

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOHN DISALVO, JOSE TORRES, ALEXANDRA
GOTTLIEB, PETER CAIRNEY and CHRISTOPHER
BIANCANIELLO,

Plaintiffs,

v.

26-CV-00274 (NCM)(PK)

THE CITY OF NEW YORK, Jessica S. Tisch, Police
Commissioner, in her official capacity, and JOHN AND
JANE DOES 1-3 who are THE COMMANDING
OFFICER OF THE NYPD LICENSE DIVISION and other
supervisors related to gun permits, in his or her official
capacity,

Defendants.

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DECLARATION OF NICOLE BERKOVICH

I, Nicole Berkovich, declare under penalty of perjury, pursuant to 28 U.S.C. § 1746,
that the following is true and correct:

1. I am the Director of the New York City Police Department (“NYPD”) License Division. I have held the position of Director of the NYPD’s License Division (“License Division”) since March 28, 2022. Prior to becoming Director, I was employed as a Hearing Officer with the License Division.

2. My responsibilities and job duties as Director of the License Division include, but are not limited to, issuing the NYPD’s final administrative determination with respect to appeals from the denial of an initial or renewal license application and suspension or revocation orders and liaising with and assisting the New York City Law Department with litigation stemming from the License Division.

3. I submit this declaration in opposition to Plaintiffs' motion for preliminary injunctive relief.

4. The statements made in this declaration are based on my personal knowledge, review of records maintained by the NYPD and the City of New York, communications with NYPD staff, and upon statements made by employees, officers and agents of the City of New York.

The License Division's Role in the Process for the Licensing of Firearms

5. Article 400 of the New York Penal Law establishes the statutory framework governing the licensure of firearm possession and use throughout New York State. Among other things, that provision sets out eligibility criteria for the issuance of various types of licenses by the applicable "licensing officer" in a given jurisdiction. *See* Penal Law §§ 400.00(1) (establishing eligibility criteria); 400.00(2) (enumerating the kinds of licenses to which that criteria apply). The "licensing officer" in New York City is the Commissioner of the NYPD. *See* Penal Law § 265.00(10); New York City Administrative Code ("Admin. Code") § 10-131(a)(1). The Commissioner has delegated to the NYPD's License Division, which is housed within the NYPD's Legal Matters Bureau, the responsibility for reviewing and responding to applications for handgun licenses in New York City.

6. The License Division's breadth of responsibility with respect to the licensing of firearms includes: (1) processing, evaluating, and deciding tens of thousands of initial and renewal applications per year; (2) reviewing thousands of requests for authorization to register a handgun to a new or existing license pursuant to Title 38, Section 5-25 of the Rules of the City of New York ("RCNY"); (3) investigating the circumstances of every reported incident¹ involving

¹ The "term" incident is described by Title 38, Section § 5-30 of the RCNY.

a licensee; (4) responding to appeals of disapproved applicants; and (5) conducting hearings for suspended and/or revoked licensees/permittees.

7. The License Division's staff includes approximately 80 members of service, which is a mixture of uniformed members of service and civilian members of service.

8. The types of handgun licenses issued by the License Division are set forth in 38 RCNY § 5-01. In addition, the License Division issues rifle/shotgun permits pursuant to Chapter 3 of Title 38 of the RCNY.

9. A number of relatively recent factors have significantly increased the workload of the License Division. First, in the aftermath of the Supreme Court's decision in New York State Rifle and Pistol Ass'n v. Bruen, 597 U.S. 1 (2022), the number of concealed carry applications received by the License Division increased.² Second, following the terrorist attacks against Israel on October 7, 2023, the License Division experienced another substantial surge in applications. Unexpected national and world events can dramatically impact the number of applications submitted to the License Division, and, accordingly, the average time to process an application. Finally, a 2025 amendment to the Rules of the City of New York, necessitated by pending legal challenges, that explicitly permitted persons who reside outside of New York State and are not principally employed in New York City to apply for a carry handgun license, led to a deluge of applications from out-of-staters. See 38 RCNY § 5-03(b).

10. During the calendar year 2025, the License Division received over 23,000 applications (both initial and renewal) and decided (approved, denied, voided, or withdrawn) more

² The Bruen decision complicated the License Division's efforts to reduce the backlog resulting from the COVID-19 pandemic, which forced the License Division, along with all employers, to operate with reduced staffing due to social distancing mandates and quarantine/isolation requirements.

than 23,000 applications. For comparison purposes, the License Division received 13,637 applications in 2021. The bulk of the increase in applications can be directly attributable to the Bruen decision. In 2021, the year before Bruen was decided, the License Division received only 579 applications for a concealed carry license. In 2023, the first full year after Bruen, 6,705 concealed carry applications were submitted. That number further increased to 8,917 in 2024.

