

**Written Testimony of Mark W. Pennak, President, Maryland Shall Issue
Before the Maryland Handgun Permit Review Board**

February 21, 2017

Introduction and Summary of Conclusion

I am the President of Maryland Shall Issue (“MSI”). Maryland Shall Issue is an all-volunteer, non-partisan organization dedicated to the preservation and advancement of gun owners’ rights in Maryland. It seeks to educate the community about the right of self-protection, the safe handling of firearms, and the responsibility that goes with carrying a firearm in public. I am also an attorney and an active member of the Bar of the District of Columbia. I recently retired from the Civil Division, Appellate Staff of the United States Department of Justice after nearly 34 years of service. While at the Department of Justice, I practiced law almost exclusively in the Courts of Appeals of the United States and in the Supreme Court of the United States, with approximately 100 oral arguments in cases spread over every federal court of appeals in the United States. I am also a member of the Supreme Court Bar and have assisted the United States Office of the Solicitor General in the preparation of numerous briefs filed in the Supreme Court.

In many of these cases, I represented individual federal employees and federal law enforcement officers in tort and constitutional litigation arising out of the performance of their duties. I am also an expert in federal and Maryland firearms law and the law of self-defense and in constitutional issues arising under the Fourth Amendment (barring unreasonable search and seizure), the Fifth Amendment (preserving the right against self-incrimination) and the Sixth Amendment (preserving the right to legal counsel in criminal proceedings). I am a Maryland State Police certified handgun instructor for the Maryland Wear and Carry Permit and the Maryland Handgun Qualification License (“HQL”) and a certified NRA Range Safety Officer and a NRA certified instructor in rifle, pistol and personal protection in the home.

For the reasons set forth below, the current State Police practice of issuing carry permits with restrictions is legally and practicably untenable as enforced and implemented by the State Police. In my opinion, the Handgun Permit Review Board has a responsibility and an obligation to set aside **any** arguably vague restriction placed on a wear and carry permit. In addition, the State Police should reexamine their restrictions policies and consider exercising their statutory discretion so as to decline to issue permits with restrictions. Significantly, no state in the surrounding area, including the District of Columbia, actually imposes these types of restrictions on its carry permits. Indeed, the DC Code authorizes restrictions, DC ST § 22-4506(a), but the DC Chief of Police does not impose any restrictions. The State Police are free to do the same under Maryland law and should do so as a matter of policy.

Statutory Scheme

State Police have a permissive authority to impose restrictions on wear and carry permits under MD Code, Public Safety, § 5-307(b), which provides that "[t]he Secretary **may** limit the geographic area, circumstances, or times of the day, week, month, or year in which a permit is effective." As emphasized, this is a permissive statute. It is entirely up to the discretion of the State Police whether to issue restrictions and how to specify the scope of any restrictions thus imposed. However, as discussed below, that discretion must be exercised with sound judgment and is always subject to the limits imposed by law or the Constitution. As far as I am aware, no state actually imposes elaborate restrictions on carry permits, not even the District of Columbia, New York State or New Jersey.

In implementing Section 5-307, the State Police have adopted SOP 29-15-007 (attached) under which the State Police add restrictions on most permits it issues. The wording of the restrictions are based on the "good and substantial reason" proffered by the applicant under MD Code, Public Safety, § 5-306(b)(6)(ii) and are often quite vague. For example, the standard restrictions applicable to business owners or employees read: "Valid only while conducting business as owner of _____ (MD ONLY) (Not VALID where firearms are prohibited.) OR Valid only while conducting business as employee/position of _____." See Part G. of SOP 29-15-007.

Prior to 2013, carrying a handgun outside permit restrictions was treated as an administrative violation that would typically lead to revocation of the permit, but no other sanction. While prosecutions were attempted in a few of such cases, the Maryland courts refused to treat such restrictions violations as criminal, resulting in dismissals in those cases. However, as amended in 2013, MD Code, Criminal Law, § 4-203(b)(2), now makes it a serious criminal offense to carry a handgun outside the restrictions set forth on the permit. Under Section 4-203(c), on a first offense "the person is subject to imprisonment for not less than 30 days **and not exceeding 3 years** or a fine of not less than \$250 and not exceeding \$2,500 or both." (Emphasis added). Under federal law, 18 U.S.C. § 922(g), and 18 U.S.C. § 921(a)(20), any conviction under Section 4-203 would result in a lifetime federal firearms disability. Subsequent possession of a modern firearm or ammunition by a person subject to this firearms disability is a violation of 18 U.S.C. § 922(g), which is punishable by up to 10 years imprisonment under federal law. See 18 U.S.C. § 924(a)(2). A similar disability is imposed under Maryland law. See MD Code, Public Safety, § 5-101(g)(3), § 5-133(b)(1), § 5-205(b)(1).

