

# Gun Lawyer -- Episode 104 Transcript

## SUMMARY KEYWORDS

new jersey, law, gun rights, audit, firearm, crime, conviction, offense, firearms, rights, gun, second amendment rights, prior conviction, statute, lawyer, called, people, state, guns, gun laws

## SPEAKERS

Evan Nappen, Speaker 3

### **Evan Nappen** 00:00

Hi! I'm Evan Nappen, and welcome to Gun Lawyer. I have some really great news and that's something when it comes to guns in Jersey. You don't always get to say, but it truly is. New Jersey has probably, unknowingly, but in fact, they have done it. Restored the gun rights to 1000s of individuals who were otherwise being denied their gun rights. I am talking about individuals that had out-of-state convictions for misdemeanors, and I want to explain why this is so and how it is so and give you some specific information here because this is going to help so many people that have been wrongfully denied through the years. You see New Jersey breaks down it's classes of offenses under NJS 2C:1-4. It's important that I give you the statute numbers in case anybody listening needs to actually reference the law. I don't mean to bore you with these numbers, but the numbers will bring you right to the law itself so you can see it and even provide it to a licensing bureaucrat who maybe doesn't understand it or know it. Or anybody else that may have that concern.

### **Evan Nappen** 01:56

If you look under Classes of Offenses, it begins where New Jersey identifies what types of offenses are and how they break down. And what determines primarily a class of offense has to do with the imprisonment or jail time. That's an important factor, you see. So, New Jersey starts by saying an offence defined by this code, meaning New Jersey's code, or any other statute in the state of New Jersey, for which a sentence of imprisonment in excess of six months, constitutes a crime within the meaning of the Constitution of this State. New Jersey. So, New Jersey calls, what we would readily identify as felonies. They don't use the term felony in New Jersey, they use the term crime. If you have been convicted of a crime in New Jersey, that means a felony level offense. If you've been convicted of a felony level offense, of course, you're a prohibited person as a felon under New Jersey law and for the most part, federal law as well. Now, the lesser offenses that we might consider to be misdemeanors, New Jersey doesn't use that word either. They use the word disorderly persons offense. The reason that that is confusing is people confuse disorderly persons offense with disorderly conduct. We're not talking about disorderly conduct, although some disorderly conduct might be a disorderly persons offense. A disorderly persons offense is that lesser level non felony, which Jersey calls crime. So, we have crimes and disorderly persons offenses. You don't want to be convicted of a crime. Of course, you don't want to be convicted of anything, but a crime disenfranchises you of your Second Amendment rights.

**Evan Nappen 04:23**

Then New Jersey says, and this is key, that an offense defined by the laws of any other jurisdiction, for which a sentence of imprisonment in excess of one year is authorized, shall be considered a crime when a reference is made by this code, or any statute of this State to such offense. What you see there is if it's over a year, and it's in reference to other states, then it's a crime if it's over a year. But in New Jersey, if it's a New Jersey offense, it's over six months, then it becomes a crime on the New Jersey side. So, New Jersey then has what are called disorderly persons offenses and crimes, and as a subset below disorderly persons offenses are what's called petty disorderly persons offenses. In New Jersey, if you're convicted of a petty disorderly persons offense, it carries a max of 30 days jail. If you're convicted of a disorderly persons offense, it has a max of six months in jail.

**Evan Nappen 05:49**

Then New Jersey jumps in its statutes to crimes. And that's where a crime of the Fourth Degree, that's the lowest level of crime, that's 18 months. Then the Third Degree is up to five years, and a Second Degree is up to 10 years. A first degree is up to 20 years. That's how Jersey breaks it down. In the past, if an individual had a conviction for an out-of-state misdemeanor for which the maximum jail was one year, New Jersey formally took a position that since it was over six months, it was a crime. Even though it's not a felony level offense under federal law or other jurisdictions, but New Jersey put it in that category. It no longer is, because it clarifies here, that it has to be over one year to be a crime, but it doesn't only lay it out in 2C:1-4, but also, very importantly, under NJS 2C:44-4, where it's specifically the definition of prior conviction, conviction in another jurisdiction and proof of prior conviction. That section specifically states now that a prior conviction in another jurisdiction, a conviction in another jurisdiction, shall constitute a prior conviction of a crime if a sentence of imprisonment in excess of one year was authorized under the law of that other jurisdiction.

**Evan Nappen 07:47**

Previously, basically, only a year ago or less, it was six months in that section of the law, but it has been changed now to one year. And that dramatically helps 1000s of New Jerseyans that had been denied, particularly because they had out-of-state misdemeanor convictions, in which their maximum jail time was one year, but New Jersey was viewing it as conviction of a crime. New Jersey no longer sees it as a crime. It is no longer a disqualifier in New Jersey in the way that a crime is. If you go to the licensing statute under 58-3 for New Jersey's Firearm Purchaser ID card, New Jersey's Permit to Purchase a Handgun and New Jersey's Carry Permit. Which by the way, New Jersey's carry permit is open to non-residents as well as residents. If any non-resident or a Jersey resident for that matter has a prior conviction for a misdemeanor for which the maximum jail was one year or less, you are qualified to get a gun license now in Jersey. Whereas in the past, you would have been disqualified and many, many people were.

