sheriff Glen Craig.

I asked COLAFRANCESCO why he carried around this honorary badge and he stated the following to me in summary:

\[
\begin{align*}
\text{I already told you. I got that stuff due to some political ties I have. I am a major contributor to you guys (sheriff's department) and through my political ties, I have been given certain things. I am probably going to lose them all now.} \\
\text{Couldn't you please just call Mo Bailey or Lou Blanas so we can sweep this under the rug? Do we really have to do anything about this? Can't we just forget that it happened?} \\
\text{I advised COLAFRANCESCO that would certainly be an option if I was not dealing with a citizen's arrest. I advised COLAFRANCESCO that because someone had demanded a citizen's arrest, the law stated that I must conduct the arrest. I advised COLAFRANCESCO that I was not going to take him to jail, and that taking him to jail was certainly an option. I advised him that I was merely going to issue him a citation and release him.}
\end{align*}
\]
Hal McKinney, a former Fresno County sheriff, had a ready reply when he was accused of giving concealed-weapon permits to his friends.

"I'm sure not going to give them to my enemies," he'd quip. And then he'd say the system was too political and ought to be changed.

Eight years later, the system hasn't changed and McKinney's successor, Steve Magarian, is hearing the same accusation. He doesn't laugh it off, however.

"There's no truth to it at all," Magarian said last week, bristling at any suggestion that his system favors his friends, campaign contributors and others with clout.

Fresno City Council Member Robert Lung and others trying to liberalize the city's permit policy say that the Sheriff's Department favors campaign contributors and wealthy white men. They say it discriminates against minorities and people living in high-crime neighborhoods.

Department records show that permit holders tend to be older white men living in rural areas or relatively affluent north Fresno. The list of 2,441 people is dominated by professionals, correctional officers, farmers, businessmen and their relatives.

A full racial breakdown was not available, but fewer than 3 percent have Hispanic surnames. *(Ed. note by Jim March: given the area, this is extremely significant.)*

Though Magarian says there is no connection between permits and campaign contributions, put a list of his contributors next to the list of those who hold permits and you'll see a lot of the same names.

Magarian points out, however, that many permit holders received them from previous sheriffs. Though he renews them annually, Magarian says the renewals are virtually automatic.

In 1993, while running unopposed for re-election, Magarian raised $33,125. Of that, $11,100 came from permit holders or businesses they own.

In 1991 and 1989, other major fund-raising years for Magarian, permit holders accounted for more than half the $48,000 he collected.

Magarian said he follows state law, which gives him discretion to decide when an applicant has "good cause." He said he has never exchanged a permit for a contribution.

"I have people say all the time, 'Hey, what's it take to get a gun permit?' but it's just a joke."

Magarian said he's not responsible for the racial makeup because most of the licenses were issued by previous sheriffs.

Footnotes:

1 Sheriff Magarian just confessed to violations of equal protection and a violation of Salute vs. Pitchess 61 Cal. App. 3d 557. Automatic renewals mean that previous applicants are maintaining their favored status regardless of any comparisons to new applicants, and any system of corruption, favoritism, bias or racism that previous administrations may have committed are being automatically maintained in the present. Finally, it makes a mockery of "individual investigation and determination" per the Salute decision.

2 In light of Magarian’s treatment of CCW renewals as “virtually automatic”, this plea that probable racial bias in issuance “is all the previous administration’s fault” is disingenuous bordering on insane. Let’s see: rich white cronies got permits, working-class Hispanics universally didn’t, so let’s keep renewing the crony permits and halt almost all new applications’. GREAT idea…one wonders where he keeps his bedsheets with eyeholes and a “do it yourself cross-burning kit”.

27
His records show that Magarian has granted 245 permits in his eight years in office, including 19 to applicants with Hispanic names. He said he has angered many constituents by not granting many more permits.

Among them is Fresno trailer salesman and gun dealer Tom Thomas, who has asked the state Attorney General's Office to investigate the sheriff's policies.

Thomas, 48, sought a permit because he travels to trade shows with his guns and wanted to carry one loaded. In a rejection letter, Magarian told Thomas, "You do not have a compelling reason." Thomas responding by poring through the sheriff's permit files.

"In my frustration I said 'I think I'll go down and see what people with permits gave as a compelling reason,' " Thomas said.

"After many days of research I got angrier and angrier. The people who receive permits in Fresno County are campaign contributors, friends, associates of the sheriff.

"The people with power get them but the people who need them, like the waitress working nights out on the highway, don't have a snowball's chance."

Thomas said he was bothered by the number of influential people on the list, such as county Supervisor Deran Koligian and eight of his relatives, Fresno County Supervisor Stan Oken, 55 lawyers, 50 doctors and 11 judges, most of whom got their permits from previous sheriffs.

Many, Thomas said, hadn't provided specific reasons, much less compelling reasons.

Most galling to Thomas was the successful application last year from Jeff Nighbert, Oken’s son-in-law. Magarian said he approved it because Nighbert’s job at the family ranch requires him to drive on foothill roads far from police protection.

"I didn’t talk to Oken about it," Magarian said.

Nighbert said he was surprised his permit was approved "because you hear about how many people can’t get them," but he said he never asked his father-in-law to help.

Thomas confronted Oken about Nighbert's permit. "I got kind of smart with him," Thomas said. "I asked him if I could be his son-in-law."

As a result, Thomas was temporarily barred from continuing his research. Oken said he complained about Nighbert’s application being disclosed, and county officials told Thomas the files were closed.

The county has since reversed its position -- primarily because of a 1986 California Supreme Court ruling that says gun permit paperwork is public record.

Magarian said that if he was trading gun permits for campaign contributions, he wouldn't have cut the number of permits by 28 percent.

In the 1950s and '60s, the county had more than 6,000 permits on file. McKinney slowly reduced the number to 3,400. Magarian has whittled the number down, partly by generally restricting permits to people outside city limits.

When exceptions were pointed out -- such as Nighbert, a city resident -- Magarian said, "There is no hard and fast criteria. That's why I get so many people calling me to say they're not going to vote for me again."

"I guess you're damned if you do and damned if you don't."

Jim again. I think this stands on it's own...same ol' BS.

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3 Comment: contrary to what Sheriff Magarian claims, Sheriffs who use CCW permits as "political credit tokens" in exchange for campaign contributions and political favors try to keep the number of permits low. Why? Because rarity equals value, ask any economist.
LOS ANGELES COUNTY: CASE STUDY #8

Los Angeles Police Department

During Chief Gates’s tenure, LAPD was sued by attorney Peter Alan Kasler for illegal issuance policies, particularly blanket-zero-issuance and routine denial of the application forms. The LA City Attorney brokered a court-ordered settlement whereby everybody gets the applications, and applicants were to be reviewed by a panel containing a mix of citizens and police brass. The basic standards of "good cause" were to be: "large-scale cash handling, or a compelling personal circumstance, or something related to employment".

In other words, very strict but not handled as a "political hot potato".

After a few false starts, the CCW committee recommended a modest number of people, most of those scored.

The day Chief Parks took office, he brought the system to a rapid screeching halt. At first he used his veto 100% of the time, later he let a tiny number (less than a dozen) slip through. Parks is 100% ideologically committed to civilian disarmament, possibly the most outspoken currently serving law enforcement officer in the state on the subject. Naturally, this put him in violation of a court order but by then, Peter Kasler was going through a nightmare in Tehama County and didn’t have time to wrassle with LAPD...see also the civil rights violation lawsuit Kasler filed in Fed Court in Sacramento in ’99 against Tehama Sheriff Parker.