The Application Review Process

11. The Penal Law, Administrative Code, and the Rules of the City of New York require that the License Division ensure that applicants (and licensees) possess “good moral character.” See Penal Law § 400.00(1)(b); Administrative Code § 10-131(a)(1); 38 RCNY §§ 3-03, 5-02(a).

12. To make the “good moral character” determination, the License Division must, among other things, assess an applicant’s responses to each question on the application, review the documentation that the applicant is required to submit, and conduct a background check.

13. Following the Bruen decision, the State enacted significant changes to the Penal Law via the Concealed Carry Improvement Act,³ which among other things, added a number of new application requirements (in-person interview; letters of reference; list of cohabitants; social media disclosure; and completion of an in-person firearms training course). The amendments to the Penal Law, in turn, lengthen the application review process as they necessitate additional manpower hours to ensure compliance therewith and to inspect the documentation.

³ The CCIA (S.51001/A.41001) was enacted on July 1, 2022, by the New York State Legislature, and signed by Governor Kathy Hochul, in response to the Bruen decision. The CCIA was comprehensive legislation that amended various provisions of the Penal Law, the General Business Law, and the Executive Law, among others, in relation to the licensing and carrying of firearms.

14. Applications for firearm licenses are completed through an online public portal available <https://licensing.nypdonline.org>. The portal contains application instructions and provides a checklist of every mandated document. The checklist advises that the submission of all required documents is necessary for the quickest review of an application. See Exhibit A.

15. The License Division uses its proprietary database known as Armory Management System or ARMS to track and manage applications. Once an application is opened on the public portal, its status is deemed “Initiated.” An application is not marked “Submitted” until payment of the application fee is made and payment clears. As of January 2025, applicants receive an automated email when their application moves into the “Submitted” phase that directs them to schedule a fingerprinting appointment. Applicants also receive e-mails with individualized checklists indicating the information that has been received and the information that is still missing. Following the “Fingerprinting” phase, an application enters “Investigation” status where it is assigned to an investigator who completes another document check; reviews the fingerprint response; conducts follow-up inquiries, if necessary; and makes a recommendation for either approval or denial to a supervisor. The final decision on an application is made by either the Commanding Officer (generally reviews new applications) or Executive Officer (typically reviews renewal applications) of the License Division. If an application is approved, it is recorded in ARMS as “Issue Pending,” and an approval letter is generated with a license number. The licensee must then inform the License Division of the firearms that it wants listed on the back of the license card, in accordance with 38 RCNY § 5-25.

16. I am aware that Penal Law § 400.00(4-b) requires the License Division to act within six months of the date of “presentment” of an application for a firearm license. The License Division does not consider an application to be “presented” merely because it is marked

“Submitted” in ARMS – submitted simply means the application was submitted via the public portal and the fee was paid and processed.

17. Despite the fact that the application requirements are clearly set forth on the public portal and in the Penal Law and RCNY, the majority of applications received by the License Division are incomplete, and missing one or more pieces of documentation. Applicants also frequently fail to disclosure required information, such as arrests, domestic incidents, criminal court summonses, etc. Accordingly, the License Division deems an application to be “presented” for purposes of Penal Law § 400.00(4-b) only once it is complete; in other words, an application is not complete until all required information/documentation is provided to the License Division.

18. The License Division does not maintain any practices, policies, or procedures with the objective of exceeding the six-month time frame established by Penal Law § 400.00(4-b). Nor does the License Division maintain any practices, policies, or procedures to delay the exercise of Second Amendment rights by law-abiding, responsible citizens.

19. It is not possible for the License Division to provide an applicant with an average processing time as every application is unique. As noted above, many applications are missing required information/documents, and investigators must reach out (often more than once) to applicants to inform them that their applications are incomplete. Other applications are complicated by the need to investigate the circumstances underlying an applicant’s arrests, domestic incidents, or summonses. The “good moral character” standard requires an individualized assessment of whether a person has “the essential character, temperament, and judgment necessary to be entrusted with a weapon and to use it only in a manner that does not endanger oneself or another.” 38 RCNY § 5-02(a). Arrests, domestic incidents, summonses, and

the other conduct investigated by the License Division are directly relevant to the “dangerousness” inquiry and take time to review and assess.

20. Nonetheless, in light of the influx of applications received by the License Division, and the time constraints imposed by Penal Law § 400.00(4-b), since my appointment as Director of the License Division in 2022, the License Division has instituted a number of changes to streamline and expedite the application review process. These changes include: posting the checklist of required documents on the homepage; introducing self-scheduling for fingerprinting; modifying the intake process so that applications are reviewed prior to the fingerprinting appointment, which informs the applicant if they are missing any information/documentation; and adding functionality to the public portal to allow submission of requests to add a firearm to a new or existing license.

Plaintiffs’ Applications

21. Plaintiff Peter Cairney’s application for a concealed carry license was approved on September 5, 2025. His concealed carry license was issued on February 19, 2026.⁴ A copy of Cairney’s license, in redacted form, is annexed hereto as Exhibit B.