The State Police “Articulation” Policy

Stated simply, vague restrictions do not provide guidance to either the permit holder or, even more importantly, to a potential arresting officer. For example, a person may believe that he is conducting his business in running an errand to a store at 11:00pm, but this will be far from obvious to a law enforcement officer. Variations in these sorts of factual scenarios are virtually endless and are inherent in the State Police’s use of restrictions. The State Police have apparently responded to this problem by arguing to this Board (in challenges to restrictions) that the permit holder need “only” explain to the officer how the possession of a handgun is in compliance with any restriction appearing on the permit. That also may be the advice that the State Police Gun Center is giving to local law enforcement as part of its “screening/vetting” function of “every gun case.”

<http://mdsp.maryland.gov/organization/pages/criminalinvestigationbureau/criminalenforcementdivision.aspx>.

Due Process Considerations

In *Johnson v. United States*, 135 S. Ct. 2551, 2556 (2015), the Supreme Court stated that “[o]ur cases establish that the Government violates [the due process] guarantee by taking away someone’s life, liberty, or property under a criminal law so vague that it fails to give ordinary people fair notice of the conduct it punishes, or so standardless that it invites arbitrary enforcement.” That principle has particular application to the State Police Policy that a permit holder must justify to an officer how his or her possession of a handgun falls within the scope of the restrictions. If the permit holder fails in his or her explanation, or declines to cooperate by refusing to articulate a justification, or simply stands mute, the implication is unavoidable that the permit holder will be arrested and prosecuted under Section 4-203. Vague permit restrictions thus invite “arbitrary enforcement” under *Johnson*, including arrests.

Moreover, requiring a person to justify possession under the restrictions shifts the burden of persuasion onto the permit holder. That shift of burden is a violation of the Due Process Clause of the 14th Amendment. In *Conley v. United States*, 79 A.3d 270, 280 (2013), the D.C. Court of Appeals held that “[t]he defendant . . . may not be required to “prove the critical fact in dispute,” and “the burden of persuasion may not be shifted to the defendant with respect to a defense that serves only to negate an element of the offense that the government is required to prove.”

An essential element of the crime set forth in Section 4-203(b)(2) is that the permit holder is not “in compliance with any limitations imposed under § 5-307 of the Public Safety Article.” The State must prove that element beyond a reasonable doubt. *In re Winship*, 397 U.S. 358, 364 (1970). It may not shift that burden of persuasion to the

permit holder, either in court or out in the field. *Mullaney v. Wilbur*, 421 U.S. 684, 701 (1975); *Humanik v. Beyer*, 871 F.2d 432, 440 (3d Cir. 1989). Yet, shifting the burden is precisely what the State Police's policy does. That is a blatant violation of the Due Process Clause.

Fourth Amendment and Fifth Amendment Considerations

The street reality is that a refusal to cooperate by a permit holder with an officer's questions will almost surely result in an arrest of a permit holder under the State Police's policy. An arresting officer will feel entitled by that Policy to demand that the permit holder justify possession and will likewise feel entitled to make an arrest if the permit holder declines to cooperate. Non-cooperation may even cause the officer to pull his own weapon if the officer (who knows that the permit holder is armed) feels challenged or threatened. At that point, the risk of a tragedy is apparent. See <http://www.twincities.com/2016/07/07/questions-raised-previously-about-st-anthony-police-encounters-with-permit-to-carry-holders>.

Accordingly, the State Police articulation policy effectively requires the permit holder to testify against himself so as to avoid arrest. Yet, such implicitly coerced testimony violates the permit holder's right to affirmatively claim his or her Fifth Amendment right to remain silent. See *Salinas v. Texas*, 133 S.Ct. 2174 (2013). That constitutional right may be claimed even in a noncustodial situation (*id.*) and any assertion of that right may not be used against a person or provide a basis for an arrest. *United States v. Okatan*, 728 F.3d 111,118 (2d Cir. 2013) (holding, post *Salinas*, that the prosecution "may not" use "a defendant's assertion of the privilege against self-incrimination during a noncustodial police interview"); *United States v. Moore*, 104 F.3d 377, 389 (D.C. 1997) ("the law is plain that the prosecution cannot, consistent with the Constitution, use a defendant's silence against him as evidence of his guilt"). The law is also crystal clear that a "refusal to cooperate, without more, does not furnish the minimal level of objective justification needed for a detention or seizure" under the Fourth Amendment. *Illinois v. Wardlow*, 528 U.S. 119, 125 (2000), quoting *Florida v. Bostick*, 501 U.S. 429, 437 (1991). A person has a "right to go about his business or to stay put and remain silent in the face of police questioning." *Wardlow*, 528 U.S. at 125.