LA County Sheriff’s Office

When Sheriff Baca of LA County took office, Parks panicked. Baca is a close friend of Orange County Sheriff Mike Carona; Carona instituted widespread CCW reforms, issuing to anyone with solid, plausible "good cause" regardless of race, wealth, connections, contributions, etc. Carona campaigned on that basis and has near-universal respect as a "fair, legal and tough" CCW administrator, possibly the best of any urban county.

Baca started making noises like he was intending to follow Carona’s lead.

I can’t prove it, but I believe Parks told Baca he was adamantly against Baca issuing to LA City residents, regardless of "good cause". Nothing else makes sense; we know Parks is definitely virulently anti-self-defense from the flouting of the Kasler case and other clues. We also know from Marin, Sacramento, Contra Costa and others counties that agreements where Sheriff’s block CCW access within towns are common; such an agreement hasn’t been proven yet in LA but Parks would certainly have been strongly in favor of such a thing. Baca backed down from initial pro-CCW campaign trail noises, probably because of the praise the LA Times had given Chief Parks for his anti-self-defense stance...Baca may have figured he couldn't win a PR war in that county. Carona had the support of the Orange County Register, which had noted previous CCW-related corruption in the county; the roles of these respective media outlets should not be dismissed out of hand.

But Baca had a classic problem: major campaign contributors now wanted their payoff - in CCW permits.

Baca's "solution" had horrifying and tragicomic results. He set up a "celebrity reserve deputy program" with reduced training (64 hours total) and automatic CCW access.

He didn't just sell gun permits, he sold BADGES.

This system was illegal from top to bottom. It's a gross equal protection violation, per the California Constitution Article 1 section 7B:

"A citizen or class of citizens may not be granted privileges or immunities not granted on the same terms to all citizens."
Then again, so are all other forms of "CCW elitism/cronyism/racism/nepotism/etc.".

Per Penal Code sections 12050-54, a permit applicant can only be forced into 16 hours training max, or 24 if the agency wants to turn over the training process to a Community College. If this was really a "backdoor CCW", it was grossly in excess of this limit established 1/1/99 by AB2022.

Jay Leno and Steven Segal were offered entry into this program. They wisely refused point-blank; they may have realized that even the LA Times might gag at this concept. They were right. Worse, as we saw in the Colafrancesco incident, people who get access to guns via "connections" can easily come to think they're "above the law", and in point of fact they are; anything they do wrong reflects badly on the agency head that issued to them, so the urge to pull a cover-up becomes overwhelming.

Putting people in this situation and THEN adding police powers and a badge plus inadequate training is a recipe for utter disaster.

So why did it happen?

Because Chief Parks couldn’t complain about Sheriff Baca issuing permits to his own reserve deputies.

A Sheriff can even issue a permit to a reservist that lives out-of-county; arming reservists with CCW is a time-honored tradition in many counties.

Dear readers, understand this point well:

THE RICH ARE GOING TO TRY AND BUY PERMITS. OK? IT'S GOING TO HAPPEN UNDER THE CURRENT DISCRETIONARY SYSTEM OR ANYTHING SIMILAR. IF THE LEGISLATURE SHOULD TRY AND "FIX" SOME OF THESE PROBLEMS BY REMOVING A SHERIFF’S ABILITY TO ISSUE INSIDE CITIES, THERE'LL BE OUTRIGHT CASH-UNDER-THE-TABLE CORRUPTION AMONG THE CHIEFS AND THE SHERIFFS WILL START SELLING RESERVE DEPUTY STATUS TO GET AROUND THE RESTRICTION. REGULAR PURCHASE OF BADGES IS INTOLERABLE.

And why is it intolerable?

Because of the 20 "elite program reservists" sworn in under LA’s Baca, two have been arrested for felonies. One took pot-shots at his neighbors in the dead of night in his underwear, the other has been indicted for gun-smuggling across the Mexican border and money laundering. The unit was disbanded in disgrace after the "Wacky Zacky Chickenman Fiasco".

Sure enough, even the LA Times couldn’t stomach this freakshow and published full details, as the following three articles will document:
Sheriff Offering a Badge and Gun to Celebrities;

By: TINA DAUNT
TIMES STAFF WRITER

Jay Leno, Steven Seagal and a host of other celebrities and prominent people may soon join the ranks of the Los Angeles County Sheriff's Department as "executive reserves," officials said Thursday. Sheriff Lee Baca has set up the special reserve program that will allow celebrities, executives, star athletes and a variety of other notables to sign up with the department.

If the new reservists complete 64 hours of training and pass the department's background check, officials say, they will be given a badge and can carry a gun. Those who do not complete the abbreviated academy course can still join the elite corps as "volunteers," but will not be able to carry a concealed weapon with the department's blessing. Sources say Leno and Seagal will probably opt for the latter.

Although the program is designed to involve more high-profile people in various Sheriff's Department events, some department members say they are worried that it will be abused--particularly by those seeking a backdoor way to secure a concealed weapons permit.

"There is something to be said for being able to command a Jay Leno or an Oscar De La Hoya for a grand opening," said Dennis Slocumb, president of the Los Angeles County Professional Peace Officers Assn. "But if it's there to reward campaign supporters, then I have a problem with that . . . and if there is no necessity for them to have a gun, then why do they have it?"

Assistant Sheriff Larry Waldie, however, said the sheriff is merely "trying to get some really prominent members of the community, either business executives or entertainers, to assist us to have better liaisons with the community."

"When you have a big-name star, it will be a great draw," Waldie said.

In addition to Leno and Seagal, officials have asked Lee Iacocca and Utah Jazz player Bryon Russell to join, sources say. Other people being considered for the
program include the grandchildren of former Sheriff Peter Pitchess.

"We're in the process of taking applications," said Capt. Doyle Campbell, who is in charge of the department's reserve program. "We have about 30 people who have expressed an interest. Nobody has signed up completely."

In addition to having to submit to background checks, applicants will also be expected to undergo random drug testing, according to officials.

"We're doing the whole nine yards," Waldie said.

The department has several reserve programs for regular citizens, who are also allowed to carry guns if they complete the proper training. In one of the programs, reservists actually work in radio cars and help deputies patrol the streets. In another program, mountainers and medical professionals are called on to help with search and rescue operations.

It has been years since the department granted badges to people simply because they are prominent.

Pitchess did away with the practice in the 1960s because he believed it led to a "lack of professionalism," longtime department members said. Also, the county can be held liable for any actions the reservists take while on duty.
Member of Sheriff's Celebrity Reserve Unit Suspended;

Law enforcement: Volunteer deputy is accused of drawing a gun on a couple outside his home. He calls it a 'non-incident.'

By: TINA DAUNT
TIMES STAFF WRITER

Less than a month after Los Angeles County Sheriff Lee Baca swore in his first new "celebrity" reserve deputies, one of his recruits--a member of the Zacky Farms chicken dynasty--has been relieved of duty for allegedly drawing a gun during a confrontation outside his Bel-Air home.

According to Los Angeles police, Scott Zacky allegedly mistook a couple out on a date for auto burglars when they were trying to fix a window on their car. A witness told investigators that Zacky, 35, ran out of his house in his boxer shorts, waved a gun and yelled: "Stop! Police!," authorities said.

"He allegedly was pointing the gun at [the couple] as they drove away in fear," said LAPD Det. Paul Bishop. The couple contacted the LAPD, which launched an investigation. No charges have been filed against Zacky, but the city attorney's office will review the matter for potential violations next month.

Meanwhile, sheriff's officials said Zacky--who was sworn in to Baca's elite reserve unit Aug. 29--has been relieved of duty, which is routine in cases of this nature. After the LAPD concludes its investigation, sheriff's officials say they will conduct their own investigation of the incident, which allegedly occurred Aug. 31.

