



Office of the Attorney General  
Washington, D. C. 20530

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Montgomery County Sheriff &  
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Dear Attorney General Sunday and Sheriff Kilkenny,

I write with concern that county sheriffs in Pennsylvania are administering the Commonwealth's Uniform Firearms Act in a manner that denies the right to bear arms to out-of-state residents. This practice is unlawful under Pennsylvania law. It also raises serious concerns under the Second Amendment, which guarantees the right to bear arms in public,<sup>1</sup> as well as the Privileges and Immunities Clause, which prohibits discriminating against out-of-state citizens by denying them the exercise of fundamental rights.

The Uniform Firearms Act severely restricts carrying a firearm in public without a license. Unless licensed, citizens generally may not carry a firearm "in any vehicle" or "concealed on or about [one's] person."<sup>2</sup> Nor may unlicensed citizens generally carry a firearm, concealed or not, on public property in Philadelphia or in certain other areas.<sup>3</sup> Pennsylvania's licensing scheme also has serious consequences under federal law, which prohibits carrying a

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<sup>1</sup> *New York State Rifle & Pistol Ass'n, Inc. v. Bruen*, 597 U.S. 1 (2022).

<sup>2</sup> 18 Pa. Cons. Stat. § 6106(a).

<sup>3</sup> *Id.* §§ 6107–6108; *see also Commonwealth v. Hicks*, 208 A.3d 916 (Pa. 2019).

Although Pennsylvania affords limited reciprocity to some out-of-state licenses, 18 Pa. Cons. Stat. §§ 6106(b)(11) (firearms carried in vehicles), 6106(b)(15) (statutory reciprocity for states with "similar . . . firearm laws"), the Pennsylvania Attorney General's Office has severely restricted reciprocity in recent years, including by cancelling reciprocity agreements and by imposing a residency requirement on out-of-state license holders, *see id.* § 6109(k) (reciprocity agreements by the Attorney General).

firearm within 1,000 feet of a school without a license issued “by the State in which the school zone is located.”<sup>4</sup>

Problematically, however, Pennsylvania sheriffs are not properly issuing carry licenses on a nondiscretionary, nondiscriminatory basis. Pennsylvania law provides that licenses to carry firearms are available to all adults 21 years of age or older who pay a \$20 fee and pass a background check.<sup>5</sup> But those who live in other states and commute or travel through or within Pennsylvania face an overlay of arbitrary and unlawful policies by sheriffs who refuse to process nonresident carry applications. As the website for the Pennsylvania State Police accurately recounts, many “county sheriffs will not issue nonresident License to Carry permits.”<sup>6</sup> That categorical refusal includes your office, Sheriff Kilkenny,<sup>7</sup> as well as the Philadelphia Police Department and many others.<sup>8</sup> These offices direct out-of-state residents to “try another County in the Commonwealth of Pennsylvania.”<sup>9</sup> In some geographic areas, such as the metropolitan Philadelphia region, very few sheriffs (just one that the Department of Justice has identified—Delaware County) actually fulfill their legal obligation to process carry license applications by nonresidents.

This is a clear violation of Pennsylvania law, which expressly contemplates that both resident and nonresident firearm licenses will be processed on a “shall issue” basis. Pennsylvania law provides that “[a]n individual”—not limited to Pennsylvania residents—“who is 21 years of age or older may apply to a sheriff”—any sheriff—“for a license to carry a firearm concealed on or about his person or in a vehicle within this Commonwealth.”<sup>10</sup> Only if the applicant is a resident of the Commonwealth is he required to submit his application to a particular sheriff, specifically “the sheriff of the county in which he resides.”<sup>11</sup> But if the applicant is *not* a resident of the Commonwealth, the general rule applies that the applicant need only “apply to a sheriff.”<sup>12</sup>

Once a qualified applicant applies, Pennsylvania law provides that the license “*shall be issued* if, after an investigation not to exceed 45 days, it appears that the applicant” does not fall within a statutory exclusion, such as for conviction of certain crimes, or for whom there is otherwise “good cause” to deny the license.<sup>13</sup> Confirming that nonresidents are among the

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<sup>4</sup> 18 U.S.C. §§ 922(q)(2)(A), 922(q)(2)(B)(ii), 921(a)(26) (defining “school zone”).

<sup>5</sup> 18 Pa. Cons. Stat. § 6109.

<sup>6</sup> Carrying Firearms in Pennsylvania, Commonwealth of Pennsylvania, <https://www.pa.gov/agencies/psp/programs/firearms/carrying-firearms-in-pennsylvania.html#accordion-eef7c4effa-item-759adba049> (last visited Apr. 30, 2025)

<sup>7</sup> See Gun Permits, Montgomery County PA, <https://www.montgomerycountypa.gov/401/Gun-Permit> (last visited Apr. 30, 2025).