Simple possession of a carry permit cannot be viewed as a constitutionally sufficient basis for a reasonable suspicion of a crime so as to justify continued detention or questioning. A carry permit is not probable cause of a crime. Indeed, a permit is actually a basis for concluding that possession of a handgun is lawful, as state law expressly allows a permit holder to possess, wear and carry a handgun. See MD Code, Criminal Law, § 4-203(b)(2). The State may also not use the permit as a basis for compelling a permit holder to answer questions. As stated recently by the Supreme Court in *White v. Woodall*, 134 S.Ct. 1697, 1703 (2014), "[t]he Government retains' . . . 'the burden of proving facts relevant to the crime . . . and cannot enlist the defendant in this process at the expense of

the self-incrimination privilege.” (Quoting *Mitchell v. United States*, 526 U.S. 314, 330 (1999)). See also *United States v. Flowers*, 912 F.2d 707, 712 (4th Cir. 1990) (noting that a defendant has “the right to refuse to speak with . . . officers, who in turn possess no right to detain citizens who decline to talk or otherwise identify themselves”). More specifically, if the permit is presented in connection with an otherwise lawful traffic stop, an officer may have the discretion, under a recent Fourth Circuit ruling, to conduct a protective “frisk” for his safety, *United States v. Robinson*, 846 F.3d 694 (4th Cir. 2017) (en banc), but it is clearly established law that an officer may not detain the permit holder any longer than necessary to carry out the original, otherwise lawful, purpose for which the permit holder was stopped. See *Rodriguez v. United States*, 135 S.Ct. 1609 (2015).

Even if the permit holder elects to cooperate with an officer’s questions concerning the restrictions, there is no assurance that the officer will (a) find the articulation sufficient or (b) actually believe the explanation. Yet, any statements made by the permit holder during such cooperation may be used against him. Since the police only have to give *Miranda* warnings after an arrest or taking a person into custody, the police will feel free to pursue this line of questions until then. A traffic stop or a *Terry* stop is not considered “custodial.” *Rodriguez*, 135 S.Ct. at 1614; *Maryland v. Shatzer*, 559 U.S. 98 (2010). Any statement made during any such encounter is admissible. *United States v. Fish*, 432 F.d 107 (4th Cir. 1970). In sum, the State Police’s articulation policy places the permit holder in an impossibly perilous legal position and may even be risky to the permit holder’s physical safety.

The State Police articulation policy also places the **officer** at substantial legal risk of suit against him or her personally under 42 U.S.C. § 1983, if the officer makes an arrest merely for lack of cooperation rather than for probable cause. In making arrests, officers may feel entitled to rely on the State Police policy as providing a basis for an arrest for a failure to cooperate. Yet, because possession of a permit is not probable cause of a crime and because the law is “clearly established” by controlling Supreme Court precedent that non-cooperation does not provide probable cause for an arrest, the arresting officer would not be entitled to qualified immunity in any resulting Section 1983 suit challenging that arrest. See, e.g., *McDaniel v. Arnold*, 898 F.Supp.2d 809 (D. Md. 2012); *Lane v. District of Columbia*, --- F.Supp.3d ----2016 WL 5929949 (D.D.C. 2016). Such liability could also extend to State Police officials who adopted or espoused such a policy, even though such a policy may be entirely informal. See, e.g., *Hafer v. Melo*, 502 U.S. 21(1991). It is in the State Police’s own best interest to rethink restrictions on permits.



MARYLAND STATE POLICE

STANDARD OPERATING PROCEDURE



Processing of Handgun Permit Applications

Distribution:		Licensing Division Personnel		Index:	SOP 29-15-007		
Responsible Unit:		Handgun Permit Unit		Rescinds:	29-13-009		
DLI Program:		N/A		MD CODE:	See References		
Issued:	09/01/15	Revised:	08/24/15	Reviewed:	07/07/15	Next Review:	09/01/2016

.01 Purpose

To establish guidelines and policies for the approval and denial of wear and carry handgun permit applications, both new and renewal, and applying the appropriate restriction on issued permits.