Although the Sheriff's Department issued guns to members of the elite group of reserves, LAPD investigators believe Zacky may have used another weapon during the alleged confrontation. When contacted at his home, Zacky said the incident amounts to nothing more than a misunderstanding. "It's a non-incident," he said.

He said one of his neighbors called to tell him that a man wearing gloves and a ski cap appeared to be breaking into cars. He said he armed himself and went out to investigate. "I was crossing the street and a car came at me," he said. "I spun around and pointed the gun at them and yelled, 'Stop!'"

Zacky said he never yelled "police" and that he was wearing shorts--not boxers. He said the car stopped for a moment, and then sped off.
His attorney, David Ogden, said his client will appear before a hearing officer with the city attorney’s office next month to explain his side of the story. City prosecutors will then decide whether to file misdemeanor charges against Zacky.

Ogden said he believes the matter will be resolved once "everyone understands what happened."

"I don't really see this as a crime," he said.

Nevertheless, the incident has renewed criticism of Baca’s reserve unit. When the sheriff proposed the plan several months ago, department members expressed concern over the wisdom of issuing badges and guns to civilians who are provided with 64 hours of training.

"My understanding is that they were not hired to perform line law enforcement functions," said Dennis Slocumb, president of the Professional Peace Officers Assn. "This just provides an example of what can go wrong when you put such a strong symbol of authority and a gun in the hands of someone who had 64 hours of training. It requires more training to do manicures in the state of California."

Sheriff’s officials set up the unit in an effort to get high-profile members of the community involved in department events, such as helping with anti-drug programs or the youth activity league. Those who complete the training are issued a department uniform, along with the gun and badge.

Department leaders had asked Jay Leno and Steven Seagal to join the elite corps. Although the men said they would be interested in assisting the department, they declined to sign up for the unit, officials said.

In all, 20 people were sworn in at a ceremony last month. In addition to Zacky, the group includes a number of business executives and two grandchildren of the late Sheriff Peter Pitchess.

Sheriff’s Capt. Doyle Campbell, who oversees the reserve program, said the unit was formed to "bring influential people in the community together to benefit the department in a number of different ways."

"They're very interested in giving back to the community," he said.

He also defended the decision to issue uniforms, guns and badges to the executive reserves, saying that sheriff’s officials decided to treat the elite group as they would any other reserve unit in the department.

"They weren't just given guns," Campbell said. "They went through 24 hours of training with the guns and had to qualify for the right to carry them."
Thursday, December 2, 1999
Orange County Edition
Section: Metro
Page: B-3

L.A. Sheriff's Unit Suffers a 2nd Arrest;
An ex-reserve deputy and an Anaheim man are indicted by a federal grand jury on charges of laundering $225,000.;

By: From a Times Staff Writer

A former member of Los Angeles County Sheriff Lee Baca's special celebrity reserve unit and an associate from Anaheim were indicted by a federal grand jury in Santa Ana on Wednesday on suspicion of laundering about $225,000, the U.S. attorney announced.

Elie Abdalnour, 36, of San Dimas, a wealthy Baca supporter who owns Cypress Jewelry Mart Inc., was sworn in in July and given a badge and a gun by the department. He is the second member of the celebrity reserve unit arrested this year. As a result of the arrests, the program was suspended last month.

Abdalnour and Jirair Tatarian, 29, co-owner of an Orange County strip club, are accused of laundering money they allegedly believed came from proceeds from counterfeit clothing.

Undercover Anaheim police officers initiated the investigation, telling Abdalnour and Tatarian they had access to increasingly large amounts from the sale of counterfeit apparel. Abdalnour was introduced to the undercover investigators as the money launderer by Tatarian, authorities said.

"Using banking contacts that Abdalnour maintained in Beirut, Lebanon, Abdalnour and Tatarian agreed to launder money for undercover investigators," according to a statement by the U.S. attorney. "During an eight-month period, Abdalnour and Tatarian laundered approximately $225,000, receiving a 10% commission for their services."

Three months ago, Los Angeles sheriff's officials suspended celebrity Reserve Deputy Scott Zacky, whose family owns Zacky Farms, after he was accused of brandishing a weapon at two people outside his Bel-Air home.

Baca set up the program in June for celebrities, executives, athletes and other notable community members to serve as special reserve deputies. As it turned out, no well-known celebrities wanted to join. The unit included 20 or so little-known but influential individuals with an interest in law enforcement.

Tatarian and another man, Lionel Rodriguez, were also indicted Wednesday on suspicion of attempting to smuggle guns onto planes at Los Angeles International Airport. Rodriguez, 29, of Diamond Bar, worked as a loss-prevention agent at a duty-free shop at LAX.

Assistant U.S. Attorney Jean A. Kawalara said the men thought they had successfully arranged to have guns placed on flights to Ireland for a fee of $900 per firearm. But the money was paid to undercover police officers operating a sting, she said.

On Oct. 22, five guns were brought into LAX, taken past security and delivered to an undercover agent, who was supposed to carry the weapons onto a plane, Kawalara said.

On Nov. 17, another five guns were delivered to Rodriguez, who was arrested after allegedly smuggling them through security by using his security pass and knowledge of procedures at the airport.
CONCLUSIONS AND RECOMMENDATIONS:

"The law must be respectable, otherwise it's not respected. As respect for one law falls, respect for the rest follows. That's just human nature; it's why we never fully recovered from Prohibition..." - anon

It's no accident that the abuses documented above are happening. In 1917-23 when California's "discretionary gun carry permit system" was first designed, the idea of treating all people equally was simply inconceivable. That period also produced laws stripping ethnic Japanese of property rights, mob violence against ethnic Chinese was rampant in San Francisco, law-enforced segregation was common, etc. We know the intent behind these permits was outright racist.

One major clue was Florida's history with this permit system. In 1893, a white lynch mob raided a black settlement near Gainsville, Florida. The mob was repulsed by blacks wielding revolvers and early leverguns such as the old .44 Henry 15-shot "assault rifle". Florida's permit system was established that same year and required permits for handguns and, you guessed it, leverguns.

In 1940, a white gent was prosecuted for carrying a concealed handgun without such a permit. His case went all the way to the Florida Supreme Court, where he was released. In the majority opinion affirming the decision, Justice Buford said:

"I know something of the history of this legislation. The original Act of 1893 was passed when there was a great influx of negro laborers in this State drawn here for the purpose of working in turpentine and lumber camps. The same condition existed when the Act was amended in 1901 and the Act was passed for the purpose of disarming the negro laborers and to thereby reduce the unlawful homicides that were prevalent in turpentine and saw-mill camps and to give the white citizens in sparsely settled areas a better feeling of security. The statute was never intended to be applied to the white population and in practice has never been so applied."

There are millions of people in California who feel it is our right and duty to protect ourselves and our families from criminal assault. We are aware of the Government Code sections that relieve Law Enforcement of all fiscal duty to protect our individual safety, and the 22 separate high court decisions affirming that "principle". The most recent was the LA riots surrounding the Rodney King verdict; attempts to sue LAPD for retreating from the initial core of the embryonic riot were instantly rebuffed by the courts.

Each of us that learns of the outright abuses partially documented here are personally offended. Those of us aware of the extent of the corruption and illegality become enraged, and the Internet is allowing this information to spread at an ever-increasing pace, bypassing traditional news media and their usual "editorial policies" in favor of civilian disarmament. As we learn of the origins of this system via work such as Clayton Cramer's, we lose all respect for a law with such an evil past and corrupt current enforcement system.

