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Group sues county and sheriff over concealed-weapon permits

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- Family photo

Edward Peruta, an independent journalist, is one of the people who has sued the county and sheriff after being denied a concealed-weapon permit. He is pictured here with his wife, Lois. Peruta says he needs the permit because of threats he receives from his work.



Photo by John Gibbins - Union-Tribune

San Diego County Sheriff Bill Gore

Litigants suing county, sheriff

Edward Peruta, 61, an independent journalist who lives with his wife, Lois, in a motor home, parking it in San Diego for several months out of the year. Peruta said he should be armed for self-protection because he often ventures into areas of high crime for stories and travels across the country with valuables. He was denied a permit in February 2009.

Michelle Laxon, 26, owns a hair salon and often travels alone late at night with large sums of cash. She was denied a permit in January due to lack of good cause.

James Dodd, 67, a retired Navy officer who wants a gun for self-protection. He took a CCW permit class in anticipation of getting a CCW but was told upon applying that he likely didn't meet the good cause requirement and would be wasting his money on an application.

Leslie Buncher, 71, a retired physician who said he

still receives threats from protesters due to the abortions he used to perform. He had a CCW permit in the 1970s because of this, but a new application was denied in 2008 because of his retirement.

Mark Cleary, 58, a registered nurse who works with psychiatric patients and has received death threats. He was issued a permit in 2005 upon joining the Honorary Deputy Sheriff's Association after being previously denied, but could not renew it this year. He was no longer an association member.

The California Rifle and Pistol Association Foundation, a gun-rights organization that joined the suit to represent the interests of other gun owners.

Source: Peruta v. County of San Diego

How to obtain a CCW permit

Step 1: A licensing employee will conduct a pre-interview to determine if there is enough standing to go forward with a formal application.

Step 2: Turn in an application at the Sheriff's Department headquarters in person and submit to a second interview.

- Applicants must provide two current utility bills (or similar documents) proving residency; three character reference letters written by local residents, excluding family members; valid California identification; and proof that they've completed the firearms course.
- A nonrefundable application fee of \$107.63 for a standard two-year license will be collected.
- Applicant will be fingerprinted and photographed.

Step 3: Applicant will qualify with a firearm at the sheriff's shooting range.

Step 4: A background investigation will be conducted. It includes a home visit, calls to references, a review of documents and checks of criminal records. This usually takes about 90 days.

Step 5: If approved, an additional \$50.51 will be collected. If denied, an appeals process is possible at the assistant sheriff level.

You obtained a CCW permit. Now what?

- A CCW permit from San Diego County is good throughout California (unless a specific restriction is issued). Many other states, including Texas and Utah, honor California CCWs.
- Licensees can carry loaded, concealed weapons in a vehicle, purse or on their body.
- A standard CCW permit must be renewed every two years.
- If a licensee commits a crime or misuses the CCW permit, it can be revoked.

Open carry laws

- In counties with populations of less than 200,000, police chiefs or sheriffs may issue permits to carry loaded firearms as long as they aren't concealed.
- In larger counties, firearms carried in visible holsters must be unloaded. No permit is required.

Sources: San Diego County Sheriff's Department; California Department

of Justice

SAN DIEGO — A new chapter in the decades-old debate over concealed-weapon permits in California is being written in San Diego with a lawsuit accusing the county and newly elected Sheriff Bill Gore of setting standards for such licenses so high that they are “illegal and unconstitutional.”

The suit, filed last year by independent journalist Edward Peruta and six others in federal court in San Diego, joins others filed nationally since 2008 in the wake of two U.S. Supreme Court decisions on gun-ownership rights.

In those cases, the court said the Second Amendment to the Constitution protects an individual's right to possess a firearm in the home for self-defense. The complaint in San Diego argues that the right to self-defense should be enough of a reason to meet the “good cause” standard — one requirement under California law to obtain a concealed-weapon permit.

The suit is an effort to extend the scope of the two Supreme Court rulings to allow individuals to possess weapons outside the home.

