

91-00227
OFFICE OF THE ATTORNEY GENERAL



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APR 18 1991

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Honorable H. O. Williams
Sheriff, Bullock County
P. O. Box 472
Union Springs, AL 36089

Sheriffs - Licenses and Permits
- Weapons - Liability

The responsibilities of a sheriff after issuing a pistol permit include: (1) sending a duplicate to the Director of Public Safety and keeping a copy on file in the sheriff's office for six years, and (2) revoking the permit if the person, while holding the license, ceases to be a suitable person to be licensed to carry a pistol and/or fails to meet those conditions of Code of Alabama 1975, § 13A-11-72 and § 13A-11-76. The liability of a sheriff after issuing a pistol permit must be determined on a case-by-case basis.

Dear Sheriff Williams:

This opinion is issued in response to your request for an opinion from the Attorney General.

QUESTION

What are the legal responsibilities and liabilities of a sheriff after a pistol permit has been issued?

FACTS AND ANALYSIS

Code of Alabama 1975, § 13A-11-73 requires a person to have a license to carry a pistol in any vehicle or concealed on or about his person. Section 13A-11-75 provides for the issuance of this license and states:

"The sheriff of a county may, upon the application of any person residing in that county, issue a qualified or unlimited license to such person to carry a pistol in a vehicle or concealed on or about his person within this state for not more than one year from date of issue, if it appears that the applicant has good reason to fear injury to his person or property or has any other proper reason for carrying a pistol, and that he is a suitable person to be so licensed. The license shall be in triplicate, in form to be prescribed by the secretary of state, and shall bear the name, address, description and signature of the licensee and the reason given for desiring a license. The original thereof shall be delivered to the licensee, the duplicate shall, within seven days, be sent by registered or certified mail to the director of public safety and the triplicate shall be preserved for six years by the authority issuing the same. The fee for issuing such license shall be \$1.00 which shall be paid into the county treasury. The sheriff may revoke a license upon proof that the licensee is not a proper person to be licensed." (Emphasis added.)

Under this provision, after the sheriff issues a pistol permit, he has the responsibility of sending a duplicate of such license by registered or certified mail to the Director of

Public Safety. Another copy must be kept on record by the sheriff for six years.

A sheriff may revoke a license to carry a pistol upon proof that the person holding the license is not a proper person to be licensed, as stated in § 13A-11-75. The possession of a dangerous weapon under a permit issued by constituted authority is a privilege and not a vested right. As in the case of other licenses, a license to carry a pistol may be revoked upon suitable reason. 94 C.J.S., "Weapons," § 11.

An individual who is issued a pistol permit must have a proper reason for carrying a pistol and he or she must be a suitable person to be licensed. § 13A-11-75. The individual must not have committed a crime of violence, must not be a drug addict or an habitual drunkard and must not be under the age of 18 years. § 13A-11-72 and § 13A-11-76. Thus, if a sheriff finds that any person to whom he has issued a pistol permit does not meet these requirements at any time while holding the permit, the sheriff has a duty to revoke the pistol permit.

A sheriff has some measure of discretion in determining whether an applicant for or a holder of a license to carry a pistol is a suitable person to be so licensed. Hess v. Butler, 379 So.2d 1259 (Ala. 1980). The question of whether a person is a suitable person to be licensed to carry a pistol is a factual determination to be made considering the facts in each case.

Regarding the liability of a sheriff after issuing a pistol permit, such liability is dependent on a determination of the facts in each case and, thus, must be made on a case-by-case basis.

CONCLUSION

The responsibilities of a sheriff after issuing a pistol permit include: (1) sending a duplicate to the Director of Public Safety and keeping a copy on file in the sheriff's office for six years, and (2) revoking the permit if the person, while holding the license, ceases to be a suitable person to be licensed to carry a pistol and/or fails to meet those

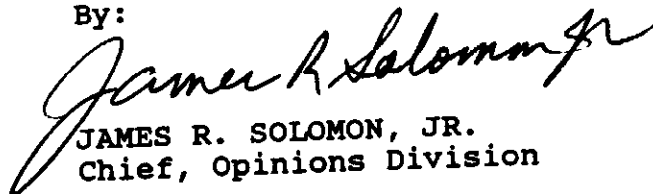
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conditions of Code of Alabama 1975, § 13A-11-72 and
§ 13A-11-76. The liability of a sheriff after issuing a pistol
permit must be determined on a case-by-case basis.

I hope this sufficiently answers your question. If our
office can be of further assistance, please do not hesitate to
contact us.

Sincerely,

JIMMY EVANS
Attorney General
By:



JAMES R. SOLOMON, JR.
Chief, Opinions Division

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