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For yet more on the notorious racial background of gun control in general, see the Amicus brief filed by the Congress Of Racial Equality in the case of US vs. Emerson, about to hit the 5th Circuit: http://www.potomac-inc.org/emercore.html

For details on this area of law, see also "Police Have No Duty To Protect Individuals" by Peter Kasler, Esq at: http://www.shadeslanding.com/firearms/kasler-protection.html
We jokingly ask each other (referring to the gun control advocates and crooked cops), "If they’re so scared of us, how come they’re so determined to enrage us?"

We feel the answer is that gun control is an easy soundbite, simple to sell to an increasingly apathetic public by politicians who want to LOOK like they’re doing something for public safety, when in reality career advancement is the only item on the agenda.

The truth is more complex: 31 states have reformed their CCW systems into "shall-issue", where anyone willing to go through the effort of a long background check, fingerprinting, training and related fees WILL get a permit, unless there’s a clearly-defined reason why not. These states have seen modest crime drops in some cases, mostly due to the deterrent factor. Law enforcement has found more friends in the community as people are willing to speak up about crime in their areas knowing that criminals no longer have a monopoly on lethal force. Widespread CCW hasn’t caused "Wild West shootouts"; the people willing to go to great lengths to pack legally are a particularly law-abiding bunch and loath to lose their carry rights over anything short of a life-threatening situation. These permitholders know full well that they're NOT "above the law" and that if they do something as stupid as flash a gun during a verbal argument, law enforcement is going to rightfully come down on them like the wrath of God6.

I can think of four possible CCW reform scenarios. Listed from "most self-defense friendly" to "least":

1) "Vermont Carry": in Vermont, no prior government permission is needed to carry a loaded, concealed firearm. Or open-carry, it’s your choice. There's just three rules: you must not be carrying with "criminal intent (such as carrying obvious burglary tools, or already committed a crime), you better not be a convicted felon or other "prohibited person", and if asked by a cop about your armed status, you must answer truthfully.

Upsides: It would definitely end the corruption! It’s been tested in Vermont since 1912 and has resulted in astonishingly low crime rates, even for a rural state. Every real crook ran screaming years ago.

Downsides: Politically difficult to pass. Also, California has a lot of people who know nothing about handguns or the legal/moral implications of self defense...some training can be considered plausibly useful.

2) "Modified Vermont Carry": This hasn’t been tried yet. The idea is that in addition to the conditions for carry under ordinary Vermont Carry, people packing must have a certification from a private, accredited training firm on their person. It could be 16 hours, it could be stretched to 32 or even 40 hours, covering all aspects of legal use of deadly force, gun safety, "gun safety in combat" such as understanding backstops and when it’s just not safe to take a shot due to bystanders, etc. Since all of the "government related costs" are gone, us "gunnies" won't complain much about stretched training. A possible modification: make people carry a statement from a mental health professional that they’ve passed some standard, approved "sanity check" test. All training and testing would be at the carrier’s expense.

Upsides: Good balance between personal freedom, safety and privacy (the govt won’t know who’s packing). Longer tolerable training times, almost zero paperwork and costs on the government’s part except for monitoring the schools. The lack of paperwork means that those among the gunnies who don’t go for even shall-issue permits because they’re against having their names put on lists for very real historical reasons will largely comply with this system.

Downsides: "Politically radical", would be a tough sell but the stretched training might be the key.

3) Shall-Issue CCW: This is the most common type of CCW in the US today. Most variants include training, heavy background checks, etc...any system proposed in California will have such features, as opposed to the few states that are "background check only". Many have systems that allow law enforcement to turn down an applicant even if they pass a background check, by writing sworn statements under oath to the effect of "this guy’s a crook we haven’t caught yet", or

6 See also Appendix C of this report, “Documents and Bibliography in support of shall-issue CCW”
“this guy is a known gang associate”. This is acceptable as long as the statements are sworn under oath, available to the denied applicant and there’s a standard appeals procedure.

Upsides: Well tested, well understood. See also the Lott/Mustard study and other scholarly works, and Appendix C of this document.

Downsides: It registers gun owners; that causes fear in some circles, sometimes justified. The city of Tuscon, AZ put in a local ban on carrying; city cops regularly pulled over cars with license plates linked through a computer system to the owner’s CCW permit. In other words, the permitholder’s willingness to obey the state carry laws brought them into increased local police scrutiny; the outcry was large enough that the practice was voluntarily stopped but the nasty precedent was set. In Virginia, the conversion to Shall-Issue put Judges in charge of the issuance; a few in the heavily urbanized areas decided to halt issuance in violation of state law, leading to a surge in lawsuits as anti-defense bias clashed with the new law. The courts should be able to straighten this out fairly easily, if it occurs7.

4) "Discretionary issuance with mandated liability": Assemblyman Rod Wright started to head this way with the early drafts of AB2022 in 1998. The plan was to force the Sheriffs to reveal exactly what their issuance criteria is, on paper. With this type of reform, new law would specify that illegality or unconstitutionality in their documented issuance process would be grounds for legal action. Part three could specify a minimum plaintiff’s “bounty” in civil court for proving such illegality or unconstitutionality, and specify that anyone victorious in such a suit would get a permit.

Upsides: While there may be discretion, adequate built-in "negative consequences" of "screwing up" on the part of the issuing authorities could cause rapid reforms.

Downsides: We will discover just how many lawsuits local governments can deal with at once and still function! My guess as to an answer would be "not many". This would be a complex process and difficult to "do right". It’s untested in any state. AB2022 in it’s final form was "too weak" to cause reform.

As you can see, the most "conventional, time-tested" answer is Shall-Issue. Modified Vermont isn’t without appeal and should be at least considered, but my guess is Shall-Issue is the best bet.

In any case, what’s happening now is utterly intolerable. As news of these horrors travels, trust in law enforcement and respect for all aspects of California’s gun control structure will collapse. I can offer no finer proof that "us gunnies" can be trusted with carry rights than this: we’re still arguing this issue through proper channels. No other "minority group" would tolerate this level of personal abuse.

Jim March
Richmond, California, February 11, 2000

Equal Rights for CCW Home Page: http://www.ninehundred.com/~equalccw
EMail: jmarch@ricochet.net

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COURT OF APPEAL OF CALIFORNIA, SECOND APPELLATE DISTRICT, DIVISION FOUR
Civ. No. 47881
132 Cal. Rptr. 345, 61 Cal. App. 3d 557
August 26, 1976

EUGENE M. SALUTE ET AL., PLAINTIFFS AND APPELLANTS,
v.
PETER PITCHESS, AS SHERIFF, ETC., DEFENDANT AND RESPONDENT
Superior Court of Los Angeles County, No. NW-C-45104, Norman R. Dowds, Judge.
Respondent’s petition for a hearing by the Supreme Court was denied October 28, 1976.
Tobriner, J., and Mosk, J., were of the opinion that the petition should be granted.
Eugene M. Salute and Richard F. Murkey, in pro. per., for Plaintiffs and Appellants.
John H. Larson, County Counsel, and John P. Farrell, Deputy County Counsel, for Defendant and Respondent.

Opinion by Kingsley, Acting P. J., with Dunn and Jefferson (Bernard), JJ., concurring.

The opinion of the court was delivered by: Kingsley

Petitioners appeal from an order dismissing their petition for a writ of mandate, after a demurrer to that petition had been sustained. [1] For the reasons set forth below, we reverse the order.

Petitioners were and now are duly admitted attorneys-at-law and were duly licensed private investigators. As investigators they applied to respondent Sheriff of Los Angeles County for a permit to carry concealed weapons and their application was rejected. They sought relief in the trial court with the result above stated.

