

LICENSE TO CARRY (CONCEALED AND UNCONCEALED) APPLICATION PROCESSING	Procedures Manual Section	12.3
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1. PURPOSE

The purpose of this policy is to establish procedures and guidelines for the license to carry pistol and/or revolver application process of the Hawai'i Police Department.

2. PERSONS AFFECTED

All personnel

3. POLICY

It shall be the policy of the Hawai'i Police Department that each application for a license to carry a pistol and/or revolver be individually reviewed and considered.

4. DEFINITIONS

The following definitions are specifically for the purpose of these procedures and are not applicable or referencing other laws, policies, or procedures.

- 4.1. **Applicant** – non-gender reference to any person applying to the Police Chief for authorization to carry a pistol and/or revolver.
- 4.2. **Private Security Employer** – any individual, agency, partnership, corporation, or company duly licensed to engage in the private detective or guard business.
- 4.3. **Firearm** – Any pistol or revolver of any shape with a barrel less than sixteen inches in length and capable of discharging loaded ammunition or any noxious gas.

5. APPLICATION PROCEDURES

- 5.1. All persons who wish to apply for a License to Carry a Firearm concealed or unconcealed in the County of Hawai'i must:
 - 5.1.1. Thoroughly complete the Hawai'i Police Department Application for License to Carry Firearms (Form HPD/ADMIN-039A).

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- 5.1.2. Submit a copy of the signed State of Hawaii Firearms Registration for the specific firearm to be carried registered in the applicant's name or in the name of the Private Security Employer.
- 5.1.3. Submit a copy of the signed firearms proficiency test including scores:
 - a. Firearms proficiency test shall be taken with the firearm to be carried, (completed within 90 days prior to submittal of application).
 - b. Test must be administered by a state-certified or National Rifle Association firearms instructor of the applicant's choosing (include instructor certification).
 - c. Signed shooting proficiency test results must include shooting scores (pass/fail only is not sufficient).
- 5.1.4. Submit 2 passport-sized, front-facing color photographs of the applicant, (taken within 30 days prior to submittal of application).
- 5.1.5. Sign the State of Hawaii, Adult Mental Health Division's Authorization for Use or Disclosure of Protected Health Information form.
- 5.1.6. For applications associated with employment purposes, the following documents must be included:
 - a. A notarized statement by the private security employer that the applicant's duties require carrying the pistol and/or revolver and is qualified to use said pistol and/or revolver. (The private security employer is expected to show urgency of need in support of each application).
- 5.1.7. Subject must be a resident of the County of Hawai'i, have a local address, and be 21 years of age or older.

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5.1.8. Subject must be a U.S. citizen, a U.S. national, a lawful permanent resident, or (if the subject is applying for a concealed carry license) a duly accredited official representative of a foreign nation.

5.2. Firearms Section – responsible for receipt and processing of applications

5.2.1. Upon receipt, if an application is incomplete, the applicant shall be advised of what is missing.

a. If an applicant and/or private security employer is unable or unwilling to thoroughly complete the application and include all requirements listed above, the applicant shall be notified that an incomplete application may be rejected by the Chief prior to being processed.

5.2.2. Upon receipt, if an application is deemed complete, the following background checks shall be performed:

- a. Local police involvements (current and archive records management systems).
- b. State of Hawaii - Electronic Bench Warrant (EBW) search.
- c. CJIS Hawaii query – for Hawaii arrest history and disposition information.
- d. National Instant Criminal Background Check System (NICS) which includes:
 - National Crime Information Center (NCIC) warrants.
 - Interstate Identification Index (III) – a national index of criminal histories.
 - NICS index – index of persons not eligible to receive firearms in the U.S.

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- Immigration and Customs Enforcement databases – regarding whether the applicant is a citizen, a national, or a lawful permanent resident of the United States.

- e. A query of the State of Hawaii Adult Mental Health Division’s files – for State of Hawaii mental health records (no national records index exists).
- f. Federal Open Letter understanding Medical Marijuana permit holder’s disqualification.
- g. JIMS, eCourt Kokua, Ho‘ohiki, or other Hawaii Judiciary databases – for State court orders and records.

5.2.3. The query results, Application for License to Carry Firearms, all attachments, and worksheet noting any negative findings will be forwarded by the Firearms Section to the Lieutenant of the Records Section for review.

5.3. Lieutenant of the Records Section

5.3.1. The Lieutenant of the Records Section or designee shall be responsible for reviewing query results, Application for License to Carry Firearms forms, all attachments, and worksheet noting any negative findings and forwarding them along with any recommendations via proper channels to the Police Chief.

5.4. Office of the Police Chief

5.4.1. The Police Chief or designee will review completed applications forwarded by the lieutenant of the Records Section for license approval or denial.