<sup>8</sup> See License to Carry Firearms, Philadelphia Police Department, <https://philadelphiapa.permitium.com/ccw/application?permitttype=new> (click “Agree” three times to view notice pertaining to Non-Pennsylvania Residents) (last visited Apr. 30, 2025) (“The Philadelphia Police Department is not issuing License to Carry to Out of State Applicants.”).

<sup>9</sup> *Id.*

<sup>10</sup> 18 Pa. Cons. Stat. § 6109(b).

<sup>11</sup> *Id.* § 6109(b).

<sup>12</sup> *Id.* (emphasis added).

<sup>13</sup> *Id.* § 6109(e)(1) (emphasis added).

“individual[s]” who are entitled to apply for a license, which ordinarily “shall be issued,” the statutory exclusions include a “resident of another state who does not possess a current license” in his home state, if his home state issues licenses.<sup>14</sup> In other words, a “resident of another state who does . . . possess a current license” in his home state is entitled to apply for, and receive, a license in Pennsylvania.<sup>15</sup> In sum, Pennsylvania law requires all of the Commonwealth’s sheriffs to accept nonresident carry applications and commands that they *shall* issue such licenses. Yet many Pennsylvania sheriffs are refusing to do so, a fact that appears on the State Police’s own website.

The practice of refusing to accept applications is especially pernicious because there are no specified legal remedies for the bare refusal to entertain an application. In other states that operate under the Uniform Firearms Act, citizens have sought and obtained writs of mandamus to compel local licensing agencies to carry out their ministerial duty to entertain a license application.<sup>16</sup> Nonresidents should not have to do that in Pennsylvania.

But this is not merely a state-law problem. The Supreme Court has been clear that “[t]he constitutional right to bear arms in public for self-defense is not a second-class right, subject to an entirely different body of rules than the other Bill of Rights guarantees.”<sup>17</sup> A permit requirement for public carry does not, without more, violate the Second Amendment. However, in *Bruen*, the Supreme Court explained the difference between “shall-issue” licensing regimes, “where authorities must issue concealed-carry licenses whenever applicants satisfy certain threshold requirements,” and “may-issue” regimes, “under which authorities have discretion to deny concealed-carry licenses even when the applicant satisfies the statutory criteria.”<sup>18</sup> The latter—a “may-issue regime”—“is constitutionally problematic because it grants open-ended discretion to licensing officials,” and the exercise of Second Amendment rights cannot be conditioned on the exercise of such discretion.<sup>19</sup>

What is happening in Pennsylvania is even worse. Although citizens retain their right to armed self-defense when they cross state lines, Pennsylvania sheriffs are ignoring state law to deny carry licenses on a categorical basis, not merely a discretionary one, as in *Bruen*. The Supreme Court has warned that “any permitting scheme”—even a shall-issue regime—“can be

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<sup>14</sup> *Id.* § 6109(b), (e)(1), (e)(1)(ix).

<sup>15</sup> *Id.* § 6109(e)(1)(ix).

<sup>16</sup> See, e.g., *Salute v. Pitchess*, 61 Cal. App. 3d 557, 560 (Cal. Ct. App. 1976) (holding that sheriff’s “refus[al] to consider” carry license applications “on the part of citizens generally” was “an abuse of, and not an exercise of, discretion” warranting grant of mandamus); *Kellogg v. City of Gary*, 562 N.E.2d 685, 694 (Ind. 1990) (holding that, by refusing to distribute “blank application forms for handgun permits, “the city denied the citizens access to the state’s procedural process”); *Miller v. Collier*, 878 P.2d 141, 145 (Colo. App. 1994) (allegation that officers “refused to accept applications for concealed weapons permits . . . and breached their statutory duty” was sufficient to state a claim for mandamus); *Archer v. McGarry*, No. Civ. A. 02-5593, 2002 WL 32182164, at \*1 (R.I. Super. Ct. Dec. 9, 2002) (granting mandamus for a blanket refusal to consider an application).

<sup>17</sup> *Bruen*, 597 U.S. at 70 (internal quotation marks omitted) (citing *McDonald v. City of Chicago*, 561 U.S. 742, 780 (2010)).

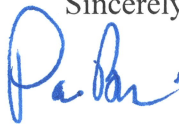
<sup>18</sup> *Id.* at 13–14.

<sup>19</sup> *Id.* at 79 (Kavanaugh, J., concurring).

put toward abusive ends” that “deny ordinary citizens their right to public carry.”<sup>20</sup> That is exactly what is happening across the Commonwealth. Moreover, because the categorical refusal to issue licenses specifically targets out-of-state residents, these policies are also suspect under the Privileges and Immunities Clause, which guarantees that “[t]he Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States.”<sup>21</sup>

I would appreciate your help resolving this situation promptly on a statewide basis and without the need for litigation. The Department of Justice will be monitoring the situation closely.

Sincerely,



Pamela Bondi  
Attorney General

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<sup>20</sup> *Id.* at 38 n.9.

<sup>21</sup> U.S. Const. art. IV, § 2.