As duly licensed private investigators, petitioners are authorized to carry loaded firearms on their persons and in automobiles. (Pen. Code, § 12031, subd. (b)(7).) However, that section does not cover the carrying of such weapons in a concealed manner. Permission to carry a concealed weapon may be sought, as petitioners did here, by an application under sections 12050 and 12051 of the Penal Code. Those sections read as follows:

Section 12050: "(a) The sheriff of a county or the chief or other head of a municipal police department of any city or city and county, upon proof that the person applying is of good moral character, that good cause exists for the issuance, and that the person applying is a resident of the county, may issue to such person a license to carry concealed a pistol, revolver, or other firearm for any period of time not to exceed one year from the date of the license.

"(b) A license may include any reasonable restrictions or conditions which the issuing authority deems warranted, including restrictions as to the time, place, and circumstances under which the person may carry a concealed firearm.

"(c) Any restrictions imposed pursuant to subdivision (b) shall be indicated on any license issued on or after the effective date of the amendments to this section enacted at the 1970 Regular Session of the Legislature."

Section 12051: "Applications for licenses shall be filed in writing, signed by the applicant, and shall state the name, occupation, residence and business address of the
applicant, his age, height, weight, color of eyes and hair, and reason for desiring a license to carry the weapon. Any license issued upon such application shall set forth the foregoing data and shall, in addition, contain a description of the weapon or weapons authorized to be carried, giving the name of the manufacturer, the serial number and the caliber.

"Applications and licenses shall be uniform throughout the State, upon forms to be prescribed by the Attorney General."

The petitioners allege, and the sheriff admits, that the sheriff has a fixed policy of not granting applications under section 12050 except in a limited number of cases. The policy was stated by Undersheriff Block as follows:

"The Sheriff’s policy is not to issue any concealed weapons permit to any person, except for judges who express concern for their personal safety. In special circumstances, the request of a public office holder who expresses concern for his personal safety would be considered. . . ." and "the outstanding permits issued by the Sheriff are only 24 in number."

While a court cannot compel a public officer to exercise his discretion in any particular manner, it may direct him to exercise that discretion. We regard the case at bench as involving a refusal of the sheriff to exercise the discretion given him by the statute. Section 12050 imposes only three limits on the grant of an application to carry a concealed weapon: the applicant must be of good moral character, show good cause and be a resident of the county. To determine, in advance, as a uniform rule, that only selected public officials can show good cause is to refuse to consider the existence of good cause on the part of citizens generally and is an abuse of, and not an exercise of, discretion.

The petition before us alleges that petitioners are of good moral character and are residents of Los Angeles County. It is admitted that no inquiry into the existence of good cause has ever been made in connection with the application of these petitioners, or of any other applicant outside the limited group of public officials. It is the duty of the sheriff to make such an investigation and determination, on an individual basis, on every application under section 12050.

The order of dismissal is reversed for further proceedings consistent with this opinion.

[1] The notice of appeal states that it is from the non-appealable order sustaining the demurrer. Since a formal order of dismissal was made and entered, and appears in the record before us, we treat the appeal as being from that appealable order. (Rule 1(a), Cal. Rules of Court.)
APPENDIX B: Demographics data, Contra Costa County

From: http://www.calmis.cahwnet.gov/file/lfmonth/contrsub.txt

STATE OF CALIFORNIA                                   January 11, 2000
EMPLOYMENT DEVELOPMENT DEPARTMENT - LABOR MARKET INFORMATION DIVISION 916-262-2162
LABOR FORCE DATA FOR SUB-COUNTY AREAS (Data Not Seasonally Adjusted) 1998 BENCHMARK

*Monthly sub-county data are derived by multiplying current estimates of county-wide employment and unemployment by the respective employment and unemployment shares (percentages) in each sub-county area at the time of the 1990 Census. Sub-county labor force is then obtained by summing employment and unemployment, and the result is divided into unemployment to calculate the unemployment rate. Based on Each Area’s 1990 Census Share of County Employment and Unemployment*

This method assumes that the rates of change in employment and unemployment, since 1990, are exactly the same in each sub-county area as at the county level (i.e., that the shares are still accurate). If this assumption is not true for a specific sub-county area, then the estimates for that area may not be representative of the current economic conditions. Since this assumption is untested, caution should be employed when using these data.

All unemployment rates shown are calculated on unrounded data. These data are not seasonally adjusted.

CCD stands for Census County Division. CDP stands for Census Designated Place.

County Data are for December (Preliminary) 1999

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There’s six areas of county land that the Sheriff considers “his jurisdiction” and have high unemployment numbers: El Sobrante, West Pittsburg, Rodeo, Oakley, Tara Hills and Vine Hill. But they’re all very small. The towns with an unemployment rate of 1.6 or greater are all outside of the Sheriff’s self-stated “jurisdiction” except for tiny Moraga with their own PD; the other wealthy towns of Danville, Lafayette, San Ramon and Orinda all contract with the Sheriff therefore the Sheriff is the sole authority. Pleasant Hill seems to be an anomaly.

Jim again.
Let’s look closer…
All data taken from a demographics search engine by the Association of Bay Area Governments based on 1990 census: http://netral.abag.ca.gov/bayarea/census90/

<table>
<thead>
<tr>
<th>CITY</th>
<th>% White</th>
<th>Income</th>
<th>Median Housing</th>
<th>Population</th>
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<td>93.0</td>
<td>$102,520</td>
<td>$388,500</td>
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<td>Alamo</td>
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<td>$139,444</td>
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<td>90.8</td>
<td>$74,877</td>
<td>$289,300</td>
<td>60,569</td>
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The bottom five are among the ones Sheriff Rupf redlined, the top five are “in his self-imposed jurisdiction”. Richmond was chosen because honestly, it IS a “worst case scenario”; Pleasant Hill and Walnut Creek are the biggest semi-wealthy towns that Rupf has blocked but as you can see, they’re not in the same league as the four towns that buy services from the Sheriff plus Alamo, the single biggest unincorporated chunk. San Pablo and Pinole were picked at random from among the towns with their own PD. Anyone who thinks my numbers are skewed by my "selection of towns to focus on" can do a quick “sanity check” with the unemployment numbers (keeping in mind those are far more up-to-date), or go to the ABAG site listed above and extend this chart for every area…your conclusions won’t change from what you’ll get here.

Without question, Sheriff Rupf’s stated town-discrimination policies are having an enormous impact on the relative race and income levels of the areas that are theoretically open to CCW access. Add in the Sheriff’s heavy favoritism towards campaign contributors and you’ve got an equal protection disaster in the works.

Last, Rupf’s policies leave open issuance within a “blocked town” to reservists, so there’s no way of knowing if badges are already being sold and a public safety threat is at large.

But with money as big an influence as it clearly is, the threat is quite real.
APPENDIX C: Bibliography and Evidence Supporting Shall-Issue CCW

Part One: Bibliography

Race and gun permits:


Amicus brief filed by the Congress Of Racial Equality in the case of US vs. Emerson, about to hit the 5th Circuit: http://www.potomac-inc.org/emercore.html – notable for tying black disarmament in the South directly to the 14th Amendment and giving a broad overview of the racial origins of gun control.


Shall-Issue "results" information:


Part Two: Hard Evidence From The Shall-Issue States

If the above doesn't give the reader a solid feel for what shall-issue CCW has accomplished elsewhere (and what it hasn't accomplished, "Dodge City with high-cap mags"), then enjoy the following newspaper articles from shall-issue areas and a great letter from Florida.

The first two are the funniest and need to be treated as a "matched set": pay attention to the paranoid attitude of DA Holmes just before CCW goes into effect, and six months later when he serves himself a healthy helping of crow.

