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February 21, 2025

VIA U.S. CERTIFIED MAIL & EMAIL

Santa Clara County Sheriff's Office
ATTN: Sheriff Robert Jonsen
55 W. Younger Ave.
San Jose, CA 95110
so.website@shf.sccgov.org

Santa Clara County Board of Supervisors
ATTN: Board President Otto Lee
70 West Hedding Street
East Wing, 10th Floor
San Jose, CA 95110
Supervisor.Lee@bos.sccgov.org

Re: Pre-litigation Demand – Excessive CCW Permit Costs

Dear Sheriff Jensen and Santa Clara County Board of Supervisors:

Our firm represents the California Rifle & Pistol Association (CRPA). CRPA was founded in 1875 and has been working to uphold the right of Californians to keep and bear arms for 150 years.

We write today concerning the excessive fees Santa Clara residents face when attempting to get a permit to carry a firearm in public (CCW) as is their constitutional right, as confirmed by the Supreme Court in *New York State Rifle & Pistol Association Inc. v. Bruen*.

This letter constitutes our attempt to resolve this dispute and lower these excessive fees without protracted litigation, and to maximize the likelihood of us recovering our attorney's fees from the county if litigation is necessary.

We have prepared a federal civil rights lawsuit against the county and plan to file it soon. Unless Santa Clara substantially and promptly lowers its CCW permitting fees, we will move forward with the lawsuit to vindicate CRPA members' rights. After we prevail, we will seek reimbursement of attorney's fees under 42 U.S.C. § 1988.

As you know, your county has a sordid history when it comes to CCW permits. Former Sheriff Laurie Smith was convicted for handing out permits as gifts to her well-connected donors.¹ Meanwhile, law-abiding citizens of Santa Clara typically could not get a permit. Following the *Bruen* decision, that finally had to change. In that landmark case, the Supreme Court confirmed that while shall-issue CCW permitting systems are acceptable, “because any permitting scheme can be put toward abusive ends, we do not rule out constitutional challenges to shall-issue regimes where, for example, *lengthy wait times* in processing license applications *or exorbitant fees* deny ordinary citizens their right to public carry.” *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1, 39 n.9 (2022) (bold added).

Santa Clara residents have suffered from both lengthy wait times and exorbitant fees since *Bruen*. The County’s fees were much higher than most other jurisdictions. On the lengthy wait times issue, the Sheriff’s Department did at least make efforts to speed up the process in response to our complaints. Given that initial effort to improve the processing time situation, we decided to pursue our first litigation on these issues against other issuing authorities instead of Santa Clara for the time being. *See* Complaint, *Cal. Rifle & Pistol Ass’n, Inc. v. Los Angeles Cnty. Sheriff’s Dep’t*, No. 23-cv10169 (C.D. Cal. Dec. 4, 2023), ECF No. 1.

Unfortunately, recent fee increases² make the situation impossible for our clients to ignore any longer. Santa Clara’s fees have increased from an already-high \$662, to \$976, in addition to a livescan fee (about \$100-\$150), the training course expense (\$250-\$500), and the psychological examination the County chooses to require (around \$500). Applicants can thus expect to pay around \$2,000 in Santa Clara for a two-year license to exercise their constitutional right to carry. After two years, the CCW permit must be renewed. Renewal fees went up to \$477, from \$187, plus the cost of an eight-hour training course.

A comparison to what CCW permits cost elsewhere adds helpful context here. In Arizona, a CCW permit costs applicants \$60. In Oregon and Nevada, it’s around \$100, plus the cost of a training course. Nearly every other state is similar. While CCW permits from issuing California jurisdictions are usually costlier than other states, they generally are far cheaper to get than Santa Clara’s. For example, Riverside County charges applicants \$195, plus the cost of a training course.³ The Los Angeles Sheriff’s Department charges \$216, plus livescan and training course expenses.⁴ Similarly, the Orange County Sheriff’s Department charges \$262, plus livescan and training.⁵ None of these departments require a psychological examination, nor do most issuing authorities in California.

¹ Jordan Parker, *Jury finds retired Santa Clara County sheriff Laurie Smith guilty of civil corruption*, S.F. Chron., Nov. 4, 2022, <https://www.sfchronicle.com/bayarea/article/Jury-finds-retired-Santa-ClaraCounty-sheriff-17557296.php> (last visited Feb. 10, 2025).

² Brandon Pho, *Santa Clara County Concealed Carry Permits Will Cost More*, SFGATE, Dec. 11, 2024, <https://www.sfgate.com/news/bayarea/article/santa-clara-county-concealed-carry-permits-will-19973043.php> (last visited Feb. 10, 2025).

³ <https://riversideca.permitium.com/ccw/start>

⁴ <https://lasd.permitium.com/entry>

⁵ <https://www.ocsheriff.gov/commands-divisions/professional-services-command/professional-standards/ccw-licensing/fee-schedule>

Even among Bay Area issuing authorities, several are far more affordable than Santa Clara. Alameda County charges \$195 plus the cost of a training course, livescan, and psychological exam.⁶ The City of San Francisco charges \$144, plus the cost of training and the psychological exam.⁷ The San Mateo County Sheriff's Department charges \$210, plus the cost of training and a psychological exam.⁸ Even the City of San Jose, which manages to outdo Santa Clara by having an unconstitutionally high fee of \$1,328 plus the cost of training, livescan, and the psychological examination, at least has far lower expenses for renewal applicants (\$25, compared to \$477 in Santa Clara).⁹

