



Westchester County Firearm Owners Association, Inc.

P.O. Box 91, Rye Brook, NY 10573

E-mail: WCFOA@wcfoany.org Phone: (914)747-5001 FAX: (914)664-4337

J. Scott Sommavilla
President

Steven G. Torborg
Executive
Vice President

Mario Muollo
Secretary

Pamela J. Torborg
Treasurer

Brian D. Murphy,
Esq.
Legal Counsel

THE "PISTOL LICENSE REFORM" SECTION OF THE SPANO ADMINISTRATION'S 2007 LEGISLATIVE AGENDA IS CONTROVERSIAL AND CONTAINS NOT ONLY FALSE INFORMATION, BUT ALSO NEGLECTS TO MENTION SEVERAL SERIOUS ISSUES THAT IT WILL CREATE.

To address some of these falsehoods and omissions, W.C.F.O.A. has reviewed them below.

- 1) **Who's going to pay? Where will the funding for additional personnel be obtained?** By assuming control of the pistol licensing functions, and creating a system which will require a complete re-application every five years, the Spano proposal will drastically increase the amount of time, effort and money required to maintain the pistol license system.. Each additional member added to the Public Safety department to maintain the pistol license system will cost one-hundred thousand dollars plus benefits (health, pension, etc.). Presently, a sizable amount of the cost of administering pistol licenses is funded by the New York State Unified Court System because all of the judges, their secretaries and staff are paid with state funds. Under the Spano proposal **all of the new expense, and much of the previously state-funded expense, will now be borne entirely by the county.**

- 2) **The Spano proposal will expose the county to new, perpetual legal and fiscal costs.** The judges who are the current "licensing officers" are granted *full immunity* from any lawsuits or legal issues. Should any lawsuits occur against these judges, their full legal costs and risks are covered by the State Attorney General's office. The Attorney General's office has many competent attorneys already on staff. If the pistol licensing function is moved to the Department of Public Safety of Westchester, the "licensing officer" would be the Commissioner, a civil servant, who has *limited immunity*. The costs of any lawsuits or legal matters will have to be covered by the **county**. The **county** will have to hire and pay for the attorneys and staff for this. ***The county of Westchester will bear the exposure for what amounts to potentially limitless legal costs and damages, which is not now the case under the current system.*** Furthermore, the *Commissioner*, a civil servant, will be exposed to suits against him/her personally for any civil rights violations as established under the US Supreme court case of Hafer v. Melo, 502 U.S. 21 (1991).

- 3) **The Spano proposal**, by moving the entire pistol licensing system to the Public Safety Department, will leave the current County Clerk personnel, who are completely familiar with, and very knowledgeable about the pistol licensing system, out of the loop. Police personnel will not have the expertise to perform the required tasks for some time. What will occur during the interim? Remember, under the Spano proposal the pistol licenses will **expire** if the Police cannot handle the load. Even if a license expires through no fault of the licensee, it is the licensee who is at risk of prosecution. We saw this recently when, even under the presently simple "re-certification" system, recert dates were allowed to go stale. Licensees were harassed by out-of-county upstate police who were unfamiliar with the Westchester regulations and sought to arrest these licensees. Remember, now in New York State the possession of an illegal, loaded pistol brings a mandatory three year sentence!

- 4) **The present, simple, "recertification"**, which allows near-complete control over pistol licensees would be replaced by a **re-application** system which will require many times the time, effort and cost, and which will do *nothing* to improve public safety. Re-application CANNOT improve tracking of pistols. It CANNOT affect faster or better retrieval of pistols from licensees who have deceased.

- 5) **The Spano proposal strips pistol licensees of due process.** Spano wants the police to be both the judge and jury. Licensees will have **no** avenue of review by a judge as they do now. **There will be no appeal process** to address issues of denial, downgrading or revocation, to which licensees may object. The police will be assuming the authority to make legal decisions, even though they are not qualified to do so.

- 6) **The Spano proposal creates defacto economic segregation** by vesting in the County Legislature the power to set fees at whatever level the board may deem proper. Economically disadvantaged, fixed income, and low-income pistol licensees will be stripped of their right to protect themselves, their families, and their property.
- 7) **The Spano proposal will foster corruption and favoritism.** In years past, pistol licenses were administered by individual towns, villages and cities; Yonkers had its own pistol license bureau. Due to corruption and excessive fees (up to \$400.00 in some of the towns, villages and cities), The New York State Rifle and Pistol Association formed a class action suit to have all pistol licensing functions moved to the county because the excessive fees violated state law. Although the suit was successful in moving the pistol license functions to the county, Yonkers still continued to keep its pistol license bureau. Eventually another suit was brought against Yonkers when Yonkers officials were caught taking money to issue permits or expedite procedures or upgrades. ***The corruption and gouging in the towns, villages and cities police departments were the only reason that pistol licensing was moved to the county.*** Why would we want to see a return to the old-style system with its proven corruption and abuse?
- 8) **The Spano proposal claims to increase public safety, but it will *decrease* public safety.** The Public Safety Department under Commissioner Thomas Belfiore has a track record of denying pistol licenses already. He also arbitrarily removed the “full carry” option from license applications and amendment forms -- a usurpation of the judges’ powers. With complete, unfettered control we undoubtedly will see Belfiore refuse re-applications for “carry” licenses. By stripping lawful, responsible pistol licensees of their licenses Belfiore will be removing their ability to protect themselves, their families and their property. The knowledge that very few citizens are armed will be a signal to criminals that it is safe to prey on the public.
- 9) **The present pistol license system** handles 1200 to 1300 new applications per year plus the cycle of the simple “re-certifications” that are due. Presently a new application will take **6 to 8** months to process, and a simple amendment takes about **8** weeks. Under the Spano proposal’s new, labor intensive “re-application” system, how long will it take to re-license the 17,000 plus pistol license holders AND process the 1200-1300 new applications? It will be a very unreasonable length of time. Since the Commissioner will be the sole person in command, there will be no incentive to improve the system, nor will there be any avenue of redress for citizens seeking to obtain or re-apply for pistol licenses.
- 10) **The Spano Proposal** states that, in addition to being able to arbitrarily set licensing fees to any desired level, the County Legislature will be empowered “to provide for the disposition of such fees”. Clearly it is obvious that the fees will be a cash cow for the Spano administration which will be available for any “disposition” that the board may authorize. This debunks the Spano argument that the fees are needed to pay the high costs of license processing because this proposal allows funds collected to be used for any purpose.
- 11) **The State of New York assumed the responsibility** for pistol licensing when, in 1911, the Sullivan Law was enacted. The Sullivan Law *prohibits* the possession of pistols in the State of New York except under certain “exemptions” which include having a pistol license. This was done under the auspices of of Public Safety, and under that annual budget, supposedly to keep pistols out of the hands of criminals. It is NOT the responsibility of pistol licensees to assume any of the costs of licensing, as they are due this service the same as they are due any other “public safety” services.
- 12) **Under the Spano proposal** the County Board will be the entity responsible for raising the fees to the high levels that will be necessary to cover the many new and increased costs of licensing. It is the **board** that will bear the brunt of the publics’ outrage and fury *in an election year!* **This proposal is a political hot potato that is all risk and no reward for the Board of Legislators.**