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November 19, 2013

George C. Jepsen, Attorney General  
State of Connecticut  
Office of the Attorney General  
55 Elm St  
Hartford, CT 06106  
Email: [attorney.general@ct.gov](mailto:attorney.general@ct.gov)

**Re: November 14, 2013, Public Disclosure of State Permit Holders in Connecticut**

Dear Attorney General Jepsen:

I represent Connecticut Carry, Inc. ("Connecticut Carry") with regard to the statutory mandate prohibiting disclosure of the names and addresses of its members who hold valid permits to carry pistols and revolvers.

Section 29-28(d) of the Connecticut General Statutes expressly prohibits such disclosure:

Notwithstanding the provisions of [sections 1-210](#) and [1-211](#), the name and address of a person issued a permit to sell at retail pistols and revolvers pursuant to subsection (a) of this section or a state or a temporary state permit to carry a pistol or revolver pursuant to subsection (b) of this section, or a local permit to carry pistols and revolvers issued by local authorities prior to October 1, 2001, shall be confidential and shall not be disclosed . . . .

In a recent superior court decision The Honorable Eliot D. Prescott extended this prohibition to the disclosure of applicants for state and temporary state permits to carry pistols and revolvers. See Peruta v. FOIC, et al., Docket No. 13-5015745-S at 1 (Nov. 7, 2013, Jud. Dist. Of New Britain) ("This administrative appeal raises the important question of whether the legislature, by enacting this provision, also intended to exempt from the disclosure the names and address of persons who have applied for but not yet received a pistol carry permit. For the reasons set for the [sic] below, the court concludes that [sic] legislature intended to exempt from mandatory disclosure under the FOIA names and address of individuals with pending applications for a pistol carry permit."<sup>1</sup>)

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<sup>1</sup> American News and Information Services, Inc. and its president, Edward A. Peruta, had sought through a Freedom of Information Act request the names of applicants to verify the length of the period of delay between the deposit of

The Freedom of Information Commission (FOIC) and the state Department of Emergency Services and Public Protection (DESPP) argued that the intent of the statute in prohibiting disclosure of the names and addresses of permit holders was so clear that to allow disclosure of the names and addresses of applicants for temporary and state permits would defeat ("eviscerate") the intent of the legislature to shield state permit holders from the negative consequences of a public awareness of individuals who hold permits to carry. The court agreed, stating:

The legislature could not have intended in one stroke to create confidentiality for persons issued a permit, but to leave a gaping hole in the same provision that would allow the confidentiality to be so easily eviscerated.

Peruta v. FOIC at 10. In other words, according to the court, the FOIC, and the DESPP, the underlying basis of section 29-28(d) for prohibiting the disclosure of the names and addresses of temporary and state permit holders is so strong that it extends, despite the legislature's failure to so state, also to prohibit the names and addresses of applicants for temporary and state permits.

While still considering the court's November 7, 2013, decision and the merits of a motion to reargue or an appeal from the decision within the requisite 20-day period, I happened to be at the DESPP headquarters for a meeting with Assistant Attorney General Terrence O'Neill, FOIC staff, and DESPP staff, on November 14, 2013, at the same time a Board of Firearms Permit Examiners ("Board") meeting was being held in the building. When the meeting I was attending concluded I sat in the audience as a spectator at the Board's meeting.

In the course of one of the appeals heard by the Board on November 14, 2013, DESPP Detective Barbara Mattson disclosed through testimony the name of at least one individual and perhaps two individuals<sup>2</sup> who currently hold valid permits to carry pistols or revolvers.<sup>3</sup> These individuals were not the subjects of the hearing and upon information and belief did not waive the confidentiality of their status as permit holders. No such waiver was referenced. Regardless, the statute does not provide for waiver.<sup>4</sup>

There are three exemptions in section 29-28(d) to the prohibition against the disclosure of the names and addresses of state permit holders (and as the court extended this prohibition to the names and addresses of applicants the same prohibition and exemptions apply): First, the names and addresses of permit holders may be disclosed to law enforcement officers. Second, the DESPP may disclose the names and addresses of permit holders pursuant to request made by the seller of a firearm to verify that a person holds a valid permit. Third, the names and addresses of

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the \$50 fee for criminal history background checks by the state and the completion of the background check. American News had reasonable basis to believe that the DESPP had collected \$50 fees in the amount of \$54,000 and created a backlog of 1,080 requests without completing the corresponding service, creating a delay in the period applicants were compelled to wait for issuance of temporary state permits.

<sup>2</sup> The undersigned has confirmed through audio of a portion of the hearing that one permit holder was specifically named and recalls that another permit holder was named by Detective Mattson but that portion of the audio has not yet been made available to confirm a second disclosure.

<sup>3</sup> See <http://www.youtube.com/watch?v=HPDDWolafY8>.

<sup>4</sup> If in fact waivers were obtained prior to the disclosures then American News will move to compel the DESPP to implement a means for permit holders in Connecticut to indicate their waiver to public disclosure of their status so that their names may be obtained through FOIA requests.

permit holders may be disclosed to the Commissioner of Mental Health and Addiction Services for certain purposes.

None of these exemptions applied to DESPP Detective Mattson's testimony before the Board on November 14, 2013, publically disclosing at least one, and perhaps two, names of state permit holders.

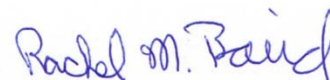
In Peruta v. FOIC, the court, the FOIC, and the DESPP agreed that the import of section 29-28(d) is so compelling and the protections afforded permit holders in Connecticut from public disclosure of their names so clear that a gaping hole left by the legislative in not expressly affording applicants the same protections as actual permit holders needed to be filled by the court.

Now that this protection has been breached by the DESPP and at least one, and perhaps two, permit holders have been publicly identified, Connecticut Carry asks what action the state intends to take in response to a prohibited disclosure which as a matter of record the state has represented in Peruta v. FOIC is serious. Connecticut Carry and its membership, many of whom possess state permits or who may be applicants in the future for permits, ask when and where the DESPP will deem it expedient to name them in public as permit holders and how the DESPP is able to disregard the law for its own members but represent to the court that not only is this same action serious and prohibited by law but so serious that applicants for permits cannot be disclosed even though not expressly so stated by the legislature.

Whether or not one agrees with the public disclosure of names of permit holders, the law should apply equally. While there are three exceptions to the prohibition against disclosure, DESPP Detective Mattson's testimony on November 14, 2013, did not meet the requirements of any of them.

Your action and response to the November 14, 2013, prohibited disclosure is requested in advance of November 28, 2013, so that it may be included in a contemplated motion to reargue in Peruta v. FOIC. In addition, Connecticut Carry asks that you join in providing notice to all state agencies and local issuing authorities that they are prohibited from revealing to an applicant's family, employer, neighbor, community, or any other person the identity of an applicant for a state or temporary permit and may not compel an applicant to waive this protection by threatening the denial of the permit application. See Conn. Gen. Stat. § 29-28(d).

Sincerely,



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