State law requires that issuing authorities may not charge more than their "reasonable costs" for processing applications. *See* Cal. Penal Code §26190(b). An indeed, that's what Sheriff Jensen claimed he was doing by requesting that the County Board of Supervisors increase the fees, arguing that "the changes are necessary to recover the costs of expanded application vetting requirements after the passage of Senate Bill 2, which toughens the approval process and background checks."¹⁰ But considering the sheer number of issuing authorities that charge 4-5 times less than Santa Clara, this rationale is unpersuasive. Even if the County could prove that \$976 really is its true cost of processing applications, that would not justify the increased cost of a CCW. Constitutionally speaking, the only relevant metric is whether the total expenses have the effect of denying "ordinary citizens their right to public carry", *Bruen*, 597 U.S. at 39 n.9, regardless of whether the fees reflect the actual cost of CCW permit processing.

In other words, if the government wants to require that applicants get a permit before exercising a constitutional right, but processing applications for such a permit is costly for the government, that is *simply not the applicants' problem*. If the County feels burdened by SB2's requirements, it should take it up with the politicians in Sacramento who passed the onerous legislation in the first place, and lobby them to streamline and simplify California CCW permitting laws.

Finally, a large portion of the expense is the psychological examination Santa Clara chooses to require even though most other issuing authorities in California do not. The exam costs around \$500, more than the *total* expense of getting a CCW permit in other states, and even some California jurisdictions. Presumably, this requirement is motivated by fear of violent crime being committed by those issued a permit. Such fears are baseless. In our lawsuit against California's new "sensitive places" law banning carry in most public places, *May v. Bonta*, we won a preliminary injunction in part by presenting data from several other states showing that people with CCW permits are overwhelmingly law-abiding compared to the general population, even though those states do not require psychological examinations. That data led the district court to conclude that "[s]imply put, CCW permitholders are not the gun wielders legislators

⁶ <https://alamedaca.permitium.com/ccw/start>

⁷ <https://sanfranciscopd.permitium.com/ccw/start>

⁸ <https://sanmateoca.permitium.com/ccw/start>

⁹ <https://www.sjpd.org/records/fees/permit-fees>

¹⁰ Brandon Pho, *Santa Clara County Concealed Carry Permits Will Cost More*, SFGATE, Dec. 11, 2024, <https://www.sfgate.com/news/bayarea/article/santa-clara-county-concealed-carry-permits-will-19973043.php> (last visited Feb. 10, 2025).

should fear.” *May v. Bonta*, No. 23-cv-01696, 2023 WL 8946212, at *19 (C.D. Cal. Dec. 20, 2023). Nor was that court alone, as courts in New Jersey and Hawaii have reached the same conclusion. “[T]he vast majority of conceal carry permit holders are law abiding.” *Wolford v. Lopez*, 686 F. Supp. 3d 1034, 1076 (D. Haw. 2023). “[D]espite ample opportunity for an evidentiary hearing, the State has failed to offer any evidence that law-abiding responsible citizens who carry firearms in public for self-defense are responsible for an increase in gun violence.” *Koons v. Platkin*, 673 F. Supp. 3d 515, 577 (D.N.J. 2023).

At least one research organization that typically argues for more gun control, RAND, has recognized that “evidence generally shows that, as a group, license holders are particularly law abiding and rarely are convicted for violent crimes.”¹¹ Additionally, the Sheriff of Fresno County, a county which has issued permits to regular citizens for years before *Bruen* required it, said that out of its over 12,000 residents with CCW permits, none had committed *any* crime in at least two years.¹² And like most counties, Fresno does not require a psychological examination.¹³ In fact, those with CCW permits are so law-abiding that several major police organizations in California, including the State Sheriffs’ Association, submitted an amicus brief in support of our previous litigation: “In California, CCW permit holders are some of the most highly vetted, trained, responsible and law-abiding citizens, who do not jeopardize public safety.” *See* Amicus Brief of Peace Officers Research Association of California, et al. at 6, *May v. Bonta*, No. 23-4356 (9th Cir. Feb. 23, 2024), ECF No. 57.1.¹⁴

Suffice it to say that fear of crime done by people who get CCW permits is not based on reality, and it is poor justification to require a costly psychological examination. The background check that the Department of Justice conducts as part of the livescan process, paired with the interview of the applicant done by the Sheriff’s Department, is more than enough. But if Santa Clara is going to continue to require such an exam, it should pay for it itself and not foist that additional expense onto applicants.

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¹¹ https://www.rand.org/pubs/research_reports/RRA243-9.html

¹² <https://www.latimes.com/california/story/2024-01-19/california-gun-concealed-carry-law-women-domestic-violence-newsom>

¹³ <https://www.fresnosheriff.org/community/concealed-weapons-permits.html>

¹⁴ <https://michellawyers.com/wp-content/uploads/2024/02/2024-02-23-Brief-of-Amici-Curiae-Peace-Officers-Research-Assoc-of-CA-et-al.-ISO-Appellees-and-Affirmance-of-Preliminary-Injunct.pdf>

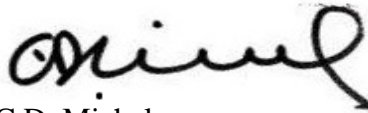
Sheriff Jensen and Santa Clara County Board of Supervisors

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CRPA hereby demands that Santa Clara lower its CCW processing fees immediately.
Please do not hesitate to contact us to discuss these issues.

Sincerely,
Michel & Associates, P.C.



C.D. Michel

cc:

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