5.4.2. The Chief or designee shall first evaluate whether the applicant meets the objective criteria for a concealed or unconcealed carry license that are required under Hawaii law. Points of consideration include prohibitions found under HRS §§ 134-7 and 134-9(b) such as: age, criminal history, and mental health. If the applicant does

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not satisfy these criteria, the application shall be denied on that basis.

5.4.3. The Chief or designee shall consider each application based on the facts and circumstances of each applicant.

a. The Chief or designee shall not act arbitrarily or capriciously, shall not reject applications out of hand based merely on preconceived notions or beliefs, and shall not impose unreasonable restrictions on concealed or unconcealed carry licenses. Each applicant deserves to have his or her application considered based on the merits of his or her own case.

6. Unconcealed Carry License Standards

6.1. Additional guidance to assist the Hawai'i Police Department in determining whether to grant or deny an application for an unconcealed carry license is provided in Attorney General's Opinion Number 18-1, dated September 11, 2018 and Attorney General's Opinion Number 22-02 dated July 7, 2022.

6.2. In applying the Chief's discretion, for the applications that satisfy the objective criteria, the Chief shall be guided by the following standards:

6.2.1. Pursuant to HRS § 134-9(a), the applicant must "sufficiently indicate" that he or she has an "urgency" or "need" to carry a firearm and is "engaged in the protection of life and property."

a. The "urgency" or "need" is "sufficiently indicated" only if an applicant has a need to carry a firearm for protection that substantially exceeds the need possessed by ordinary law-abiding citizens.

b. Being "engaged in the protection of life and property" does not require an applicant to be employed in a job that entails the protection of life or property (e.g., as a security guard), but it does require the applicant to be taking part, generally, in the protection of life and/or property.

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c. The life and/or property being protected is not limited to the applicant's life and/or property but can extend to that of others.

6.2.2. The applicant must be "of good moral character."

a. Being "of good moral character" means that the applicant does not exhibit specific and articulable indicia that the applicant poses a heightened risk to public safety.

6.3. The Chief may consider the following non-exhaustive list of factors when determining whether an applicant has an "urgency" or "need" to carry a firearm and is "engaged in the protection of life and property":

6.3.1. Whether the applicant has been subjected to a credible threat of harm to life and/or property;

6.3.2. Whether there has been corroboration of the threat, from police, government, or other records; from prior history with the same person or at the same location; or from witnesses, documents, or other first-hand sources;

6.3.3. Whether the applicant has been the victim of crime, such as domestic abuse, in which the applicant was specifically targeted, as opposed to the applicant being the victim of random crime;

6.3.4. Whether temporary restraining orders, protective orders, or other court orders or proceedings demonstrate a risk of harm to life and/or property;

6.3.5. Whether the applicant's profession supports the need for a firearm due to the heightened risk of attack or violence that the applicant faces;

6.3.6. Whether the applicant lives or works in a rural area far from police protection, as opposed to living or working in an urban area with a significant police presence;

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- 6.3.7. Whether the applicant is employed in a job that requires protection of the life and/or property of others;
 - 6.3.8. Whether a spouse, close family member, or other dependent of the applicant faces a heightened risk of bodily harm and the applicant is engaged in the protection of that person;
 - 6.3.9. Whether the applicant has an “urgency” or “need” to carry a firearm unconcealed rather than concealed, taking into account considerations such as whether an unconcealed carry license will enable the applicant to protect life or property more effectively than a concealed carry license, and whether the intended use of the unconcealed carry license is likely to cause terror and panic among the general public (e.g., openly carrying a firearm in a shopping center may be different than openly carrying a firearm on a quiet street or in a rural area); or
 - 6.3.10. Other factors not mentioned above but reasonable and appropriate to the decision whether to grant or deny an application for an unconcealed carry license.
- 6.4. The Chief may consider the following non-exhaustive list of factors when determining whether an applicant displays specific and articulable indicia that the applicant poses a heightened risk to public safety such that the applicant is not “of good moral character”:
- 6.4.1. Whether the applicant has been involved in recent incidents of alleged domestic violence;
 - 6.4.2. Whether the applicant has been involved in recent incidents of careless handling or storage of a firearm;
 - 6.4.3. Whether the applicant has been involved in recent incidents of alcohol or drug abuse;
 - 6.4.4. Whether the applicant has been involved in other recent violent conduct; or

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6.4.5. Other factors not mentioned above but reasonable and appropriate to the decision whether to grant or deny an application for an unconcealed carry license.

7. Concealed Carry License Standards

7.1. In applying the Chief’s discretion, for the applications that satisfy the objective criteria, the Chief shall be guided by the following standards pursuant to HRS § 134-9(b), any person granted a license to carry a concealed weapon on the person shall:

7.1.1. Be qualified to use the firearm in a safe manner

a. Applicant to provide documentation on receiving training on the safe handling and use of the specific firearm

7.1.2. Appear to be a suitable person to be so licensed;

a. Being “a suitable person” means that the applicant does not exhibit specific and articulable indicia that the applicant poses a heightened risk to public safety.