This is just a small sampling of the available literature. It's not theory, it's not paranoid handwringing, it's the actual experiences from areas where shall-issue CCW is the norm.

8 There is a growing body of evidence showing that the "Wild West" wasn't anywhere near as violent as portrayed in the movies, which shouldn't exactly be earth-shaking news. At age 42, after a rich and varied life in the "wild west" including six years as Marshall of the "infamous" Dodge City and many other years in law enforcement, Marshall Wyatt Earp got shot at FOR THE FIRST TIME at the OK Corral in Tombstone. Given a total lack of modern law enforcement tools such as comm gear, forensics, ballistics, fingerprinting and ready photos of crooks transmitted by fax and such, one can see that the widespread arms of the "wild west" may have been the only thing keeping a lid on. Take away modern law enforcement tools from LA and it'll rapidly look like a pizza with the toppings ripped off.

9 Most if not all of these articles are from the personal collection of Clayton Cramer, his assistance is greatly appreciated.
Superb black comedy: HCI loves this first article so much that they made a link to it at one point – but they avoided all mention of the follow-up post-CCW where the same guy ate his words. I love it.

New handgun law concerns D.A. Holmes

By STUART COOPER
This Week Correspondent

Harris County District Attorney John B. Holmes Jr. shot straight from the hip when he spoke at a recent East End Area Chamber of Commerce luncheon.

The topic was the new concealed handgun law in Texas, and while Holmes believes it will have little effect, the consequences could be severe in the long run.

"People can get real hostile in traffic, and you had better not do something wrong, or you'll be fortunate if all they do is shoot you the finger," Holmes joked.

Holmes quickly turned serious in expressing his doubts on whether those individuals who are licensed to carry handguns will act responsibly.

"If you give people the ability to use deadly force much more readily than before, the consequences of that is self evident," he said. "Time is going to tell us whether or not we can handle that responsibility. I have my doubts.

"I think we'll have to add another floor or two to the medical examiner's office. We'll probably have to put on some more prosecutors and add another grand jury or two to determine whether or not somebody's killing of another is justifiable."

Holmes reminded his audience that individuals will be granted a licence to carry a concealed weapon after passing a training course and paying a licensing fee. Individuals also must be current on their student loans, child support, and other licensing fees in the state of Texas.

"I think it's a good statute," Holmes said. "The training is good, and it's heavy on safe storage, particularly in light of children."

When asked about the restrictions on where one can carry a licensed handgun, Holmes said, "I disagree with the philosophy that we ought to have all of these places where you can't. If it's OK for you to walk down the street in front of my house with a concealed handgun because you're a licensee, why can't you go to Foley's?"

"I think it's wrong that you can't get on a bus with a licensed handgun. You name me one of the more high-crime areas in the world than public transportation."

Holmes gave an analogy to what he called the "toe-stumping problems" licensees are going to have regarding where they can carry their handgun.

"I quit hunting ducks because it's hard with your Ducks Unlimited book in one hand and your shotgun in the other, to get a bird.

"I don't know if I'm going to commit a crime. I can go to the federal penitentiary for shooting the wrong bird. And by the time I figure out what bird it is, it's out of range anyway."

Holmes said that an individual commits a crime of trespass if he or she carries a concealed handgun onto private property where a sign that forbids it is posted.

Holmes also cited the various places where an otherwise law-abiding citizen can get in trouble by accident with a licensed handgun.
"If you try to apprehend a thief stealing your car from your driveway during the day and you pull your piece and throw down on him, you've committed a class A misdemeanor," Holmes said.

"You've failed to conceal your handgun and can be punished with a fine of up to $4,000 and a year in jail.

"You may display the handgun only when you are justified in using deadly force," Holmes said. "You're not justified in using deadly force during the daytime to stop a theft. So you say 'Honey, call the police,' and the police come out and put your butt in jail."

Holmes said that an individual can not carry a handgun on the premises of a liquor store, including its parking lot, because under the Alcohol Beverage Code, the location is all-encompassing.

But one can carry a handgun into the parking garage of a hospital.

"That's confusing," Holmes said.

Holmes spoke on a variety of topics, including whether Houston Chronicle reporter Jennifer Lenhart would have to reveal her sources in the grand jury or go to jail.

Holmes said that if the media wants a shield privilege, it has to be obtained from the Texas Legislature.

"There is nothing that would prohibit the state of Texas, as they have done in other states, from giving that privilege," he said.

Holmes also discussed the issue of cameras in the courtroom, alluding to the O.J. Simpson trial, an event that was made available to television stations nationally.

"I don't like cameras in the courtroom for lots of reasons, not the least of which is they're disruptive," he said.

"I think it's disruptive when the guy who is on the stand is being filmed because the assignment editor wants a piece of this trial. That's sending the wrong message to the fact finder.

"We're not in the entertainment business. We don't have a product in the halls of justice that ought to be for sale. My performance as a prosecutor is not available for somebody's toothpaste or mouthwash or whatever it is that court TV is advertising.

"I don't think I should have to submit to that."

Added Holmes, "I saw the film clips of some of the testimony in the O.J. case and I think that some of those wanna-be witnesses were playing to the camera and the public as an audience rather than the fact-finder.

"I've never seen anybody that had a microphone and camera stuck in their face whose demeanor was the same."

Mary Margrett Hansen, executive director of the East End Area Chamber of Commerce, was happy that Holmes gave his talk.

"He enlightened us on a number of things, and he's very entertaining, so I was very pleased to have him as a guest."

Back to HCI Home Page.
DA Holmes is "Absolutely shocked" that permitholders haven't all smoked each other yet. Sigh.
Shootout in mild West

Texas' concealed-carry handgun law was enacted amid concerns in some quarters that it would lead us back to the days of the Wild West. But even though more than 116,000 Texans now are licensed to carry, there have been only a few incidents.

That reality is one reason why state Sen. Jerry Patterson, R-Pasadena, probably will have little trouble getting his "cleanup" amendments (S.B. 204) passed this session. Another is Article 1, Sec. 23 of the state Constitution, which specifically gives the Legislature the power to regulate the wearing of arms.

Certainly, people and local governments have reason to be concerned about gun violence, but they should realize that license holders aren't contributing to violence, for good reason. Those who apply for a license must be solid citizens. Also, few of those who obtain licenses carry their weapons.

Most license holders just want the ability to legally carry if they ever feel compelled to do so. That conclusion is derived from conversations with dozens of license holders, police officers and state lawmakers. It would be a good bet that if the Department of Public Safety did a survey of licensees to find how many regularly carry, the answer would be a lot closer to zero than 10 percent.

Why? For one thing, there is a huge liability risk. If a license holder shoots at an attacker and the bullet either misses the intended target or passes through the assailant and causes property damage or injures or kills an innocent person, a lawsuit is inevitable.

Also, only a desperate need to protect one's life or that of another would cause most people to actually use their weapon, and such situations are exceedingly rare.

Furthermore, even small handguns are a pain to carry concealed, as the law requires. That is especially so in the Texas summer.

Thus, whatever citizens think about the law, or about Patterson's proposed revisions, there is no empirical evidence that should lead to the conclusion that their enactment would create problems.

Patterson's revisions do not attempt — as some seem to be saying — to practically make people wear guns in churches, hospitals or government buildings. The law would continue to prohibit the carrying of weapons in places where they logically should not be worn: bars, schools, correctional facilities, hospital emergency rooms and trauma centers, and in areas of government buildings where meetings are taking place. Private businesses may prohibit weapons. And both private and public employers would be able to prohibit employees who are license holders from carrying on their premises.