22. Plaintiff Christopher Biancaniello’s application was incomplete for months after it was submitted as he was missing all four character references, a copy of his Social Security card, proof of address, and a printout of a DMV Lifetime Abstract. The License Division approved his application for a concealed carry license on February 19, 2026. A copy of the Notice of

⁴ Shortly before Cairney’s application was approved, the License Division modified the process by which approved applicants and licensees submit documents to register new firearms to a license. See *supra*, ¶ 20. This process was implemented at the end of August 2025 to streamline and better organize review of submissions. The new procedure requires documents to be submitted through the online portal rather than by email. Cairney’s Notice of Application Approval, however, contained outdated instructions that directed him to submit documents via email, which he did.

Application Approval is annexed hereto as Exhibit C, in redacted form. As of the date of this affirmation, Biancaniello has not submitted a request to add a firearm to his license.

23. Plaintiff Jose Torres's application was incomplete for months after it was submitted as he was missing all four character references, a copy of his Social Security card, proof of address, completed cohabitant form, a copy of his driver's license, and a printout of a DMV Lifetime Abstract. The License Division approved his application for a concealed carry license on February 19, 2026. A copy of the Notice of Application Approval is annexed hereto as Exhibit D, in redacted form. As of the date of this affirmation, Torres has not submitted a request to add a firearm to his license.

24. Plaintiff Alexandra Gottlieb's application for a concealed carry license was incomplete after it was submitted as she was missing all four character references, proof of address, a photograph, a copy of his Social Security Card, identification from her safeguarding person⁵, and a printout of a DMV Lifetime Abstract. The License Division disapproved her application on February 20, 2026, for failure to present a complete and truthful application. A copy of the Notice of Disapproval is annexed hereto as Exhibit E, in redacted form.

25. Plaintiff John DiSalvo's application for a concealed carry license was incomplete for months after it was submitted as he was missing all four character references, proof of address, a copy of his Social Security Card, and a printout of a DMV Lifetime Abstract. The License Division disapproved his on February 20, 2026, for failure to present a complete and truthful application. A copy of the Notice of Disapproval is annexed hereto as Exhibit F, in redacted form.

⁵ An applicant must designate a person who will safeguard their firearms in the event of incapacitation or death. The applicant must also upload to the public portal a government-issued identification for this safeguard person.

26. Pursuant to 38 RCNY § 5-07(e), DiSalvo and Gottlieb may appeal the denial of their applications for a concealed carry license. This section provides, in relevant part: “If the applicant wishes to appeal the decision they shall submit a sworn written statement, which shall be known as an ‘Appeal of Application Disapproval,’ to the Director, License Division, within ninety (90) calendar days of the date on the ‘Notice of Application Disapproval’ requesting an appeal of the denial, and setting forth the reasons supporting the appeal.”

27. As of the date of this affirmation, the License Division has not received an appeal from either Alexandra Gottlieb or John DiSalvo.⁶

Process for Renewal Application

28. A licensee is required to renew their handgun license every three years. See 38 RCNY § 5-28. A permit to possess a rifle or shotgun is valid for three years and is subject to automatic renewal except where the “police commissioner has reason to believe that the status of the applicant has changed since the previous application.” Administrative Code § 10-303(f).

29. For a number of reasons, the License Division’s processing time for handgun renewal applications is generally much quicker than for an initial application. First, the fingerprinting requirement is generally waived for renewal applications since the License Division already has a licensee’s fingerprints on file. Second, a number of the requirements for an initial license are not required to renew (in-person interview; references; list of cohabitants; etc.). Third, and perhaps most importantly, once a licensee is subject to the jurisdiction of the License Division, they are required to report every incident to the License Division. See 38 § RCNY 5-30. And, the License Division is automatically notified by the New York State Department of Criminal Justice

⁶ Cairney and Biancaniello requested confidentiality pursuant to Penal Law § 400.00(5)(b). Accordingly, records pertaining to them are more heavily redacted than documents for Torres, Gottlieb, and DiSalvo.

Services of a number of incidents. Accordingly, the License Division is able to investigate these incidents during the term of the license as they occur and determine whether they bear upon the licensee's "good moral character." Thus, by the time that a licensee must renew, in a perfect world, the License Division will have already evaluated all incidents involving a licensee and concluded whether the incident demonstrates a lack of "good moral character." In contrast, as discussed above, for initial applicants, the License Division must investigate the applicant's entire history of potentially dangerous conduct before approving or denying the application.

30. New York Penal Law § 400.00(10) provides that "[a]ny application to renew a license that has not previously expired, been revoked or cancelled shall thereby extend the term of the license until disposition of the application by the licensing officer."

Executed on: February 27, 2026
New York, New York



Digitally signed by Nicole
Berkovich
Date: 2026.02.27 15:22:28 -05'00'

Nicole Berkovich