

Reading through the NYPD's proposed rule change, I am happy that the police department's understanding of *Osterweil v. Bartlett* was included. However, I am still disappointed that as of 2019 the pistol permit clerks have not been advised to stop asking people for a Driver's License which is absolutely not required by any read of the relevant Penal Law and pertinent administrative codes. NYPD pistol permit clerks should be ordered to stop asking for Driver's Licenses due to this change, it is an administrative restriction that is meant as a barrier to submit an application and holds no basis in law - a residence is proved through utility bills, notarized letters, or notarized leases, not by a driver's license.

I do not believe that the proposed changes at hand are being discussed by the NYPD in good faith, they are instead being discussed to render the Supreme Court case moot and control the damage that this case will cause to fighting crime across the country.

If the rules were being discussed in good faith, I would propose the following changes to our laws:

1. An exception for taking a firearm to-and-from an FFL dealer or gunsmith for the purposes of repair, transfer, etc.

- Firearms are prone to breakage and sometimes require modification, as such they should be able for repair anywhere guns are sold. Ranges within the city do offer gunsmith and repair services, but the services are inconvenient or inadequate to many permit holders.

2. An exception for taking a firearm to-and-from any area of NYSDEC land where public target shooting is allowed.

- Target shooting is allowed at all NYSDEC land within the state that is not posted "No Target Shooting", as such, the NYPD should allow licensees to travel to-and-from ANY such land for any reason, not simply for the purposes of hunting.

If the rules were to be discussed to render the supreme court case moot, I would propose the following changes to our laws:

3. Removal of the "directly to and from" language from the relevant portions of the administrative code.

- A driver should be able to stop ANYWHERE they can legally possess a firearm once they are over that border or in that jurisdiction. Having an exception of driving "directly to and from" a premises where one can legally possess a firearm does NO GOOD if reaching that premises takes a 10 hour drive or a flight out of JFK/LGA. Same goes with a shooting competition and the other exceptions. **This wording alone would prevent the Supreme Court case from being rendered moot.**

4. Removal of the 200 round limit for possession of ammunition within a residence. This restriction makes no sense:

- a) If the purpose is to restrict shots available to a criminal, this test fails as there is nothing illegal about keeping over 200 rounds of ammunition in a motor vehicle parked on the street or at a locker at a range as opposed to in one's residence.
- b) If the purpose is to reduce the risk of fires, this test also fails, the danger should be scaled up and down based on the size of the round - 200 rounds of .22lr would not be comparable 200 rounds of .50 BMG if they were to cook off side by side.
- c) The ammunition limit is too low to allow somebody to compete and train for competition, training for these competitions can use up 200 rounds in one hour, while a weekend of competition can call for upwards of a thousand rounds. Many competitors choose to load their own ammunition by hand to have the most consistent shots and meet certain "Power Factor" requirements set by the competition. They can not merely buy ammunition at a competition and perform at their highest level. **By keeping this ammunition restriction in place, the core question of the case is still valid and as such I believe that this restriction would prevent the Supreme Court case from being rendered moot.**

5. Removal of the 90 day waiting period in between the purchase authorization requests for individual handguns, this restriction makes no sense:

- a) If the intent is to prevent an individual from possessing a handgun and using it in a crime, this test fails, the individual already owns a handgun.
- b) If the intent is to prevent an individual from legally purchasing and then illegally transferring multiple handguns to a non-license holder, this test fails, as per Osterweil the person can simply have a residence outside of the state and purchase handguns there.
- c) If the intent is to prevent an individual from keeping handguns improperly secured, this test fails, the police department already requires an individual to get a safe if they possess more than 4 handguns.
- d) Competitions are held on a weekly basis, if the previous ask of requiring somebody to rent a handgun at a competition is a burden enough for the supreme court to take the case up, the 90 day purchase wait would also be a burden enough. A wide variety of handguns are used for different sorts of competition, and the competitor will need to purchase several different ones to compete and train with. With the 90 day waiting period and subsequent few-week wait for the authorization itself, a competitor can only purchase about three handguns every year. There are four divisions in USPSA competitions alone, each requiring different handguns for optimal performance, surely requiring an individual to rent a handgun in any one competition burdens the individual as much as renting a handgun in every such competition, **again, keeping this restriction in place would prevent the Supreme Court case from being rendered moot.**

6. An end to arbitrarily banning certain firearms due to their color:

- Either by rumor or law, there is a longstanding belief that NYPD pistol permit holders can only have gray or black handguns. This presents an issue when it comes to competitions as many competition accessories do not come in the color black or gray. High end triggers, optics, and magazine wells often come in bright colors such as red or blue. Again, this restriction should be lifted as to not burden an individual in a competition outside of the city where competitors from other states have unfettered access to any accessory they can dream up.

7) An end to arbitrarily banning certain firearms due to their make, model or magazine capacity. Not only do competitors in the city want to compete with handguns, they would also like to compete with shotguns and rifles. New York City's assault weapon ban prohibits the most common models of shotguns and rifles in the country to be possessed, even by a duly licensed holder of a rifle/shotgun permit. This makes no sense:

- a) If the intent is to prohibit the possession of all assault weapons in the city, the test fails, non-residents in transit are allowed to pass through the city as long as the weapon is locked up and they leave within 24 hours as per §10-305(i)(1). Curiously, this only applies to "a non-resident of the city of New York who, without a rifle and shotgun permit issued hereunder" ... it seems that the city is admitting that those without rifle and shotgun permits can be trusted more than those that possess such permits. If this holds true, then it should apply to handguns as well. It seems the city should follow its own precedent and allow non-residents with handguns to pass through.
- b) If the burden to one renting a foreign handgun in another state is recognized as too great to be constitutional, the burden of having to compete and train with a less-than-optimal configuration of a rifle or shotgun should be as well. By limiting the magazine capacity of rifles and shotguns to 5 rounds, a competitor won't be able to properly train for and compete in 3 gun matches where higher magazine capacities are the norm. By limiting a competitor to using a Mini-14 or Ares SCR, which have less aftermarket support and inferior ergonomics than the AR-15, the competitor will be forced to train in a suboptimal configuration. Although there is nothing in the administrative code that prohibits competitors from taking these rifles to a competition outside of the city like there is for handguns, there is a substantial restriction in limiting the options that a competitor who lives within the city can use outside of the state and even within it, **as such, keeping the city's assault weapon and magazine bans in place would prevent this case from being rendered moot.**

References

1. NYC Title 10-131 - <https://www.nysrpa.org/files/nyc-admincode.pdf>