

# Directive #14-22 - Criminal - Gun Permit Procedures (Supersedes Directive #06-19)

## New Legislation and Revised Court Responsibility

Governor Murphy today signed A-4769 into law (L. 2022, c. \_\_), amending a number of New Jersey firearms statutes and addresses issues raised in the United States Supreme Court's decision in N.Y. State Rifle & Pistol Association v. Bruen, 142 S. Ct. 2111 (2022). The enactment is effective immediately. In part, it removes the Judiciary from the initial decision-making process for applications for permits to carry a handgun. This Directive, which supersedes Directive #06-19, is intended to establish uniformity in how the vicinages handle appeals from law enforcement's denial of firearms identification cards, handgun purchase permits, and permits to carry a handgun.

New Jersey law previously required applicants to submit a written certification of "justifiable need" to the reviewing law enforcement officer as part of their application for a permit to carry. If approved by law enforcement, the application would then be presented to the Superior Court for action by a judge. So long as the applicant demonstrated, among other things, a "justifiable need" to carry a handgun in accordance with the statute, the judge would approve the application and issue the permit. Although New Jersey was not a party in Bruen, the U.S. Supreme Court likened New Jersey's requirements for permits to carry to those of New York, which the Court deemed to be unconstitutional.

Bruen thus eliminated New Jersey's "justifiable need" requirement, which was a significant factor, but not the only factor, that New Jersey Courts considered in acting on applications for permits to carry a handgun. The amendments to N.J.S.A. 2C:58-4 adopted in L. 2022, c. \_\_, both eliminate the "justifiable need" requirement and remove the court from the decision-making and issuance process for applications for permits to carry.

Pursuant to the new law, which, as noted, is effective immediately, determinations on applications for permits to carry a handgun will no longer be made by the court; law enforcement alone will receive, investigate, and determine all permit to carry applications. Any applications for a permit to carry a handgun currently pending before the Superior Court as of today are to be decided and, if approved, issued by the court. The new law allows judges to rely on the prior approval by law enforcement as the basis for approving these pending applications. L. 2022, c. \_\_. Judges must strive to act on those pending applications within 60 days and should not exceed that 60-day timeframe without good cause.

Any applications pending with law enforcement are to be decided by the appropriate chief police officer or superintendent. Effective today, any permit to carry application presented to the court will be returned to the law enforcement entity from which it was received.

The Superior Court will continue to hear appeals from law enforcement denials of applications for firearms purchaser identification cards, permits to purchase a handgun, and permits to carry a handgun. The new law provides that no formal pleading or filing fee is required for these appeals. N.J.S.A. 2C:58-3(d)(f); N.J.S.A. 2C:58-4(e); N.J.S.A. 2C:39-6(l)(5).

## Filing of Gun Permit Appeals

Any applicant aggrieved by the denial of a permit by law enforcement who wishes to file an appeal with the court is encouraged to file electronically through the Judiciary Electronic Document Submission (JEDS) System. The aggrieved applicant must also serve copies of the request for a hearing on the New Jersey State Police Superintendent, the county prosecutor, and the chief police officer of the municipality where the applicant resides, if the applicant is a New Jersey resident.

## Statewide System for Tracking Denials of Gun Permit and Carry Permit Appeals

In 2019, a universal numbering protocol for docketing and tracking appeals was implemented to maintain statewide consistency. This manual numbering convention will continue until an electronic filing and tracking system is completed.

Appeals from the law enforcement denial to issue firearms purchaser identification cards, permits to purchase a handgun, and permits to carry a handgun should use a similar numbering system. For example, the first gun permit appeal for Camden County in 2023 should be as follows:

In addition, when the court receives an appeal from a gun permit denial, court staff must record, at a minimum, the following information:

- (1) the applicant's name;
- (2) the applicant's date of birth;
- (3) the applicant's SBI number;
- (4) whether the applicant is a retired law enforcement officer ;
- (5) whether the applicant originally applied for a firearms purchase identification card, a permit to purchase a handgun, and/or a carry permit;
- (6) whether the appeal is for a new or a renewal permit;
- (7) if an appeal for a renewal permit, the expiration date of the old permit;
- (8) the law enforcement agency that denied the permit;
- (9) the date the application was submitted to law enforcement;
- (10) the date law enforcement denied the permit;
- (11) the date the appeal was received by the court;
- (12) if the applicant is requesting a notation on the permit for employment purposes, the type of employment (e.g. armored car, security);
- (13) the court's decision;
- (14) the date of the court's decision; and
- (15) the judge's name.

The information listed above will allow for easier tracking and reviewing of gun permit applications and appeals statewide. Counties may also track additional data.

#### **Timeframe for Hearing Appeals**

N.J.S.A. 2C:58 -4(e) anticipates that the Superior Court will hold a hearing on an appeal from law enforcement's denial of an identification card, a purchase permit, or a carry permit within 60 days of the applicant's written request for such a hearing. The hearing on an appeal from the denial of a carry permit for a retired law enforcement officer must be held within 30 days of request pursuant to N.J.S.A. 2C:39 -6(l)(5).

#### **Prosecutor Review of Applicant's Appeal from Denial of an Application for a Permit to Carry**

N.J.S.A. 2C:58-4(e) requires aggrieved applicants appealing the law enforcement denial of a carry permit to serve the request for a hearing on the county prosecutor. County prosecutors are not required by law to provide input to the court regarding these appeals. If they wish to do so, however, county prosecutors must file their response to these appeals within 14 days of the filing of the appeal. If the prosecutor does not respond within 14 days, the court is to move forward with the appeal hearing.

Questions or comments may be directed to Criminal Practice Division by email to the AOC Criminal Practice Division at [aoccrimprac.mbx@njcourts.gov](mailto:aoccrimprac.mbx@njcourts.gov) or by phone at [609-815-2900](tel:609-815-2900), [x55300](tel:609-815-5300).

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