

STATE OF ILLINOIS)	Samuel v. Trame, 15-780-NJR-SCW
)	
COUNTY OF SANGAMON)	USDC-SDIL

AFFIDAVIT

I, JESSICA TRAME, upon oath, depose and state that I have personal knowledge of the statements contained in this Affidavit; I understand the contents of this affidavit to be true and correct; I am competent to testify; and if called to testify, I would testify as follows:

1. I am employed as the Bureau Chief of the Firearms Services Bureau (FSB or Bureau) of the Illinois State Police (ISP) and have served in that capacity since February 2012.

2. In my capacity as Bureau Chief, I am responsible for administering the Firearm Owner’s Identification (FOID) Program, the Firearms Transfer Inquiry Program, and the Concealed Carry Licensing (CCL) Program, and I am familiar with the protocols and procedures of each program.

3. To qualify for a CCL, an Illinois resident must be eligible for and currently have a valid FOID Card. A non-resident does not need a valid FOID card to qualify for a CCL, but the Bureau is responsible for ensuring that a non-resident CCL applicant would meet the eligibility criteria to obtain a FOID card if he or she was an Illinois resident. The goal is to ensure that residents and non-residents are subject to the same substantive requirements to qualify for a CCL.

CCL Application Processing

4. In processing CCL applications, the Bureau performs an extensive background check on each applicant, as required by the FOID Card Act and Firearm Concealed Carry Act.

5. The first phase of the process is a quality check of the application to ensure the application is complete and not missing any required information. This step also includes verification of identity.

6. If there are no errors and the name, address, and other personal identifying information are validated, the application is moved to the eligibility determination phase. A background check is performed, including queries of national systems such as the National Crime Information Center (NCIC), National Instant Criminal Background Check System (NICS), Interstate Identification Index (III), Immigration and Customs Enforcement (ICE), the National Law Enforcement Telecommunications System (NLETS), and Illinois systems, including the Criminal History Record Information (CHRI) System, driver’s license or identification systems maintained by the Secretary of State (SOS) and the Computerized Hot Files system, a central online repository for numerous officer and public safety information repositories, maintained by ISP.

7. In addition to the processes described above, the applicant's information is made available to Illinois law enforcement agencies, which may submit an objection to a CCL applicant based upon a reasonable suspicion that the applicant is a danger to himself, herself, or others, or is a threat to public safety. If a law enforcement objection is received, the CCL application is referred to the Concealed Carry Licensing Review Board, which reviews information submitted by the objecting law enforcement agency and the applicant. If the Board determines by a preponderance of the evidence that the applicant poses a danger to himself, herself, or others, or is a threat to public safety, then the Board affirms the objection of the law enforcement agency and notifies the Bureau that the applicant is ineligible for a license.

8. These various background check processes are intended to ensure public safety by identifying persons who are unqualified to carry firearms as responsible citizens.

Difficulties Verifying Non-Resident Applicants' Identities

9. As discussed above, the Bureau must verify a CCL applicant's identity while processing the application. For Illinois residents, an applicant's identity is verified through use of the Illinois Secretary of State's (SOS) driver's license or state ID systems to cross-reference the applicant's name, address, photo, and signature.

10. ISP does not have direct access to other states' driver's license, state ID or similar databases. To verify a non-resident's identity, the Bureau must rely on NLETS to check the validity of an out of state driver's license, including personal identifiers of the individual and address. Currently, ISP is not able to receive identifying photographs or signatures from NLETS, but has contracted for development of a system that will allow ISP to access this information from NLETS. Arizona, California, Colorado, Kansas, New York, New Hampshire, Oklahoma, South Carolina, and the District of Columbia do not currently make images available to NLETS, however.

Difficulties Verifying Non-Resident Criminal History

11. The Bureau must verify that a CCL applicant's criminal history does not render the applicant ineligible for a CCL. For Illinois residents, the Bureau is able to locate criminal history through Illinois' Criminal History Record Inquiry, a system maintained by ISP, from the Computerized Hot Files, and from federal systems.

