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SUPERIOR COURT
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SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF VENTURA

THE CALGUNS FOUNDATION, INC.,

Petitioner,

vs.

COUNTY OF VENTURA; BOB BROOKS in
Individual Capacity and Official Capacity as
Ventura County Sheriff; VENTURA
COUNTY SHERIFFS DEPARTMENT,

Respondents.

Case No.: 56-2010-00383664-CU-WM-VTA

STATEMENT OF INTENDED DECISION

The court has taken under submission the writ application of petitioner Calguns Foundation to compel respondent County of Ventura to produce certain records related to the issuance (and denial) of permits to carry a concealed weapon (CCW). This application is made pursuant to the California Public Records Act (PRA) found at Government Code section 6250, et. seq. The County has provided certain information, but Petitioner contends that they are entitled to additional information which the County has declined to produce. The county has requested a Statement of Decision. This ruling is the court's Statement of Intended Decision.

The petition is granted as stated, explained and limited in this ruling.

The California Public Records Act was first enacted in 1968. The legislative intent is stated in Government Code section 6250. "...[T]he Legislature, mindful of the right of

1 individuals to privacy, finds and declares that access to information concerning the conduct of
2 the people's business is a fundamental and necessary right of every person in this state." Right
3 away, the statute confronts the potential tension between an individual's right to privacy and the
4 right of access to information regarding how Government conducts its business. Having
5 recognized these two competing interests, the Public Records Act lists certain areas of exception
6 including areas of exception relating to the judiciary and sworn peace officers. Areas of
7 exception, however, are narrowly construed, and although the press is frequently the party
8 seeking access to records, it can be someone with no more than an idle curiosity. See California
9 State University v. Superior Court, 90 Cal.App.4th, and Marylander v. Superior Court, 81
10 Cal.App.4th 1119.

11 There are numerous cases since 1968 which address the conflict between privacy and
12 disclosure as recognized in Government Code section 6250. Privacy and disclosure are both
13 fundamental rights, and frequently they conflict, requiring courts to engage in a balancing
14 exercise to see which right is more compelling in any given case. Hill v. NCAA, 7 Cal.4th 1,
15 gives the following three elements for a court to consider in evaluating a privacy claim: (1) the
16 legally protected privacy interest, (2) the expectation of privacy, and (3) the extent of the
17 invasion of the privacy interest.

18 In this case, Petitioner has requested certain records relating to the issuance of, and the
19 refusal to issue, a permit to carry a concealed weapon. Petitioner is a non-profit organization
20 whose purpose is to insure that the Second Amendment rights of citizens to own and carry
21 firearms is properly protected. In this case, they are interested to know if the County is acting in
22 an even handed manner in evaluating applications it receives for a permit to carry a concealed
23 weapon. The subject of owning and carrying firearms is often hotly contested by members of the
24 public, and the court is not intending to engage in that debate in this case. Petitioner's interest is
25 a legitimate one. It's reason for obtaining the information it has requested is neither specious
26 nor overbroad.

27 The County has provided a data matrix containing the total number of approved
28 applications, the number of denied applications, and the number of revoked applications. It has

1 also provided a list of the names, ZIP codes and occupations of persons issued and denied a
2 CCW permit for the period in question, 01/01/2007 - 07/15/2010. Petitioner is agreeable to a
3 redaction of social security numbers, drivers license numbers and birthdates, but is still insistent
4 on the production of pages 11 and 13 of the standard Department of Justice application form.

5 This case is strikingly similar to CBS v. Block, 42 Cal.3d 646, where a similar request for
6 CCW permits was made under the PRA to the County of Los Angeles. The volume of records at
7 issue there was 35 pages, a number substantially smaller than is at issue here. That difference
8 may make the mechanics of compliance more difficult, but it does not change the legal principles
9 which were discussed at length as part of the 5-2 majority opinion.

10 Initially, the Block court confirmed that the issue which was presented was legitimate.
11 That is, the public was not in a position to judge whether the responsible county officer was
12 properly exercising his discretion in issuing concealed weapons permits without being able to
13 review the reasons why the carry permit was sought, and why it was granted or denied.

14 In Block, the County had declined to release the information to CBS based on the
15 contention that release of the information would present a safety hazard to persons possessing the
16 permits. The court thought this was "conjectural" at best. In the case here, the County offers a
17 similar objection. The declaration of Sgt. James Bullington raises the same objections. The
18 court agrees that the threat of danger to the permit holder is certainly possible, but it is also
19 conjectural, and not a valid reason to withhold the requested information.

20 There is no question that there is a collision between the "...fundamental..." right of the
21 public to know how concealed weapons permits are evaluated, and the privacy concerns of the
22 individuals applying for those permits. In applying the Hill factors, this court concludes that
23 there is a low expectation of privacy in persons applying for these permits, and additionally a
24 low invasion of privacy when appropriate redactions are instituted. The application form itself
25 contains a warning that "...all..." of the information being provided may be subject to public
26 disclosure. That, however, does not mandate that all information be disclosed, if for no other
27 reason than Petitioner does not need all that information. Beyond that, there are legitimate
28 privacy interests which can be protected by suitable redactions. As stated in Block, because

1 some information may be private and sensitive does not justify withholding the entire document
2 when redaction can keep sensitive information private.

3 The County argues that reviewing all of the involved documents to redact private
4 information would be financially oppressive, and states that it would involve an estimated 222
5 hours [n.b. just under 30 eight hour work days, a seemingly generous estimate] of the time of a
6 sworn deputy at the overtime rate of \$68.00/hour. The court suggested using a lower
7 compensated clerical or administrative person. This was not favorably received by counsel for
8 the County. The court is not going to order who does the redactions. That decision is internal to
9 the County. This, however, is not a fishing expedition. It is a focused request directed toward
10 specific documents for a finite period of time. How the County accomplishes what it is obligated
11 to do is the County's problem to solve.

12 The writ petition is granted. Respondent County of Ventura is ordered to produce within
13 45 days of the date of this ruling the following:

14 a. Pages 11 and 13 of each application for a CCW submitted to Respondents for the
15 period January 1, 2007 - July 15, 2010 as well as any additional pages submitted by an applicant
16 to complete those pages;

17 b. A copy of all carry licenses, license amendments and/or denial letters issued to
18 applicants for a CCW for the same period;

19 Respondents are further ordered to delete from any records produced the following:

20 a. The home address and home telephone number of peace officers and judicial officers
21 including commissioners and magistrates;

22 b. The home and business address, home and business telephone number, name of any
23 business, social security number, physical description, times and places as may appear on page
24 13, and specific weapon authorized.

25 c. The applicant's medical or psychological history or that of members of his family
26 and/or household;

27 d. Information related to when the applicant is potentially vulnerable to attack.

28 Petitioner is the prevailing party and is entitled to its statutory costs of suit pursuant to a

1 cost bill.

2 Petitioner is entitled by statute to its reasonable attorneys fees. These will be determined
3 by noticed motion.

4 Counsel for Petitioner is directed to prepare and submit a form of Order and Judgment
5 consistent with this ruling.

6 This Statement of Intended Decision will become the court's Statement of Decision
7 unless objections are received within the statutory period. Any party filing objections is directed
8 to concurrently submit proposed findings on any issue to which an objection is filed.

9 Clerk to give notice.

10
11 July 1, 2011


Henry J. Walsh
Judge of the Superior Court

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**COUNTY COUNSEL
VENTURA, CALIFORNIA**