



Andrew J. Spano  
County Executive

Lawrence S. Schwartz  
Deputy County Executive

December 6, 2006

Honorable Francis A. Nicolai  
Administrative Judge, 9<sup>th</sup> Judicial District  
Westchester County Courthouse  
111 Dr. Martin Luther King, Jr. Blvd.  
White Plains, New York 10601

Dear Judge Nicolai:

I am writing to express my deep concern regarding the usurpation of procedural safeguards built into the pistol permit review process by a member of the judiciary.

On November 14, 2006, at approximately 3:00 p.m., Mr. John C. Picucci was present at the Department of Public Safety's Pistol Permit Unit seeking to have his current target/hunting permit (number 49085) amended to a full carry permit. Detective Frank Ortiz ascertained from Mr. Picucci that the impetus for this change was employment related and advised Mr. Picucci to submit a letter of need as well as other documentation to support his need for a full carry permit. Mr. Picucci then departed the office. An hour or so later, Judge J. Emmett Murphy came to the office of the Pistol Permit Unit and presented Mr. Picucci's amendment to Detective Ortiz indicating that he (Judge Murphy) signed and approved the amendment for a full carry permit. The documents that Detective Ortiz instructed Mr. Picucci to provide were not submitted, and the amendment was not filed with or reviewed by the Department of Public Safety prior to the judge's approval.

It is unconscionable that a member of the judiciary would circumvent the very process implemented to ensure the safety and security of County residents. By his actions, Judge Murphy effectively denied the Department of Public Safety: a) the opportunity to conduct a proper law enforcement review of the applicant, and b) the ability to properly document the applicant's need for a full carry pistol permit. Moreover, Judge Murphy's actions negate the substantial measures implemented by the Pistol Permit Unit over the last year to better screen applicants and thereby provide the judiciary with more comprehensive information to assist it in its decision making duties. If the issuance of pistol permits without any input from the Department of Public Safety is a prerogative of the judiciary or reflects the value the judiciary places upon the Department of Public Safety's work product, then I shall recommend to the County Executive to give me permission to direct the Police Commissioner to disband the Pistol Permit Unit and reassign the officers to enforcement duties within the Department of Public Safety.

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In addition, I am advising you that I have directed the Police Commissioner not to issue Mr. Picucci a full carry permit and I am giving serious consideration to filing a formal complaint against Judge Murphy based on his conduct in connection with the Westchester County Police Firearms Licensing Unit which I plan on discussing with the County Executive.

It is our overriding concern for the safety of County residents that led the County Executive to provide our state legislative delegation with draft legislation to, among others, designate the Commissioner-Sheriff of the Department of Public Safety as the issuing authority for pistol permits. This will ensure that decisions to issue or deny pistol permits are made by a law enforcement professional after a careful review of all appropriate facts. Unfortunately, the judge's actions in this instance are illustrative of why this legislative change is necessary. As an interim measure and until a permanent solution can be found, I suggest that you consider assigning one judge to review all completed pistol permit applications and amendments.

In closing, the issue at hand is not about "judicial discretion" or "judicial activism." Rather, it is about the flagrant disregard for a system, despite its frailties, that is designed to provide for the public safety and security of all who live, work or recreate in this County. To approve a full carry permit in a matter of hours for an individual that the police had no opportunity to review the merits of the applicant's request to amend his target permit is irresponsible at best.

Sincerely



Lawrence Schwartz  
Deputy County Executive

LSS/ccm

cc: Hon. Janet DiFiore, District Attorney  
Hon.. Timothy Itoni, County Clerk  
Hon. Andrew J. Spano, County Executive  
Hon. Jonathan Lippman, Chief Administrative Judge  
Thomas Belfiore, Commissioner of Public Safety