

March 30, 2020

Sheriff Gerald M. Baker
Wake County
330 S. Salisbury St.
Raleigh, NC 27602

Dear Sheriff Baker:

Our members in North Carolina have advised us that you recently announced that your office will not process for the next 30 days or more: (i) applications for permits to purchase handguns or (ii) new concealed carry permits, submitted by your county's residents. As you know, North Carolina law requires that a person wishing to purchase a handgun must possess either a handgun purchase permit or a concealed handgun permit. N.C. Gen. Stat. § 14-402. Either document exempts the person from an FBI/NICS background check at the point of purchase.¹ Moreover, this requirement for government preclearance applies both to sales from federally licensed firearm dealers, and also to sales between private parties. Additionally, North Carolina law mandates that a person may not carry a concealed firearm without a valid concealed handgun permit. N.C. Gen. Stat. § 14-415.11.

The basis for your decision to halt the acceptance of handgun purchase permit and concealed carry permit applications is unclear. On the one hand, your website states that the delay is due to unspecified "public health concerns related to the COVID-19 pandemic."² Yet news articles reporting on your actions have claimed they are "due to 'unprecedented' demand for weapons," including a "250% increase in demand"³ and an alleged need resulting from increased "time to manage the backlog."⁴ Many of our members also believe that a more

¹ [Permanent Brady Permit Chart](#), Bureau of Alcohol, Tobacco, Firearms & Explosives (Last updated Mar. 3, 2020).

² <https://wakeso.permitium.com/>.

³ J. Caruso, "[North Carolina County Suspends Pistol Permit Applications Over 'Unprecedented Demand for Weapons'](#)," *Daily Caller* (Mar. 24, 2020).

⁴ A. Hajela, "[Wake County sheriff suspends pistol, concealed-carry permit applications as demand surges](#)," *The News & Observer* (Mar. 24, 2020).

nefarious agenda could be at work, namely a desire to limit the Second Amendment rights of North Carolinians, especially during this time of national unrest.⁵

In reality, your decision to stop accepting permit applications cannot be justified. While it is certainly understandable that your office personnel may wish to limit interactions with, and risk of infection by, the public, or catch up on a backlog of work, you have no authority to suspend the right to “bear arms” as expressly protected by both the federal and state constitutions. *See* U.S. Const., Amend. II; N.C. Const. Art. I, Sec. 30.

By refusing to accept applications for both types of documents, your office has made it impossible for many of your constituents to obtain handguns lawfully, and prohibits others from obtaining permits so they may legally carry their handguns for self-defense. Yet, as the U.S. Supreme Court has said, handguns constitute “the quintessential self-defense weapon.” *District of Columbia v. Heller*, 554 U.S. 570, 629 (2008).⁶ And, like the District of Columbia’s ordinance struck down in *Heller*, your action here “makes it impossible for citizens to use them [handguns] for the core lawful purpose of self-defense and is hence unconstitutional.” *Id.* at 630.

By denying your constituents the ability to seek and obtain the permits necessary to obtain and carry firearms, you have also denied them the ability to protect themselves and their families during this time of uncertainty. Indeed, there is even a greater need for people to arm themselves, as many localities around the country have announced their intention to cease making arrests for certain non-violent crimes, including serious felonies such as burglary. As you have recognized, there recently has been an unprecedented demand for firearms, often by persons who do not currently own guns, but who have realized the need to protect themselves and their families. Understandably, residents of Wake County may wish to be able to defend themselves if the police cannot.

Not only do your actions infringe upon both federal and state constitutional rights, they also violate state law. Your office’s participation in this process is **mandated by state law**. N.C. Gen. Stat. § 14-415.11(b) states unequivocally that, upon receipt of a concealed handgun permit application, “[t]he sheriff **shall issue** a permit ... to a person who qualifies....” Likewise, N.C. Gen. Stat. § 14-403 states that “[t]he sheriffs of any and all counties of this State **shall issue** to any person, firm, or corporation in any county a permit to purchase or receive any weapon mentioned in this Article....” Additionally, N.C. Gen. Stat. § 14-404 states that “[u]pon application, and such application must be provided by the sheriff electronically ... [t]he sheriff **shall determine** the criminal and background history” and either “the sheriff shall issue the permit” or “**shall provide** to the applicant within seven days of the refusal a written statement of the reason(s) for the refusal.” (Emphasis added.)

None of these statutory provisions provide any discretion to a Sheriff to delay, deny, alter, or refuse to participate. As the Sheriff of Wake County, North Carolina, your participation in permit processing is **mandatory**.

⁵ *See, e.g.*, Wake County North Carolina’s recent attempt to close down a public shooting range, which was overridden by county officials.

What's more, as a constitutional officer, you swore an oath to "support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith...." N.C. Const. Article VI, Section 7. First and foremost, you owe a duty to your constituents to protect their constitutional rights, and to enable them to obtain the state licenses necessary to acquire and bear arms in public. Second, you have a duty to uphold North Carolina law which, in turn, requires you to process and issue licenses to carry.

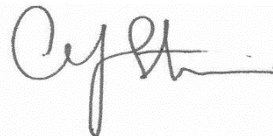
A court in North Carolina recognized that Second Amendment rights cannot be suspended during a time of emergency. In 2012, a federal district court struck down emergency powers actions to limit gun rights, writing that "[w]hile the bans imposed pursuant to these statutes may be limited in duration, it cannot be overlooked that the statutes strip peaceable, law abiding citizens of the right to arm themselves in defense of hearth and home, striking at the very core of the Second Amendment." *Bateman v. Perdue*, 881 F. Supp. 2d 709, 716 (E.D.N.C. 2012). Likewise, your actions strip your constituents of the ability to arm and defend themselves during a time when those rights matter the most.

Other sheriffs' offices around the country face the same challenges as does your office, related to the spread of the COVID-19 virus. However, other Sheriffs have not taken the drastic steps that you have proposed. Rather, many have taken other precautions designed to limit transmission, while still performing their essential task of assisting North Carolinians with obtaining licenses to carry. For example, other Sheriffs around the country have shortened hours, limited locations for permit applications, or developed ways to process applications through the mail or by appointment. We urge you to consider such alternatives, rather than the drastic, unlawful, and unconstitutional steps you have taken, which denies your constituents the ability to exercise an inherent right recognized in state and federal constitutions.

Sincerely,



Erich Pratt
Senior Vice President



Andy Stevens
North Carolina State Director