**Evan Nappen 09:23**

So, if you're hearing this and you know someone who had this problem, they no longer have this problem. They can apply and receive their gun license now without this particular issue being a bar. It is a great thing because particularly those that had convictions in other jurisdictions that did not have expungement or annulment. One of the key places there is New York because New York did not have the ability to get your record expunged or annulled. If you had a conviction in New York, for even a

felony, then for you to get your rights restored, you would get this Relief from Disability. This Waiver of Disability where the court says, yeah, you did have this conviction, but we're relieving you of the disability for gun ownership. In fact, your gun rights are now restored. Even though you have this conviction, your gun rights are restored, and that certificate of relief works in New York. It's even recognized by the federal government as restoring your gun rights. But New Jersey refused to recognize it. Because New Jersey says, oh, sorry, you're still convicted. We don't care that the court in New York, whose conviction we're recognizing, says that you get your gun rights back, we don't.

**Evan Nappen 11:02**

Well, now, if you've had a conviction for a misdemeanor in New York, and the maximum jail was one year or less, New Jersey no longer sees it as a crime. And whether you have a relief from disabilities or not is irrelevant. You cannot be barred based on this conviction as a disqualifier, because the law has changed. So, that'll be very helpful to many folks that have been to this moment, stopped from exercising their Second Amendment rights in New Jersey, and for new applicants from out-of-state that wish to apply for a carry license in New Jersey. A carry permit that is now eligible to actually get because of the elimination of justifiable need, and the Bruen decision of the United States Supreme Court making it clear that that need requirement is no good.

**Evan Nappen 12:08**

New Jersey does not distinguish between residents and non-residents. The only difference is where you apply. So, if you're a non-resident, you apply to the nearest state police barracks in New Jersey to wherever you live as a non-resident. This opens the door for a lot of folks, and I'm really happy about that. Seeing gun rights restored in New Jersey for so many people. Those are the specific statutes that you need to know particularly and directly is that NJS 2C:44-4 as well as the interplay with NJS 2C:1-4. That is the law now, and it is actually a tremendous benefit to gun rights. I know. It's shocking that I'm saying this. I know, look out the window look for those pigs with wings. But there it is, folks. When we get back, I have a very important warning for you to understand so that you don't become a victim of some other games that are being played in New Jersey. Talk to you in a moment.

**Speaker 3 13:30**

For over 30 years, Attorney Evan Nappen has seen what rotten laws due to good people. That's why he's dedicated his life to fighting for the rights of America's gun owners. A fearsome courtroom litigator fighting for rights, justice and freedom. An unrelenting gun rights spokesman tearing away at anti-gun propaganda to expose the truth. Author of six best-selling books on gun rights, including Nappen on Gun Law, a bright orange gun law Bible that sits atop the desk of virtually every lawyer, police chief, firearms dealer and savvy gun owner. That's what made Evan Nappen America's Gun Lawyer. Gun laws are designed to make you a criminal. Don't become the innocent victim of a vicious anti-gun legal system. This is the guy you want on your side. Keep his name and number in your wallet and hope you never have to use it. But if you live, work, or travel with a firearm, that deck is already stacked against you. You can find him on the web at [EvanNappen.com](http://EvanNappen.com) or follow the link on the Gun Lawyer resource page. Evan Nappen - America's Gun Lawyer.

**Speaker 3 14:53**

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**Evan Nappen 14:59**

Hey folks, welcome back to Gun Lawyer. I'm Evan Nappen, and I am really happy to be speaking to you. I love my listeners so much. It's really an honor to be able to speak to you in this way. To get the message out and get this news out and tell you these things that you're not going to find anywhere else to learn about. These things can be very helpful. Sometimes they're scary. There are other things that can protect you by having the knowledge. Today, right now, I need to explain to you about something you need to be aware of and warned about.

**Evan Nappen 15:48**

It comes from a client actually calling me with this, but I've had this happen any number of times. And what it is, is the so-called, ready for this, Firearms Audit. That's right. I know when it comes to taxes, no one wants to hear that word audit. Well, you should have the same reaction if someone talks about a so-called Firearm Audit. The thing about a Firearm Audit is it doesn't exist anywhere in law. It's not as if there's a statute authorizing a so-called Firearms Audit. Even if there was that would itself be highly questionable and probably unconstitutional on top of the way they do these gun laws. But right now, there's no such thing as a Firearms Audit. Yet, I have people being requested by police to have a so-called Firearms Audit. What it means is that the police want to come to your house. They want to come into your house, invade your privacy, look in your gun safe, examine your guns, record serial numbers, take pictures, whatever, and do a complete "audit" of your guns.