But Patterson would give more institutions the ability to choose. A rash of church burnings, for example, might lead a church to permit a pastor who lives on premises to carry. A hospital might choose to permit employees who work late hours to carry.

The state attorney general has issued several opinions that interpret the law to give municipal transit authorities and county commissions certain regulatory authority. Patterson's measure would negate those by codifying the Legislature's authority over wearing of guns. That has some county and city governments worried, enough to pass resolutions in support of local control. State Rep. Sherri Greenberg, D-Austin, has introduced a measure to allow cities to regulate the carrying of firearms in parks.

Delegating regulatory authority to cities and counties that want it seems sensible. But given the sterling record of license holders and the hammer that the Legislature has — clear constitutional authority — cities and counties need to make their case based on facts, not emotion.
Fears of More Crime Off-Target Under Gun Law

By Diane Plumberg
Staff Writer

Despite warnings that Oklahoma's concealed weapons law would promote crime, only five licensed gun carriers have lost their permits because of an arrest, authorities said Tuesday.

Only one gun owner is accused of using his licensed weapon in a crime.

Since the Oklahoma Self-Defense Act went into effect in January 1996, the Oklahoma State Bureau of Investigation has revoked seven permits - one for residency problems, another for mental health reasons and five for felony arrests, agency spokeswoman Kym Koch said.

"We're pleasantly surprised. This is less than we thought it would be," said Ray Overton, executive director of the Oklahoma Association of Chiefs of Police. "We thought it might cause big problems. ...We're still apprehensive."

Koch said the act's strict requirements may have kept the number of revocations low.

The self-defense act allows people to carry concealed handguns if they pass local, state, and federal criminal background checks and an eight-hour training course.

The registered weapon may be used only in self-defense.

A Tulsa grandfather is the only permit holder accused of using his concealed gun in a crime.

Harold Glover, 68, is awaiting trial on a first-degree manslaughter charge after police said he shot and killed his grandson's other grandson outside the child's preschool.

Glover said he shot Cecil Hendon, 73, after Hendon forced his way into Glover's car and threatened to kill him with a knife.

At least four of the five licensees whose permits were revoked were arrested or convicted of felonies unrelated to firearms.

Koch said if the state bureau suspects a permit holder has violated the terms of the act, the licensee will appear before a self-defense act examiner. The gun owner usually learns within a week whether the bureau will revoke the license.

Overton said the chief's association expected 50,000 people to apply for concealed weapons permits. Instead, 19,540 Oklahomans have asked for a license, and 2,337 of those requests were denied.

About 3,200 gun owners applied for a permit in the first month after the act took effect. In December, 633 Oklahomans applied. Just fewer than 2,000 people have applied for a permit in the first four months of 1997 - compared with 10,775 in the same time last year.

Oklahoma County leads the state, with 3,397 applicants through April 15. Tulsa County is next, with 2,386, and then Canadian, Comanche and Pottawatomie counties, with 640, 478 and 433, respectively.

 Alfalfa, Ellis and Coal counties rank near the bottom, with 17, 15, and 14 applications since January 1996. Harmon county had only 10 applications.

A South Carolina lawmaker says his state has experienced few problems with people licensed to carry concealed weapons since that law took effect in August.

Jef Young, who sponsored the concealed-carry law in South Carolina, told a Kansas Senate committee Monday that 7,214 applications have been received and more than 5,017 have been issued.

"That's 7,214 people trained in gun safety, who would not have been trained in gun safety otherwise," he told the Federal and State Affairs Committee.

He said 65 permit requests have been denied and one has been revoked for impersonating a police officer.

The committee held extensive hearings on a Senate concealed-carry bill. The committee began hearings Monday on a similar bill passed earlier this month by the House.

The bill would require the Kansas Bureau of Investigation to issue permits for concealed hand guns to citizens who meet certain criteria.

Another supporter was Eric Haskin, a Kansas Highway Patrol trooper.

"If the bill became law, I'll be on the street working with it," he said. "It doesn't bother me. This is simply an issue of citizen safety."

James Foutis, representing the Law Enforcement Alliance of America said he wasn't aware of any incidents nationwide in which a person licensed to carry concealed weapons had shot or even threatened a law enforcement officer.

Among the opponents was Jim Kaup, representing Topeka.

Topeka opposes concealed weapons because of concerns about public safety and opposes the House bill because it pre-empts home rule," Kaup said.

"The major issue is pre-emption," he said. "Nevada and the city should be able to find local solutions to local problems."

Helen Stephens opposed the bill on behalf of the Kansas Peace Officers Association and the Kansas Sheriffs Association.

"Passage of this bill will delude women into thinking they are safer than they are," she said.

The bill was also opposed by Karen O'Connor of Wichita.

"We would not have any more children to get around guns than we would drugs," she said.

The committee took no action Monday.

The committee already has endorsed a resolution calling for a public vote on a constitutional amendment on the issue. That amendment, favored by Gov. Bill Graves, is scheduled for Senate debate later this week.

The committee chairwoman, Sen. Lana Olsen, R-Manhattan, has said she plans to have acting legislation ready so voters would know what they will be getting if they approve concealed carry. She announced Monday she has appointed a subcommittee to prepare that legislation.

The House passed the concealed carry measure on a 78-44 vote.

The Senate resolution is SR1806. The House concealed-carry bill is HB2189; the Senate concealed-carry bill is SB21. They are available on the Kansas government site on the Internet at: www.ink.org/public/legislative/fulltext-bill.html.
Critics Admit Gun Law Hasn’t Hurt

By ROBERT WHITE
Journal staff writer

When Virginia’s concealed weapons permit law went into effect in July 1995 it did so against the backdrop of stiff opposition from Northern Virginia officials, who feared an outbreak of violence would soon follow the law’s enactment.

Two years later, none of those critics are beginning to acknowledge their worst fears have not come to pass.

“Some of the public safety concerns which we imagined or anticipated a couple of years ago, to our pleasant surprise ... have been unfounded or mitigated,” acknowledged Maj. Bill Brown of the Fairfax County police.

Rather than witnessing the state’s transformation into a modern-day OK Corral, with minor arguments escalating into deadly gunfights, several regional law enforcement authorities and elected officials say they instead have seen the measure strike a balance between protecting the rights of gun owners and protecting the safety of residents.

About 5,500 permits have been issued among the City of Alexandria and Arlington and Fairfax counties since the law took effect.

Fairfax has rejected 55 of its 4,503 applications, fewer than half of those for cause - meaning the applicant had some disqualifying criminal history.

The permits allow virtually any adult without a criminal record to carry a concealed firearm in public.

Arlington, with 691 permit requests, has turned away 25, none because the applicant had a criminal background.

Arlington County Police Detective Paul Larson was one of those who predicted the number of accidental shootings would balloon with the inception of the concealed-carry law and the proliferation of legally carried concealed handguns.

“I was wrong,” said Larson, president of the Arlington County Police Association. “But I’m glad to say I was wrong.”

The latest confirmation of changing attitudes came Monday night, when the Fairfax County Board of Supervisors voted to cease the practice of fingerprinting residents who apply for the permits.

In doing so, the board relied heavily on numbers showing only one of the county’s 4,500 permit seekers had his application rejected because of an FBI background check of fingerprint records.

Another 25 were denied because their criminal past was discovered by some other means, usually a national background check of applicants’ names.

The Fairfax police chief, Col. M. Douglas Scott, asked for an extension of the fingerprinting, which had been mandated until this month, when it became the option of individual jurisdictions.

Scott expressed a concern that minus the fingerprint search, the county would have no way of detecting whether applicants with criminal records were using fake names to secure a permit. But he conceded the fingerprint checks have not yet turned up such a case.

