San Diego County Sheriff's Department
PUBLIC AFFAIRS UNIT
"Keeping the peace since 1850"

Office of Media Relations Date: February 21, 2014

San Diego Sheriff's Decision Regarding Ninth Circuit's Opinion on CCWs

Today, San Diego County Sheriff Bill Gore notified the County Board of Supervisors of his intention not to seek en banc review in the matter Peruta, et.al v. County of San Diego. A copy of Sheriff Gore's letter to the Board of Supervisors is below.

Members of the public wishing to obtain a CCW under the standards articulated by the Ninth Circuit should be aware that the decision has not yet become final. Federal court rules prescribe a period of time which must elapse before the case is remanded to the District Court for further proceedings. Should the decision of the Ninth Circuit become final, the Sheriff's Department will begin to issue CCWs in situations where the applicant has met all other lawful qualifications and has requested a CCW for purposes of self-defense.

Additionally, those seeking a CCW are advised that the process for obtaining a CCW involves several steps. The application process includes a scheduled interview, payment of fees, as well as state and local background checks. Successful completion of a firearms course of training is also required. This process can take several months.

Dear Supervisors:

On Thursday February 13, 2014, the Ninth Circuit Court of Appeals issued an opinion in the case of Peruta, et.al v. County of San Diego, et.al concluding that the State of California's requirement of "good cause," in cases where an applicant wants a firearm for personal protection, impermissibly infringes on the Second Amendment right to bear arms in lawful self-defense. In its opinion, the Ninth Circuit defined the issue on appeal as "whether a responsible, law-abiding citizen has a right under the Second Amendment to carry a firearm in public for self-defense." In so doing, the Ninth Circuit took an exhaustive look at the history of jurisprudence surrounding the Second Amendment, and more specifically what it means to "bear arms." It is clear, given the 2-1 split in this opinion, as well as the split among Federal Circuits across the Country, that there is no easy answer on which everyone will agree.

The decision by the Ninth Circuit has found that the Second Amendment requires that states permit some form of firearm carry for self-defense outside the home. Additionally, the Ninth Circuit went on to emphasize that "nothing in our opinion should be taken to cast doubt on longstanding prohibitions on the possession '—or carriage—' of firearms by felons and the mentally ill, or laws forbidding the carrying of firearms in sensitive places such as schools and government buildings, or laws imposing conditions and qualifications on the commercial sale of arms."

Since becoming Sheriff, I have always maintained that it is the legislature's responsibility to make the laws, and the judiciary's responsibility to interpret them and their constitutionality. Law enforcement's role is to uphold and enforce the law. The legislature certainly has the power to amend California's firearm carry process, and the Ninth Circuit has the ability to bring its own motion to rehear the decision of the three member panel en banc. However, while the court's decision clearly involves a question of exceptional importance, and conflicts with decisions of other United States Courts of Appeals, the opinion provides clear guidance in the context of issuing CCWs in California.

Therefore, I see no need for me to petition for a hearing or rehearing en banc in order to be able to carry out my duties as Sheriff of San Diego County. As a result, I have advised the Office of County Counsel that I will not seek such a hearing.

Should the decision of the Ninth Circuit become final, the Sheriff's Department will begin to issue CCW's in situations where the applicant has met all other lawful qualifications and has requested a CCW for purposes of self-defense.

# # #