7.1.3. Not be prohibited under Section 134-7 from ownership or possession of a firearm;

7.2. The Chief may consider the following list of factors when determining whether an applicant displays specific and articulable indicia that the applicant poses a heightened risk to public safety such that the applicant is not “a suitable person to be so licensed”:

7.2.1. Whether the applicant has been involved in recent incidents of alleged domestic violence;

7.2.2. Whether the applicant has been involved in recent incidents of careless handling or storage of a firearm;

7.2.3. Whether the applicant has been involved in recent incidents of alcohol or drug abuse; or

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7.2.4. Whether the applicant has been involved in other recent violent conduct;

8. Other Considerations and Written Decision

8.1. Interview and Additional Information

8.1.1. Unless the application materials demonstrate, clearly and on their face, that an applicant cannot meet the eligibility criteria set forth in these regulations, each applicant shall be entitled to an interview with Hawai'i Police Department representative, in person or by telephone (whether the interview will be in person or by telephone is at the discretion of the Hawai'i Police Department), to present any additional information.

8.1.2. If, at any time during the Chief's consideration of an application, the Chief feels that the applicant may be able to meet the eligibility criteria but further information or clarification is needed before the Chief can make a final decision, the applicant shall be afforded the opportunity to submit additional information in writing.

8.2. Upon the Chief reaching a decision, the applicant shall be sent a written decision by certified mail.

8.2.1. If an application is granted, an approval letter will accompany the license card described below.

8.2.2. The letter shall indicate whether any special conditions are attached to an unconcealed carry license and explain the reasons for any such conditions.

8.2.3. If an application is denied, the denial letter for an unconcealed carry license shall set forth the facts of the application and explain the reasons for the denial based on HRS § 134-9, HRS § 134-7, the standards and factors described in these regulations, or AG Opinions No. 18-1 Or No. 22-02.

8.2.4. The denial letter for a concealed carry license shall set forth the facts of the application and explain the reasons for the denial based

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on HRS § 134-9, HRS § 134-7, or the standards and factors described in these regulations.

8.3. License Document or Card

8.3.1. If the application is approved and a license granted, the applicant will be issued a license card that contains the applicant’s name, photograph, firearm serial number, expiration date, and any special conditions attached to the use of a License to Carry Unconcealed.

8.3.2. Prior to the issuance of a concealed carry license, the Lieutenant of the Records Section or designee shall create a dissemination attached to the applicant’s RMS master name indicating the applicant has a concealed carry license.

a. Within the dissemination, the following shall be noted: pistol and/or revolver’s manufacturer, type, caliber, factory number, and the license issue and expiration date.

8.3.3. The license card shall also contain a warning that the applicant is responsible for understanding and complying with the laws of the State of Hawaii and the laws regarding the use of deadly force in self-defense.

8.3.4. The licensee shall have the license card in their possession when carrying the firearm in public concealed or unconcealed.

8.3.5. The licensee shall produce the license card upon request by a law enforcement officer.

8.4. Unless renewed, the license to carry a firearm concealed or unconcealed shall expire one year from the date of issue.

8.4.1. The process and requirements for reapplication shall be the same as the application process and requirements set forth in this procedure.

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- 8.5. A license to carry concealed or unconcealed firearm may be canceled by the Police Chief when there is sufficient cause to warrant such action, such as but not limited to:
 - 8.5.1. Disqualification pursuant to HRS § 134-7, HRS, § 134-9
 - 8.5.2. For licenses granted in conjunction with employment for a Private Security Employer
 - a. When the licensee employment is voluntarily or involuntarily terminated, or
 - b. When cancellation is recommended by the private security employer.
- 8.6. Notice must be given to the Firearms Section by the private security employer immediately upon termination of a licensee's employment.
- 9. Hearing and Appeal Procedure
 - 9.1. If an applicant objects to a denial of a license or imposition of conditions, the applicant may request a hearing.
 - 9.1.1. The hearing shall be held in person, before the Chief or the Chief's designee.
 - 9.1.2. The applicant shall request the hearing in writing to the Office of the Police Chief no later than 30 days after the date of the decision letter.
 - 9.2. If the hearing is properly requested, it shall be held as follows:
 - 9.2.1. The applicant shall be entitled to be represented by counsel at the hearing, if the applicant so desires.
 - 9.2.2. The Chief or designee may conduct the hearing as appropriate, but the hearing shall afford the applicant a full and fair opportunity to demonstrate that the applicant should have been granted a license or to contest conditions.

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9.2.3. The Chief shall issue a written decision, including findings of fact and conclusions of law, no later than 60 days following the hearing.

9.3. If the applicant objects to the decision, the applicant may appeal from that decision pursuant to HRS Chapter 91.

9.3.1. The hearing shall constitute a contested case hearing for purposes of HRS § 91-14 and the applicant shall be entitled to judicial review under that section.