**Evan Nappen 17:16**

Well, let me just say, the Second Amendment under text history and tradition, which is of course the burden that the State has to show that a law is Constitutional. Good luck showing the Firearm Audit in history. The last time that was tried, you know, it was like General Gauge maybe with the colonists, and it didn't turn out really well, when they wanted to audit their guns and seize them no less. Auditing guns, not a good idea. Invading your privacy, not a good idea. And what happens is, look, it's not about being anti-police, please don't interpret it that way. It's about being pro-rights. You don't need a situation to escalate with an audit of your guns, as to whether anything is legal or not legal and on to all these different debates. The law itself is so confusing and acquisition and storage, etc.

**Evan Nappen 18:14**

Here's the deal, folks. You have to be a responsible gun owner. You know that you cannot allow a minor to access a loaded firearm. If you don't know that, I don't know what planet you've been living on. Every sign and every dealer give a warning. You get handed it. You get told it. It's for real. You have to be conscientious about that. That is the law. And you know not to let unauthorized people access your firearms. You know to store your firearm safely and securely. And you know the rules of safety. You live by them. You literally live by them. That's what you do. But when it comes to a so-called Firearm Audit, no way. That's just an intrusion, an intrusion that is asking for escalation and trouble where the laws are going to be utilized in such a way. Such as the licensing laws, the laws on revocation, the laws that get abused every day, TERPOS, Red Flag. You name it, that just gives the background for enhancing

whatever rights taking action the Government wants to do or is being encouraged to do by some political narrative or agenda. I've seen it all.

**Evan Nappen 19:48**

This client called and said the police called about wanting to do a Firearm Audit because their kid said something stupid in school. Now granted, the kid said something stupid in school. All right. But in today's day, you know, you get the gigantic overreaction to some stupid thing an eighth grader says. There's no danger. There's no problem. Ah, but the parents own guns. Parents own guns. Yes. So, parents own guns, but now we better do a Firearms Audit. Oh, come on. A Firearms Audit? Well, luckily, the person called me, and I was able to respectfully decline the offer of a Firearms Audit on behalf of my client. I am not going to have your privacy rights violated. Second Amendment rights. Put you in a spot of being looked at as a criminal because you want to exercise your Second Amendment rights. It's not happening.

**Evan Nappen 20:52**

You need to know if this is ever a question that comes your way for whatever reason, you immediately call counsel, call an attorney right away that knows gun law, and can become a shield between you and the Government and deal with this. Because this stuff is just outrageous. There's no shame, it seems on anything. Can you imagine in the older days, some bureaucrat or some police officer asking, do you mind if we do a firearms audit? We want to come in your house. We want to look at all your stuff, and you know, who would? But now, people just get conditioned, conditioned, and it's difficult. I get. It's difficult if law enforcement makes this request. Law enforcement is asking you. Do you mind if we do a firearms audit, and you're put on the spot. It's almost like the mob ask you. Now, they're not, of course, organized crime, but don't but you know the pressure. You don't want to get anybody upset. You're not looking to be that way. I get it. You're not looking to. You're a law-abiding citizen. You support the police you. You don't want to be disrespectful.

**Evan Nappen 22:15**

But on the other hand, you want to stand firmly on your rights. You do not want your rights violated. If you really think about it, and it's true. It's offensive. You know, today, everyone's getting offended about all kinds of things that are not offensive. But if I or you, or someone I love, is being asked to have their privacy invaded, and to be inspected, detected and selected, to have their firearms looked at, examined and gun safes open. I mean a violation there to of the Fourth Amendment and Second Amendment. All this. I'm going to tell you straight out; I find it offensive. Yes, I do. I find it offensive that they would even ask, and I mean it. But nowadays, no problem, we'll ask and see if we can get them to let us have a fishing expedition. That's always fun. I like going fishing. Let's have a fishing expedition at your expense. Because that's what it is. And you're not going to do that. You are not going to let that happen. You have to stand on your rights, all of your rights. Many, many brave men and women have sacrificed for our rights. Are you just going to roll over and give them up? Disrespect their sacrifice? Of course not. Sometimes, you feel you need someone to help you in asserting your rights. Well, that's okay. Our system is designed to solve the problem. Smart people get an attorney. Smart people ask their attorney for advice. Smart people put an attorney between them and the Government. That's what smart people do.

**Evan Nappen** 22:35

The people that don't do it, they have problems. Well, they're not so smart, are they? Think about it. Stand on your rights. Don't give in, and don't feel intimidated. That's one of the things about being an American citizen. One of the things we treasure, and one of the things that we still have. They are trying to chip away at it, that's for sure. And it's always eternal vigilance to maintain them. But we have them and the best way to keep them is to exercise them. So, remember that. Don't ever give in to the so-called Firearms Audit. Good grief. This is Evan Nappen reminding you that gun laws don't protect honest citizens from criminals. Oh no, they protect criminals from honest citizens.

**Speaker 3** 25:11

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