State law gives local police chiefs and sheriffs the discretion to issue CCWs, short for “carry concealed weapon” permits, under the following conditions: The applicant must be a law-abiding citizen, have good moral character, be a county resident and establish good cause.

What constitutes “good cause” is at the heart of the debate and the one element that is considered on a case-by-case basis.

“Essentially, an applicant must demonstrate facts that show him to be a specific target or subject of a threat,” said Sanford Toyen, the sheriff's legal adviser. “Simply stating that one needs a CCW for personal protection or safety will not be sufficient.”

In a hearing before U.S. District Judge Irma Gonzalez on Nov. 15, the lawyer for the plaintiffs said those kinds of rules are now unconstitutional. The Supreme Court rulings establish self-defense as a fundamental right that can't be squelched so easily, said attorney Carl Michel.

“They can't say you have to have a death threat or are being stalked, or you must articulate a specific risk in order to exercise your right to self-defense,” he said. “The right to self-defense does not end at the threshold of your home.”

James Chapin, the county's lawyer, argued that the Supreme Court's rulings were more narrow than Michel and the gun owners contend. The court said the right was limited to keeping and bearing arms in the home and did not intend it to apply to carrying weapons in public.

The county wants the case dismissed, while Peruta and the others are seeking an injunction halting the practice of issuing permits only to people who can demonstrate a specific good cause.

Gonzalez is expected to issue a ruling sometime in December.

The issue extends beyond the courtroom doors. Gore's opponents in this year's sheriff's race jumped on the claim that the Sheriff's Department was stingy in granting CCWs, making the debate a cornerstone of the election.

Since 2006, the department has granted 382 new CCW licenses and denied 21. This does not include permits

given to retired law enforcement officers, which is allowed under another section of the law.

The most common reasons for denial are not demonstrating good cause, lack of supporting documentation and questionable moral character issues such as arrests, negative contact with law enforcement or providing misleading information, Toyen said.

County officials said about 95 percent of permits are granted, but opponents said that is misleading because applicants are first “pre-interviewed” by the licensing department and essentially told if they will meet the good-cause requirements. So only those likely to get the permit apply.

Gore declined to comment on the litigation but said the department’s current policy hasn’t changed in 15 years — since Sheriff Bill Kolender was elected.

“He tightened up the policy,” Gore said. “There were accusations back then that CCWs were being given out to friends and cronies of the sheriff, so Kolender took the sheriff and undersheriff out of the process. It is all handled by our professional staff in the licensing bureau now. It’s been consistent for the past 15 years. We comply with state law.”

Gore, former head of the FBI in San Diego, became undersheriff in 2004. The county Board of Supervisors appointed him sheriff in 2009, when Kolender retired. Gore received 57 percent of the vote in a three-way race and was elected the county’s top lawman in June.

The lawsuit against the sheriff repeats allegations of favoritism.

Attorney Paul Neuharth, who represents Peruta, said he viewed CCW applications provided to him by the Sheriff’s Department, and many that were approved mentioned being a personal friend of the sheriff or a sheriff’s employee, or included an Honorary Deputy Sheriff’s Association card.

“Everyone should be treated equally,” Neuharth said. “There should be an objective standard to everyone that would apply.”

According to the complaint, Peruta was denied a permit in February 2009 because he couldn’t point to a specific threat and wasn’t considered a county resident.

Peruta, 61, lives in a motor home with his wife and travels across the country, parking in San Diego for several months of the year. As founder of American News and Information Services, a news wire service, Peruta argued that he should be allowed to carry a gun for self-protection because he often ventures into areas of high crime for stories and travels across the country with valuables.

A CCW permit granted in San Diego County is recognized throughout California, as well as in a number of other states, such as Texas and Arizona. Peruta said he holds resident concealed-weapon permits in Florida and Connecticut, where he also lives part of the year, as well as a CCW for nonresidents in Utah.

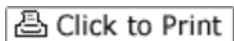
Attorneys for San Diego County said his application was denied for lacking good cause and had nothing to do with his residency status.

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