And Scott said he agreed with the stance of several dozen gun-rights supporters who had testified at a Fairfax County public hearing that the concealed weapons law appealed to law-abiding citizens, not hoodlums with itchy trigger fingers.

“I appreciate a lot of their statements,” he said. “They’re all very legitimate.”

Not everyone is as convinced. Arlington County Board member Albert C. Eisenberg, a Democrat, said increased violence is an inevitable result of the relaxed concealed weapons law.

“Common sense will tell you that it’s only a matter of time that one or more problems will arise that could have been prevented,” he said. “Anything that increases the number of guns in the hands of the people is wrong, and anything that decreases the number is good.”

“It’s very difficult to prove that a problem that doesn’t exist yet has been prevented,” said Fairfax County Supervisor Dana Kauffman, D-Lee District, who voted to continue fingerprinting in Fairfax.

The motion failed 5-5 when Mount Vernon District Democrat Gerald W. Hyland sided with the board’s four Republicans to block it.

However, longtime supporters of the concealed-carry law say in addition to not causing violence, it actually helps reduce crime.

“The bad guys don’t know who they’re talking to,” explained Rex Maddox, a member of the Northern Virginia Citizens’ Defense League who formerly served on a Fairfax police advisory commission.

Fairfax County Supervisor Michael R. Freny, R-Sully District, said fears of accelerating violence were unfounded, citing the examples of Vermont and Pennsylvania, which have more relaxed concealed weapons laws.

“There are states all around us that have had much more liberal concealed-carry requirements and they’ve never had any problems,” he said.

After supervisors failed to endorse fingerprinting, Fairfax Police Chief Scott steered clear of doom-and-gloom predictions of criminals getting guns through the less accurate name-based checks.

But he said the key factor in determining whether the fingerprinting deterred applicants will be if the county, which now processes about 100 permit requests per month, sees a jump in the number of residents seeking permits.

The Alexandria City Council has voted to continue fingerprint checks. The Arlington County Board will take up the matter July 5.
This one is particularly interesting. Here we have actual government officials in charge of a shall-issue licensing program saying the program "has not resulted in problems".

Compare this to the absolutely intolerable insanity going on in California.

Forget every other factor: California's system is currently creating depths of sheer hatred between the leaders in law enforcement and a sizable segment of the community, a segment that by its conservative nature and shared interest in self-defense methods and technology should be the natural allies and supporters of law enforcement.

That loss cannot ever be calculated in financial terms or reduced public safety "hard numbers" but I can assure anyone reading this, it is a genuine tragedy when the alternative "has not resulted in problems".
APPENDIX D: CCW Pricing in the post-AB2022 era:
“How much is that permit in the window, again?”

Introduction and “Executive Summary”:

Beginning 1/1/99 the legislature reformed CCW price structures via AB2022. There are several areas of confusion, stemming from apparent conflicts with earlier statutes and hazy wording in AB2022 itself.

It turns out that a part of AB2022 “as chaptered and signed by Pete Wilson” was deleted from the published statutes. The missing part resolves much of the confusion and contradictions, and results in radically lower permit costs to the applicant. The deletion involves a binding directive on the Commission for State Mandates to analyze local financial impacts from CCW issuance requirements and come up with reimbursement procedures; since local agencies that I’ve talked to appear wholly ignorant of any such reimbursement system, it’s clear something has gone seriously wrong.

Part One: the situation as it appears without the missing section:

On 12/22/99 as part of my lawsuit against Sheriff Warren E. Rupf, I raised the issue of fees being charged by the Sheriff that exceeded the limits in AB2022 as published in Penal Codes 12050-54 (primarily 12054).

Sheriff Rupf’s local agency fee was $43 in excess of PC12054’s limits. He also established training costs separate from that; Penal Code 12054 specifically did NOT allow him to charge this fee but I deliberately overlooked that because it appeared to be a mistake in the law’s part. PC12054(d) allows the issuing agency to charge for the permit itself ($100 limit), fingerprinting ($25 limit), the DOJ background check fee (currently $90) and a psychological evaluation ($150 max, or the regular fee charged by that shrink, whichever is lower).

12054(d) then goes on to say:
   (d) Except as authorized pursuant to subdivisions (a), (b), and (c) (covering the items in the last paragraph above - ed), no requirement, charge, assessment, fee, or condition that requires the payment of any additional funds by the applicant may be imposed by any licensing authority as a condition of the application for a license.

What’s missing here? Training costs. Since 16 hours training can be required, it seemed to be a pure oversight that no charges can be legally assessed towards the permit applicant for the training.

Judge Richard Patsey ruled against me. Given what we knew at the time, this was a proper decision. Per him, Government Codes 54985 and 54986 allow counties (and not cities) to pass local ordinances recouping actual costs for various things from citizens. Since these codes include the phrase “notwithstanding any other law”, they override both PC12054 and California’s general gun law preemption statutes in Government Code 53071 and 53071.5.

Therefore, Contra Costa County’s ordinance requiring more money was declared legal. The issue of the training costs was ignored by both sides, a mistake I now regret.

The Real Story: why AB2022 wasn’t really broken.

Here’s what was IN the published law (AB2022 as chaptered) and never made it into the published codes:

SEC. 7. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4.
of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution. (Note: these two paragraphs are at the very end of the bill as chaptered – ed.)

This stuff should have been inserted into the Government Code, somewhere after 17500 I assume? Part of the problem is that the bill’s title calls it "An act to amend Sections 12050, 12051, 12053, and 12054 of, and to add Sections 12050.2 and 12052.5 to, the Penal Code, relating to firearms." There’s no mention of Government Code sections, and since it didn’t seem to fit cleanly into the Penal Codes, it appears some bureaucrat just left it “on the cutting room floor” as they say in Hollywood.

Why “SEC. 7” is critical:

- It resolves the inequity in cost reimbursement between cities and counties. It would appear BOTH can add up their actual costs and pass them along to the state via this system?

- The training costs turn out to be a state-mandated and funded program. Agencies can train people using their own department resources and bill the state. Under the earlier interpretation supported by Judge Patsey in ignorance of “SEC. 7”, somebody had to pay the training fees but we had no idea who.

- This reimbursement system is newer than Government Code 54985 and 54986 and does not entirely replace it. Rather, counties can indeed pass ordinances recouping costs; the question is, “who get the bill?”. Per Sec. 7, the part of the bill exceeding the statutory limits in PC12054 get billed to the state.

- Between the training fees and the extra costs being passed to the state, the cost savings to the citizen scoring a CCW permit could run into the hundreds of dollars.

The worst part of all this is that citizens are being overbilled, and local agencies that could otherwise recoup costs aren’t doing so out of ignorance. We seem to have potential tort claims from applicant citizens, and potential tort claims from cities and counties against the state for not making the reimbursement system clear or not creating such a procedure at all.

What a MESS. This entire subject is in desperate need of clarification.

The first priority is to get an explanation from the Commission on State Mandates regarding what decisions they’ve made on local costs for training and application processing/investigations in excess of Penal Code 12050-54’s limits. We need to know what decisions were made, what message was sent to local agencies, how that message was sent and whether or not such local costs reimbursements apply to local police departments/cities as well as Sheriffs/counties who pass local ordinances supporting cost recovery.

Failing any response by the Commission on State Mandates, the DOJ needs to see it and produce an opinion; I’m going to try to get it to Rod Wright’s staff (Rod authored AB2022) and see if they can shed some light and/or pass it to the right people at DOJ.

Jim March
Equal Rights for CCW Home Page
http://www.ninehundred.com/~equalccw
Email: jmarch@ricochet.net