
GLENN A. GRANT, J.A.D.
Acting Administrative Director of the Courts

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**To: Assignment Judges
Trial Court Administrators**

DIRECTIVE #06-19

From: Glenn A. Grant, J.A.D.



Subj: Criminal – Procedures for Processing Gun Permits

Date: May 20, 2019

This Directive promulgates procedures for processing gun permits, as endorsed by the Conferences of Criminal Presiding Judges and Criminal Division Managers and approved by the Judicial Council. These procedures are intended to streamline the process and establish uniformity in how the vicinages handle permits to carry a handgun as well as minimize delays in that process. Note that these practices apply not only to permits to carry firearms, but also to appeals from law enforcement's denial of firearms identification cards and purchase permits.

1. Statewide System for Tracking Applications and Appeals

Up to this point, almost every county has been using a different numbering system for logging and tracking gun permit applications and appeals. To ensure consistency throughout the state, this Directive establishes one standard numbering convention for that tracking. For gun permit applications, the numbering will be as follows: For example, the first gun permit application for Camden County in 2019 would be numbered as:

GP - CAM - 001 - 19 (Gun Permit - county three-letter abbreviation - number - year)

That would be the number for the first gun permit application for Camden County in 2019.

Similarly, the first gun permit appeal for Camden County in 2019 would be numbered as:

GPA - CAM - 001 - 19 (Gun Permit Appeal - county three-letter abbreviation - number - year)

In addition, when a gun permit application or appeal is filed, court staff must record, at a minimum, the following information:

- (1) the applicant's name;
- (2) the applicant's date of birth;
- (3) the date the application/appeal was submitted to law enforcement;
- (4) the date the application/appeal was received by the court;
- (5) the applicant's reason(s) for requesting the permit (e.g., personal protection, armored car, security);
- (6) whether the application/appeal is for a new or a renewal permit;
- (7) if a renewal permit, the date the old permit expires;
- (8) the law enforcement agency that approved (for applications) or denied (for appeals) the permit;
- (9) the court's decision;
- (10) the date of the court's decision;
- (11) the judge's name; and
- (12) if an appeal, whether the applicant originally applied for an ID card, a purchase permit, or a carry permit.

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

2. 30-Day Timeframe for Reviewing Applications and Appeals

N.J.S.A. 2C:58-4e requires the Superior Court to hold a hearing on law enforcement's denial of a carry permit within 30 days of the applicant's written request for such a hearing. Several counties had pending appeals more than 30 days old. In addition, although the statute is silent as to how long the court has to approve or deny an application, several counties also had applications pending for longer than 30 days. In order to reduce these delays, judges must review carry permit applications and appeals at least once every 30 days, and should not exceed that 30-day timeframe without good cause. This timeframe is consistent with other statutorily authorized timeframes pertaining to gun permit reviews and appeals. For example, N.J.S.A. 2C:58-3d also requires the court to hold a hearing on law enforcement's denial of an ID card or purchase permit within 30 days.

3. Prosecutor Review

Under N.J.S.A. 2C:58-4, the permit to carry approval process consists of two steps. The first is that law enforcement (the local Chief of Police or the Superintendent of the State Police) reviews and approves/denies the application. The second step is that, upon law enforcement's approval, the application is to be submitted to the court for review. Although N.J.S.A. 2C:58-4 does not require that the court seek the county prosecutor's input regarding the decision to grant or deny a carry permit application, most counties sent carry permit applications to the county prosecutor in *all or most* cases. A similar majority of counties did not give the prosecutor's office a deadline for providing its input and did not proceed without first hearing from the prosecutor's office. Thus, the approval process for permits to carry could be delayed indefinitely while the court waited for the prosecutor's input. As noted above, this input is not required by statute.

Given that the vast majority of counties believed that the better practice was to seek input from the county prosecutor on permit to carry applications, that decision should remain within the county's discretion. However, in order to limit potential delays, courts should give the prosecutor's office no more than 14 days in which to provide any objections to a particular applicant. In addition, a prosecutor's failure to respond in a timely manner should not serve as a reason for delaying or denying the application. Therefore, if the prosecutor's office does not submit its objections within 14 days, the court is to move forward with the application.

4. Hearings

Although N.J.S.A. 2C:58-4 does not require the court to hold a hearing on a permit to carry application, in a majority of counties the court held a hearing if it had questions or concerns about the applicant or the application. A hearing provides the applicant with an opportunity to clear up any questions or concerns that the court may have. Also, in those counties that seek input from the prosecutor, a hearing will allow the applicant to address the prosecutor's objections. Therefore, if a court has any questions regarding the applicant or his or her permit to carry application, it must hold a hearing to address those questions. The court should not simply deny the application. Further, the hearing must be held no later than 30 days after receipt of the permit to carry application, and the court shall make a determination within 14 days thereafter, absent extraordinary circumstances. This timeframe is sufficient (a) to allow the applicant to expediently address the court's or the prosecutor's concerns and (b) to avoid the delays that can jeopardize the applicant's employment.

5. Notification Letters Regarding the Court's Decision

In order to ensure consistency, if the court grants the carry permit application, it must send a letter to the applicant advising that the application has been granted and where the applicant can pick up the permit. The court must also send a copy of this letter to the law enforcement agency that originally received the application.

Similarly, if the court denies a carry permit application, it must send a "denial letter" to the applicant, with a copy to the law enforcement agency that originally reviewed the application. The letter should contain the reason(s) for the denial and language advising the applicant of his or her right to appeal that determination. This is consistent with the current practice in the majority of counties. A standard "denial letter" will be developed for statewide use.

6. Appeals from Law Enforcement Denial of Permit to Carry

N.J.S.A. 2C:58-4e provides that if a law enforcement agency denies the application for a permit to carry, and the applicant in writing requests a hearing, the court must hold that hearing within 30 days of the filing of the applicant's request. This serves as a reminder that the courts must adhere to the requirements of N.J.S.A. 2C:58-4e, including the 30-day provision.

7. Deadline for Prosecutor's Response to Applicant's Appeal

In order to be consistent with #3 above, the court must require the prosecutor's office to file its response to the applicant's appeal 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.

8. Application Fee for Permits to Carry

N.J.S.A. 2C:58-4d provides that "[a]t the time of issuance, the applicant shall pay ... a permit fee of \$20." In November 2014, the Supreme Court increased that fee to \$50 pursuant to L. 2014, c. 31. Some counties have considered that fee to be an application fee to be paid upon submitting the application, while others have considered it to be a permit fee to be paid only upon issuance of the permit to carry. The Judiciary views this fee as an application fee to be paid as part of the application process. As such, the fee is not to be refunded if the court denies a permit to carry.

Questions or comments regarding this Directive may be directed to Sue Callaghan, Assistant Director for Criminal Practice, by email at sue.callaghan@njcourts.gov or by phone at 609-815-2900, x55300.

cc: Chief Justice Stuart Rabner
Criminal Division Judges
Steven D. Bonville, Chief of Staff
AOC Directors and Assistant Directors
Clerks of Court
Special Assistants to the Administrative Director
Criminal Division Managers and Assistants
Vance Hagins, Chief
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