

CONCEALED CARRY PERMITS ARE NOW AVAILABLE IN THE DISTRICT OF COLUMBIA ON A “SHALL ISSUE” BASIS

The District of Columbia has finally submitted to the Second Amendment of the United States Constitution and made it possible to obtain a concealed carry handgun permit in the District without having to show a special need. In response to a decision by the United States Court of Appeals for the District of Columbia Circuit in *Wrenn v. District of Columbia* and *Grace v. District of Columbia* (“*Wrenn*”), the District will now be issuing concealed carry permits on a “shall issue” basis.

The Court of Appeals declared the District’s overly-demanding “good reason” standard for issuance of concealed carry permits unconstitutional back on July 25, 2017, but did not make its ruling effective until expiration of the District’s time to appeal the decision. The District threw in the towel on October 5, 2017, and announced its decision to forego an appeal. Instead, the District is implementing a “shall issue” system, at least for now.

THE “GOOD REASON” STANDARD AT ISSUE IN *WRENN*

Under the “good reason” standard declared unconstitutional in *Wrenn*, an applicant for a permit had to show a good reason to fear injury to their person or property or another proper reason for carrying a pistol. To satisfy the first prong of the statute (“good reason to fear injury”), the D.C. Code required the applicant to show a special need for personal protection different from the general community, supported by proof of special threats or previous attacks demonstrating a special danger to the applicant’s life. To satisfy the second prong (the hopelessly vague “another proper reason” standard), the D.C. Code lamely provided that an applicant’s need to carry cash or valuables as part of his/her job would be sufficient. This left residents to wonder what else, if anything, might qualify as “another proper reason.” Under the D.C. Code, the desire to protect one’s own life on the District’s crime-ridden streets was simply not enough.

The *Wrenn* court held that the Second Amendment protects not only the right to keep arms in the home, but also equally protects the right to carry common firearms for self-defense outside the home. The court held that the District’s “good reason” standard is unconstitutional because it prohibits carry by all but a few citizens who could prove a special reason to carry, and effectively imposed a total ban on carrying by citizens who have a common level of competence, responsibility, and need. In doing so, the law completely prohibited most residents from exercising the constitutionally-protected right to carry arms for self-defense outside the home.

The court struck down the law without analyzing it under any of the three levels (“tiers”) of scrutiny often used by courts to rescue laws from constitutional challenge, because the District’s total ban on the exercise of a protected constitutional right by most of the District’s citizens would necessarily have to flunk any properly written and applied judicial test for constitutionality. This marks the end, at least until the City Council takes further action, of the District’s longstanding (and outrageous) denial of citizens’ fundamental, constitutional right to keep and bear arms.

STEPS REQUIRED TO GET A CONCEALED CARRY PERMIT POST-WRENN

The *Wrenn* decision left intact longstanding, limited restrictions on carrying firearms outside the home, such as restrictions on bringing firearms to particularly sensitive sites, and licensing requirements. The District's requirements for obtaining a concealed carry handgun permit, even under its post-*Wrenn* "shall issue" system, are still time-consuming and expensive for applicants:

1. Applicants must submit an application that can be found on the Internet at <https://mpdc.dc.gov/page/applying-license-carry-handgun>. This webpage includes a fillable form that sets forth the requirements for obtaining a permit. Until the website's form is updated, applicants no longer need to fill in the portions relating to proving good cause for issuance of a permit. ***You may apply for a permit even if you are not a resident of the District.***
2. Applicants still must submit a complete set of fingerprints.
3. Applicants still must pay a \$75 application fee, and must pay an additional \$35 fee if the applicant's fingerprints are not on file with the Metropolitan Police Department.
4. Applicants still must obtain 16 hours of training from a Metropolitan Police Department-certified instructor. A list of approved instructors can be found on the Internet at <https://mpdc.dc.gov/page/concealed-carry-firearms-training-instructors-certified-mpd>. Cost of the course varies, with some instructors offering it for \$250.00. The course must cover the following:
 - a. Firearm safety, including firearm safety in the home, discussion of prevention of access by minors, locking and storing of firearms, and use of safety devices such as secure lock boxes;
 - b. Firearms nomenclature;
 - c. The basic principles of marksmanship;
 - d. The care, cleaning, maintenance, loading, unloading, and storage of pistols;
 - e. Situational awareness, conflict management, and use of deadly force;
 - f. Selection of pistols and ammunition for defensive purposes; and
 - g. All applicable District and federal firearm laws, and District laws pertaining to self-defense.Applicants must also still obtain at least two hours of range training in addition to the classroom training described above, and must shoot a qualifying score of 70% on a 50 round course of fire. Those with extensive firearms training can apply for a waiver of portions of the course, but they must still obtain training with respect to the District's laws regarding firearms and self-defense.
5. To be eligible for a permit, an applicant must be 21 years of age, and cannot:
 - a. have any convictions for crimes of violence, weapons offenses or any other violations of the Firearms Control Regulation Act of 1975, or a felony in any jurisdiction.
 - b. be under indictment for a crime of violence or a weapons offense.
 - c. have been acquitted of any criminal charge by reason of insanity or adjudicated a chronic alcoholic in the past five years.
 - d. have been convicted of two or more violations for driving under the influence within the past five years.
 - e. have been voluntarily or involuntarily committed to any mental hospital or institution within the past five years.
 - f. have been the subject of a civil protection order within the past five years.
 - g. have been convicted of a misdemeanor intrafamily offense.
 - h. have any physical defect that would make it unsafe to possess and use a firearm safely and responsibly.

- i. have been found negligent in a firearm-related mishap causing death or injury to another person.
 - j. have been dishonorably discharged from the armed forces.
 - k. have renounced their U.S. citizenship.
 - l. be legally blind.
 - m. be an alcoholic, addict, or habitual user of a controlled dangerous substance.
 - n. have suffered during the past five years from any mental illness or condition that creates a substantial risk that the applicant is a danger to him/herself or to others.
6. Under D.C. Code Section 7–2502.01, even if you are not a District resident, you must register your carry handgun with the District government, which adds yet another layer of complexity, time, and cost to the process. Information regarding the registration of firearms in the District can be found on the Internet at <https://mpdc.dc.gov/node/763182>.

The Metropolitan Police Department’s Firearms Registration Section is available to answer questions about the application process at 202-727-4275.

For the time being, the District is relying on its licensing and registration requirements (and the substantial cost and time burden imposed by those requirements) to deter most citizens from obtaining a permit and exercising their right to carry. It remains to be seen whether the District will leave it at that, or will seek to pass new legislation interfering with citizens’ constitutionally-protected right to carry a handgun.