

# NJ2AS

**NEW JERSEY SECOND AMENDMENT SOCIETY**

**P.O. Box 96 - Hightstown, NJ 08520**

**(888) 718-0404 X 801**

**[ARoubian@NJ2AS.org](mailto:ARoubian@NJ2AS.org)**

June 10, 2019

Bradley D. Billhimer  
Ocean County Prosecutor  
119 Hooper Ave  
P.O. Box 2191  
Toms River, N.J. 08754-2191

RE: Response to Ocean County Prosecutor's response to the NJ2AS complaint dated May 21, 2019

Dear Mr. Billhimer:

NJ2AS, as of today's date, June 10, 2019, has not received a response in writing to our complaint. We did, however, receive a voicemail on 05/30/2019 indicating that the Prosecutor's office confirmed with the New Jersey State Police that the activities of the Chief of Police and/or other members of the Jackson Township Police Department did not constitute criminal activity in reference to their requirement to have firearms permit applicants fingerprinted if they have not been fingerprinted in the past two years.

This response leaves several questions, which we outline below.

Question 1:

Did the Prosecutor's Office misunderstand the NJ2AS complaint?

NJ2AS does not understand the voicemail response. It seems as though, based on the response, that the County Prosecutor asked the New Jersey State Police (NJSP) if the fingerprinting activity violated the law. First, we are confused as to why the County Prosecutor would defer this determination to the NJSP. Second, we are unclear as to the nature of the inquiry. To be clear, the NJ2AS complaint did not object to fingerprinting or the criminal search process based on an applicant's fingerprints, whether they are taken as part of the permitting process or if the criminal records search is conducted with fingerprints that are maintained on file with the State Bureau of Investigation (SBI) from a previous permitting event. NJ2AS objects to the fact that the Jackson Township Police Department made the task of being fingerprinted *again*, and

therefore the scheduling, traveling, and cost of being fingerprinted (approximately \$60) a requirement. The term “need not” appears in the statute, the administrative code and in the guide book (see previous complaint). “Need not” clearly indicates that being re-fingerprinted is not a requirement. The Jackson Township Police Department made this a requirement. It is the fact that they added an additional requirement that NJ2AS objects to. It seems that the County Prosecutor’s investigation did not include an analysis of the addition of a requirement.

Based on the voicemail response, one would have to infer that the position of the Ocean County Prosecutor is that a municipal police department may require that applicants perform functions over and over again, as long as that function is an authorized part of the application process. This contradicts the “no additional requirements” provision, by both the word and spirit of the provision.

Question 2:

Did the Prosecutor’s Office investigate and determine if any of the activity was a violation of any SOP or guidance that needs to be corrected, but was not criminal activity?

NJ2AS referenced in its original complaint provisions from the NJSP Firearms Applicant Investigation Guide (the State level SOP for processing firearms applications) as well as provisions from the Attorney General Law Enforcement Directive No. 2016-4. Were any of these directives violated and, if so, what action was taken? If no action was taken, please explain why.

Question 3:

Did the Prosecutor’s Office investigate why the requirement was implemented?

The reason why the requirement is in place is relevant as there seems to be only two possible explanations.

1. The requirement was implemented because of a misunderstanding of how fingerprinting and the subsequent investigation for a non-criminal purpose works in NJ.
2. The requirement was implemented in order to make it more difficult, costly and time consuming to complete the application process, thereby delaying the issuance of the permit and/or dissuading some from going through the process.

In either case, there would need to be some sort of action taken, either to correct a misunderstanding, or to deal with the inappropriate behavior. If there is another explanation, NJ2AS would be glad to hear it so we can report it to our members and supporters.

Question 4:

Is it appropriate for the Chief of Police of the Jackson Township Police Department to contact NJ2AS and request us to stop our inquiry and reveal the identity of the complainants?

On multiple dates, Chief Kuntz contacted NJ2AS in his official capacity, see below:

05/29/2019

[Matthew Kunz](#) left feedback on [OEC Tipline](#)

about 19 hours ago

Fake News! You are publishing Fake News! If you were legitimate, you would have contacted the PD, not engaged in misleading social media posting.

**Matthew Kunz (Jackson, NJ)**

[chief@jacksonwpnj.net](mailto:chief@jacksonwpnj.net)

Chief of Police at Jackson Township Police Department

id: 89293

f: [Matt174](#) i: [/matthew-kunz-a6972b47](#)

**From:** Matthew Kunz <[chief@jacksonwpnj.net](mailto:chief@jacksonwpnj.net)>

**Subject: Re: Matthew Kunz left feedback on OEC Tipline**

**Date:** June 3, 2019 at 1:57:40 PM EDT

**To:** "[aroubian@nj2as.com](mailto:aroubian@nj2as.com)" <[aroubian@nj2as.com](mailto:aroubian@nj2as.com)>

Thank you for your e-mail. The New Jersey State Police were to contact you, following your complaint to the Ocean County Prosecutor's Office, and advise you that Jackson PD engages in lawful background investigation procedures. I doubt you will print that, as it conflicts with your inflammatory narrative.