12. The Firearm Services Bureau does not have direct access to other states' local or state criminal history databases, so the Bureau relies on federal databases to obtain criminal history information. Many states provide the federal databases with only a summary of an arrest, which will often be inadequate to assess the applicant's eligibility for a CCL. If a criminal record from the federal database is incomplete, ISP may request a record from the States' Identification Bureau or from the local jurisdiction, but many jurisdictions, including Los Angeles County, California; Milwaukee County, Wisconsin; and, Jackson County, Mississippi, charge for records, and ISP

does not have funds appropriated to pay for the record. As an example, attached hereto as Affidavit Exhibit A is a printout from the III dated August 17, 2015, redacted for identifying information, of an individual arrested in Mississippi in 2005 and charged with looting, a felony. The information does not disclose the disposition of the charge, however. After requesting criminal history information from Mississippi, ISP received a facsimile transmission, attached hereto as Affidavit Exhibit B, refusing ISP's request for lack of fees. Per the Jackson County Circuit Clerk, Pascagoula, MS, a search of the two criminal courts in Jackson County for the ten-year period (the applicant was arrested in 2005) requires a fee of \$20.00. To obtain information from the two civil courts, an additional \$20.00 is required. If ISP needed to search information for a twenty-year period in all four courts, a fee of \$80.00 is required. This also assumes, of course, that the only relevant information regarding the applicant exists in Jackson County, MS and not other jurisdictions in the state.

13. ISP uses NLETS to determine if the nonresident applicant's state-issued CCL is valid and to check the continued validity of the home-state-issued CCL every 90 days. NCIC is the mechanism criminal justice agencies use to access over 13 million active records. The NCIC database consists of 21 files, including 14 "persons" files including the National Sex Offender Registry, Foreign Fugitives, Immigration Violations, Mission Persons, Orders of Protection, and Wanted Persons. ISP accesses the NICS Index and the III through the NCIC network. The III is the national criminal history record system. When someone purchases a firearm, NICS verifies the validity of the Federal Firearms Licensed dealer and checks the NICS Index or "denied persons" files for persons prohibited from possessing firearms. All CCL applicants are also checked against the NICS Index.

14. The criminal history information available in federal databases may also be insufficient to determine a non-resident's criminal history because states are not uniform in their reporting of different levels and types of offenses. ISP is unable to obtain accurate and updated information via NLETS and NCIC for those states that do not fully participate in the systems.

15. The information available from the III, a federal criminal history database, also can be very limited. States are not uniform in their reporting of different levels and types of offenses. Only the National Fingerprint File (NFF) provides detailed extracts directly from states' local databases, and as of August 2015, only nineteen states participate as in the NFF. Those states are: Colorado, Florida, Georgia, Hawaii, Idaho, Iowa, Kansas, Maryland, Minnesota, Missouri, Montana, North Carolina, New Jersey, Ohio, Oklahoma, Oregon, Tennessee, West Virginia, and Wyoming.

Difficulties Verifying Non-Resident Mental Health Information

16. Pursuant to the FOID Act and Firearm Concealed Carry Act, an applicant is not eligible for an Illinois CCL if the applicant has been involuntarily admitted into a mental health facility, adjudicated mentally disabled or has been a patient in a mental health facility within the

past five years, regardless of the applicant's state of residence. If an applicant has been a patient in a mental health facility more than 5 years ago, a Mental Health Certification must be provided at the time of the application for a FOID card.

17. Through the Illinois Department of Human Services ("DHS") FOID Mental Health System, the Bureau can readily access information on Illinois mental health facility admissions and determine whether an individual has been involuntarily admitted into a mental health facility in Illinois or has been a patient in a mental health facility in Illinois within the past five years or more.

18. The DHS FOID Mental Health System contains no records of out-of-state mental health facility admissions. Further, ISP does not have access to other states' mental health facility admissions databases, if any exist.

19. In my experience as the Bureau Chief of the FSB, I am aware that the federal databases do not contain the voluntary mental health admission information necessary to determine whether an applicant was a patient in a mental health facility. Also, information concerning involuntary mental health admissions or mental disability adjudications is limited.

20. To search for mental health prohibitors for nonresidents, ISP is limited to information available through the NICS Index. NICS contains information from participating states regarding individuals prohibited from firearm possession for mental health reasons under 18 U.S.C. § 922(g)(4), but does not provide any information on voluntary mental health admissions.

