

January 16, 2008

Comm. Danaher,

I wasn't expecting a response from you given my boorish behavior. I appreciate it.

I'm heartened at your statement that you appreciate and respect me. I hope you will also appreciate and respect my candor. I am not a gad-fly, a wild eyed bomb thrower, loose cannon or a fuzzy headed liberal and I resent being dismissed as such. I am willing to accept your implied assertion that you personally do not hold that view of me but I'm not naïve enough to believe that Lt. Fox and his ilk do not. Although I regret my intemperate behavior at our Jan. 3rd meeting, I was quite sincere when I jabbed my finger at Lt. Fox and accused him of arrogance and not conducting an even-handed investigation (In fact, I'm convinced he is only interested in maintaining the status quo which he has a vested interest in given his complicity.) It was disturbing to hear him say that he would take the "conservative" side and "take the permit". I found it disturbing that he would cite "West Virginia" to support his position (a classic posture of using the fear of crime rather than the fact of crime -- this easily distinguished from my hypothetical Goldberg-like case wherein the actor was engaged in lawful activity and once subjected to an arguably necessary police check should have been allowed to go on his way, while the WV shooter was allowed to purchase and carry firearms after being diagnosed with a rather severe psychosis.) It was disturbing to hear him lecture me about the state conferring the "privilege" of a license in response to my comment that there is a property right in the legally possessed physical permit. It was disturbing when you asked me what I thought suitability was, to which I responded that there was existing case law providing guidance, and you candidly offered that you had not read them even though I had cited them in my earlier correspondence to you. It was disturbing to hear Lt. Fox assert that all of his legal research (I would have to assume this included Nicholson, Fellows, Storace, et.al.) lead him to the conclusion that suitability was whatever the authorities opinion was (a police state notion if ever I heard one.) It was disturbing to never hear the words "due process" or "just cause" uttered by this peace officer/attorney. It is my understanding from Sgt. Edwards' recreation of events after I left that Lt. Fox claimed that these were Superior Court cases that could be ignored and he had chosen to do so (an arrogant police state notion if ever I heard one.) As an attorney I would expect the Lieutenant to have more respect for our judicial system and acknowledge that the obiter and holdings in those and other cases provides us with guidance that should not be ignored.

I sincerely hope you take seriously my cautions about "wiz kids". This was not meant as a slam against attorneys. I have a great deal of respect for competent attorneys. My concern is that even someone with your deserved reputation as an independent thinker might subconsciously allow yourself to give too much weight to the opinions of professional police officers (where you lack that experience notwithstanding your substantial time as a prosecutor) who also share a bond with you as lawyers. I must assume that you will be critical of any opinion, whatever the source.

In all candor, I believe that the agency is misdirected and I turned to you for correction. I have always tried to represent the agency honorably by speaking out when I felt the need

to identify problems or potential problems and offer thoughtful solutions. It has always been my belief that as law enforcement professionals we have an obligation to try to resolve those issues impacting the public welfare by working through the legislative process rather than through extra-judicial, ad hoc activity (again, smacking of police state.) I am an anti-gun person and likely would personally be in support of more stringent regulation, to include prohibiting the carrying of firearms except in limited circumstances. I might be in agreement that we are a sophisticated bunch here in the land of steady habits and should prohibit the open carrying of a firearm – or the accidental pecking out of a firearm from the fear inspiring and tacky camouflage shirt. In my capacity as a regulator, I recognized that the rule of law did not afford me the authority to enforce my will, that I must abide by the law and seek whatever changes I advocated through the legislative process. Sadly, I do not see that attitude reflected or rewarded in the agency. I fully support the positions taken by Mr. Goldberg and Kuck against their abusers and I have offered myself to their attorney. I hope the agency will abandon the tactic of wearing them down through the protracted and expensive judicial process (no burden to the state) and will, instead, decide to do the right thing. I appeal to you as a fair minded independent thinker who puts justice above reputation.

I am grateful to you for extending the welcome of your open door. My greater gratitude for keeping an open mind as you attempt to negotiate your way through the morass of an agency that seems not to respect the necessary processes that reflect the expressions of a free people thus insuring a free society.

Sincerest Best Wishes,

Michael M. Beal