I would respectfully request that you cease and desist from propagating false and misleading information which is damaging to the good name and reputation of the Jackson Township Police Department.

**Matthew D. Kunz**

**Chief of Police**

Jackson Township Police Department

102 Jackson Drive

Jackson, New Jersey 08527

Tel. [732.833.3005](tel:732.833.3005)

Fax [732.833.3027](tel:732.833.3027)

☆ **Matthew Kunz** 

Inbox - aroubian@nj2as.com Yesterday at 11:27 AM

MK

Re: Matthew Kunz left feedback on OEC Tipline

To: aroubian@nj2as.com

Mr. Roubian,

Before I comment, I would request copies of any alleged complaints. Also, I would like to know if any professionals from the Ocean County Prosecutor's Office or New Jersey State Police have contacted you regarding the lawfulness of local fingerprinting requirements. Lastly, I would ask if you intend to print a retraction in your "follow-up article" where you have been corrected regarding matters of fingerprinting.

**Matthew D. Kunz**

**Chief of Police**

Jackson Township Police Department

102 Jackson Drive

Jackson, New Jersey 08527

Tel. [732.833.3005](tel:732.833.3005)

Fax [732.833.3027](tel:732.833.3027)

NJ2AS is concerned about the following, regarding these messages:

1. There is a criticism of our reporting of this story to the public.
2. There is a "cease and desist" request. NJ2AS has a constitutionally protected right to redress its grievances with government (in this case, in the form of a complaint) as well as to tell our story, and the story of our members who have suffered as a result of this policy, to the public.
3. There is a request for us to provide copies of the complaints to Chief Kunz, which would surely identify the people who are telling us of their experiences and trusting us to help them - this can be viewed as an attempt to intimidate complainants.

NJ2AS has a constitutionally protected right to redress its grievances with government (in this case, in the form of a complaint) as well as to tell our story, and the story of our members and supporters who have suffered as a result of this policy, to the public. Chief Kuntz's comments to us are made in his official capacity. Whereas, NJ2AS has a focused interest in firearms related policy in NJ and feels confident in its opinions, we do not have a focused interest in which conduct from a government official may be a violation of policy and/or may be a civil violation, or a criminal violation regarding the above messages. We are, however, very uncomfortable with

a law enforcement officer, who is the subject of a valid complaint, attempting to identify the complainants and dissuade NJ2AS and its members and supporters from exercising its First and Second Amendment rights. We request that you study the messages listed above and determine if any action needs to be taken by your office.

After filing our original complaint, NJ2AS has received additional complaints about firearms permitting procedures at the Jackson Township Police Department. These complaints are primarily about the length of time that it takes to process an application and issue a permit.

1. Person A, who wishes to remain anonymous, reported to us that it took approximately three months to receive a permit.
2. Person B, who wishes to remain anonymous, reported to us that it took approximately six months to receive a permit.
3. Person C, who wishes to remain anonymous, reported to us that it took approximately nine months to receive a permit.

As 2C:58-3f states:

Granting of permit or identification card; fee; term; renewal; revocation. The application for the permit to purchase a handgun together with a fee of \$2, or the application for the firearms purchaser identification card together with a fee of \$5, shall be delivered or forwarded to the licensing authority who shall investigate the same and, unless good cause for the denial thereof appears, shall grant the permit or the identification card, or both, if application has been made therefor, **within 30 days from the date of receipt of the application** for residents...

NJ2AS is aware of the provisions in *Adler v. Livak* which allow the issuing authority to exceed the 30 day limit, if they are waiting "...until fingerprint reports are obtained from the SBI and FBI." However, this is not cart blanche permission to exceed the limit. The issuing authority is required to be "diligent." And, the court recognized that the legislative intent of the statute was to "...avoid dilatory consideration of the application."

Today is very different than 1998, when the *Adler v. Livak* decision was rendered. Fingerprints are now entered into a database and the fingerprint investigation portion of the process is, as we understand it, able to be completed within 24 hours in most cases.

Therefore, it being difficult to imagine a valid delay reaching three to nine months, we request that you investigate to determine if the Jackson Township Police Department is in violation of the "30 day" provision of 2C:58-3f and/or any of the other statutory or regulatory provisions outlined in our initial complaint as they relate to delays exceeding 30 days.

Consequently, NJ2AS, requests a written response to our original complaint, so that we may understand the County Prosecutor's interpretation and determination relating to each component

of our original complaint as well as a written response to this follow-up to the original complaint and to the update containing additional reports of delays.

Please include the following:

1. A description of the investigation.
2. A description of the results of the investigation containing an explanation of why or why not there are violations of the statutes, administrative code, SOP and Attorney General guidelines as provided in the original complaint.
3. A description of any corrective action taken, if any, to change the Jackson Township Police Department's practices.
4. The records related to the investigation that may be released under OPRA and/or common law right of access.
5. If any of the above may not be revealed, please provide an explanation.

Thank you for your attention to this matter.

Sincerely,

A handwritten signature in black ink, appearing to be 'A. Roubian', written in a cursive style.

Alexander Roubian  
New Jersey Second Amendment Society  
President

cc: New Jersey Attorney General Office, Division of Criminal Justice (via USPS certified mail)