Difficulties Obtaining Updated Non-Resident Information to Revoke a CCL

21. On a daily basis, all resident CCL holders are checked against the Illinois CHRI and DHS Mental Health Systems (by virtue of their FOID Card) for any new prohibitors (conditions that would disqualify a person from holding a FOID Card or CCL). All CCL holders, resident and nonresident, are checked against the federal databases on a quarterly basis.

22. Illinois Physicians or qualified examiners, Illinois Law Enforcement Officials, and Illinois School Administrators are required by law to report persons that may be a clear and present danger to themselves or others. Even if out-of-state personnel have reporting requirements in their own states, the ISP does not receive reports from out-of-state physicians, qualified examiners, law enforcement officials, or school administrators concerning out-of-state persons presenting a clear and present danger. Similarly, daily checks of the DHS Mental Health Systems do not reveal information concerning persons treated in other states.

23. Illinois Circuit Clerks are required by statute to report to ISP persons who have been adjudicated as mentally disabled or persons who have had a finding for an involuntary admittance to a mental health facility. I am aware of no other state that is required to, or does, report such cases to the ISP.

24. DHS must report to the ISP all information collected pertaining to mental health treatment admissions, either voluntary or involuntary, as well as reports of patients deemed to be a clear and present danger. The purpose of this reporting is to determine if the patient is disqualified under state or federal law from possessing firearms. Out-of-state mental health facilities are not required by their states to report admissions or persons presenting a clear and present danger to DHS or to the ISP, and do not do so unless ISP makes a request for that information. Many out-of-state mental health entities do not provide this information even after an ISP request.

25. Access to the types of information described in the Illinois databases allows the Bureau to thoroughly screen for and actively monitor various issues that may be a basis to deny or revoke a FOID or CCL card. ISP's lack of access to this type of data held by other states would make it virtually impossible to effectively conduct this same level of screening and monitoring for nonresident CCL applicants.

Substantially Similar Surveys

26. In 2013, ISP sent surveys to each of the 49 other states and to the District of Columbia requesting information regarding their regulation of firearms use and reporting and tracking mechanisms relative to criminal activity and mental health issues. In 2014, ISP sent a second survey to those states that did not respond to the first survey.

27. True and correct copies of the various states' responses and the response of the District of Columbia received by the ISP are attached hereto as Affidavit Exhibit C. Based on the states' responses to the survey, ISP created a summary, a true and correct copy of which is attached hereto as Affidavit Exhibit D. As noted in the summary, Colorado, Maine, Maryland, Massachusetts, Nevada, Pennsylvania, and Rhode Island did not respond to the ISP's request for information.

28. Of those states responding, only Hawaii, New Mexico, South Carolina, and Virginia had laws, similar to Illinois, regulating who may carry firearms in public, reported persons authorized to carry through the NLETS, reported denied persons through the NICS, prohibited persons voluntarily admitted to a mental health facility in the last five years from possessing or using firearms, AND prohibited persons involuntarily admitted to mental health facilities from possessing or using firearms.

29. For example, Montana responded that it does not prohibit use or possession of firearms based on voluntary admissions to mental health facilities in the last five years and did not have a mechanism of tracking that information for its residents. *See* Affidavit Exhibit C.

30. The Bureau would not have the time or resources to properly research the necessary information for nonresident applicants if all such applicants could apply for a CCL. The Firearm Concealed Carry Act requires ISP to either approve or deny an application within as few as 90 days from the date received, subject to certain exceptions. To process the applications to this

standard, it is likely the out-of-state applicants would not be held to the same standards set forth in the FOID Card Act or Firearm Concealed Carry Act as Illinois residents are held. Applications would have to be approved without a complete and thorough background check. Further, applicants residing in states that lack reporting and eligibility requirements similar to Illinois and who are issued licenses under the Firearm Concealed Carry Act cannot be held to the same monitoring standards necessary to ensure continued eligibility due to the lack of, and inability to obtain—either at all or in a timely manner—, information concerning those nonresidents.

FURTHER AFFIANT SAYETH NOT.

Subscribed and sworn to before me
this 30 day of November 2015.

/s Tammy L. Miner

Notary Public

/s Jessica Trame

JESSICA TRAME

