



February 11, 2021

VIA E-MAIL

Sheriff Fredda L. Maddox
Chester County Sheriff's Department
201 W. Market Street, Ste. 1201
West Chester, PA 19382

Re: LTCF Application Appointments

Dear Sheriff Maddox-

I write to you on behalf of Firearm Policy Coalition's ("FPC") and its members, who reside in Chester County, regarding the failure of your office to provide timely, essential services necessary for the exercise of their constitutionally guaranteed rights. While the COVID-19 pandemic has created hardships in both the public and private sectors, your office's failure to implement a system for individuals to apply for license to carry firearms ("LTCF") in a timely manner has impermissibly infringed on the rights of Chester County residents.

As you may be aware, Pennsylvania has been under a constant state of emergency, as proclaimed by Governor Tom Wolf, since January 10, 2018. While the law generally allows for unlicensed individuals to openly carry firearms in public for self-defense and other lawful purposes, this general allowance is curtailed by statute during a state of emergency. Specifically, 18 Pa.C.S. § 6107 prohibits the carrying of firearms upon the public streets or upon any public property during an emergency proclaimed by a State or municipal governmental executive, unless they possess a LTCF issued pursuant to 18 Pa.C.S. § 6109. As such, since January 10, 2018, individuals must have a valid LTCF in order to carry a firearm for self-defense and other lawful purposes, whether openly or concealed.

It should be no surprise that the only avenue for Chester County residents to lawfully carry a firearm in public for self-defense and other lawful purposes, is to first acquire a LTCF from the Chester County Sheriff's Office ("CCSO"). According to the CCSO's website, in order to acquire a LTCF an individual must schedule an appointment to do so ("New applicants must schedule an appointment online using the above link.") <https://www.chesco.org/1950/License-to-Carry-Firearms>. As of the drafting of this letter, the earliest available appointment is the afternoon of November 3, 2021 - *a full 38 weeks from the date of this letter*. Thus, due to the CCSO's policies and practices, individuals are precluded from even *applying* for a LTCF to exercise their fundamental, constitutionally guaranteed right to bear arms. Such an onerous delay cannot withstand constitutional scrutiny.

More to the point, the CCSO's requirement for in-person, appointment only LTCF applications has acted as a *de facto* ban, in and of itself, on the carriage of arms by Chester County residents who do not have a valid LTCF. Due to the unprecedented challenges presented by the COVID-19 pandemic, civil unrest, and political violence, individuals have shown a renewed interest in the exercise of their Second Amendment rights – particularly

their right to bear arms outside of the home for self-defense and other lawful purposes. Chester County residents need only watch the evening news to be reminded that the prospect of violent confrontation in public is very real, and that the police may not be, *nor are they required to be*, there to protect them.

Recently, FPC has filed lawsuits against the City of Philadelphia, due to its shuttering of the Philadelphia Police Department's Gun Permit Unit and subsequent appointment based LTCF application process (*Fetsurka, et al. v. Outlaw, et al.*, Docket No. 2:20-cv-05857, Eastern District of Pennsylvania) and Allegheny Sheriff William Mullen, for his closure of his firearms licensing division and appointment based LTCF application process (*Cowey, et al. v. Sheriff Mullen, et al.*, Docket No. 2:20-cv-01845, Western District of Pennsylvania). In an effort to avoid adding you to the list, and to avoid costly and unnecessary litigation for both parties, FPC demands that the CCSO immediately rectify its denial of access to essential services necessary for Chester County residents to access their constitutional right to bear arms. To that end, FPC offers the following solutions that the CCSO could implement to alleviate the need for litigation.

- Implement an electronic based system to accept LTCF applications, such as email, a web-based form, or third-party solution such as Permittium (currently utilized by Adams, Berks, Blair, Bucks, Cambria, Columbia, McKean, Monroe, Montgomery, Pike, Philadelphia¹, Wayne, and York Counties. Furthermore, it is my understanding that Fayette, Luzerne, and Mercer Counties are all in the process of implementing a similar electronic submission option for LTCF applications); and
- Accept LTCF applications delivered by U.S. Mail, common-carrier, courier, or in-person drop-offs.

Moreover, upon a review of your website, it has come to my attention that the CCSO has a policy and/or practice to deny a LTCF application should a personal check be returned for insufficient funds. I respectfully request that you immediately rescind this policy and/or practice, as 18 Pa.C.S. § 6109(e) specifies the exact basis upon which an application for a LTCF may be denied. Notably, a returned check for insufficient funds is not one of them.

I ask that you reply, in writing to me at akraut@fpclaw.org, no later than February 18, 2021 with the CCSO's plan to implement a mechanism to allow Chester County residents to apply for a LTCF without having to wait 38 weeks for an appointment, the timeline to implement the same, and confirmation of your office's rescission of the policy and/or practice of denying a LTCF application based on a returned check for insufficient funds. Should you fail to respond or decide to continue on the current appointment-based system that continues the substantial delays, FPC is prepared to bring legal action against you to vindicate the rights of our members and the public who reside in Chester County. I, again, reiterate our desire to avoid unnecessary litigation but reassert our willingness to do as much should the CCSO continue to deny Chester County residents timely access to a LTCF.

¹ Philadelphia's Gun Permit Unit implemented the Permittium system after FPC initiated the *Fetsurka, et al. v. Outlaw, et al.* litigation.

While it is evident that the COVID-19 pandemic has created hardships for everyone, “[e]ven in a pandemic, the Constitution cannot be put away and forgotten.” *Roman Catholic Diocese of Brooklyn v. Cuomo*, 592 U. S. ____ (2020), 2020 WL 6948354, *3.

Thank you for your time and assistance with this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Adam Kraut', with a long horizontal flourish extending to the right.

Adam Kraut
Director of Legal Strategy
on behalf of
Firearms Policy Coalition, Inc.

CC: David J. MacMain, Esq. (dmacmain@macmainlaw.com)