.02 Policy

It is the policy of the Licensing Division to properly investigate every application, both new and renewal, for a wear and carry handgun permit and apply an appropriate restriction to issued permits in conformance with: 18 U.S.C. § 922(g) (1-9), Annotated Code of Maryland, Public Safety Article, Title 5, Sub-Title 3, Annotated Code of Maryland, Public Safety Article, § 5-133 and the Code of Maryland Regulations, Title 29.03.02.

.03 Definitions

APPREHENDED DANGER/FEAR: an objectively established concern that the applicant's life is in danger or that he/she is being targeted by individuals wishing to do him or her harm.

ARMORED CAR DRIVER: an individual who is employed by a legitimate armored services company and conducts business as described in Public Law 103-55, "Armored Car Industry Reciprocity Act of 1993."

ASSUMED RISK POSITION: a position of government/public safety/criminal justice employment where, by virtue of the positions duties and responsibilities, the employee voluntarily and knowingly assumes the risks that those duties will either place their lives in imminent danger and/or subject them to be targeted by individuals or entities seeking to do them harm as a result of performing those duties or responsibilities.

Background Checks: criminal history and mental health record checks conducted via the submission of CJIS and/or FBI fingerprint cards and/or criminal history checks conducted by Licensing Division personnel via authorized certifications and CJIS/NICS query capable terminals.

BAIL BONDSMEN: an individual who is employed by a licensed bail bond agency, and acts in accordance with the common law authority of United States Code Service, Title 15, Commerce and Trade, Chapter 83, U.S. 366 (1872) or possesses a valid private detective license.

BUSINESS: a person's regular occupation, profession or trade.

BUSINESS OWNER/ EMPLOYEE: an individual who has verifiable documentation, certificates, or licenses legitimizing a legal business or an individual employed by such a business.

CORRECTIONAL OFFICER: an individual who is employed by a governmental agency whose primary function is to safeguard, transport or secure individuals who have been incarcerated.

Processing of Handgun Permit Applications

GOOD AND SUBSTANTIAL REASON: an objective determination, arrived at by the assigned Maryland State Police Licensing Division employee based upon his investigation that the wearing, carrying or transporting of a handgun by the applicant is necessary for the applicant's:

1. Business activities, either as the business owner or upon request of the owner on behalf of an employee.
2. Employment in a regulated profession such as security guard, private detective, armored car driver, and/or special police officer or rail road police officer.
3. Employment in an assumed risk position.
4. Personal protection - Personal protection requires:
 - a. Tangible evidence or evidence that may be documented and affirmed that the applicant's life is in imminent danger and/or
 - b. Tangible evidence or evidence that may be documented or affirmed that the applicant is currently being targeted by individuals wishing to do the applicant harm.

HANDGUN PERMIT REVIEW BOARD: a panel of five individuals appointed by the Governor who serve under the Department of Public Safety and Correctional Services and fulfill the obligations established in Public Safety Article, Title 5-312.

INVESTIGATIVE STAFF REVIEW: a face-to-face meeting between an applicant who is denied a permit or renewal or whose permit is revoked or limited and the assigned member of the Handgun Permit Unit to discuss and review documents, information submitted on behalf of the applicant. The purpose of the meeting to discuss the shortcomings or lack of substance required to approve the request to wear, carry or transport a handgun.

INFORMAL COMMAND REVIEW: a face-to-face meeting between an applicant who disagrees with the decision to either deny his/her permit or renewal or revoke or limit his/her permit and the Commander or an assigned member of command staff in order to sustain, reverse, or modify the initial action taken.

LOTUS NOTES: the application tracking system database and master record used by the Handgun Permit Unit.

MONETARY INSTRUMENTS: Defined by the below list which is not intended to be all inclusive:

1. Coins or currency from the U.S. and/or other countries, including gold coins.
2. Travelers Checks.
3. Checks, promissory notes or money orders.
4. Securities or stocks in bearer form.
5. Gift cards or other cards of credit.

PERSONAL PROTECTION: a good and substantial reason for the wearing, carrying or transporting of a handgun for an individual who is at significant risk of danger from another individual(s) and where the individual's apprehended fear of reprisal is based on more than his/her personal anxiety and beyond that of the average citizen that he is being targeted by individuals wishing to him harm.

POLICE OFFICER: an individual, who in an official capacity is authorized by law to make arrests and is a member of a recognized law enforcement agency.

Processing of Handgun Permit Applications

PRIVATE DETECTIVE: a certified individual who is employed by and provides private investigative services on behalf of any licensed private detective pursuant to Business Occupation and Professions, Annotated Code of Maryland, Title 13.

PRIVATE SECURITY OFFICER: an individual employed by any legitimate company/ business, whose responsibilities are providing security services exclusively for that company.

SECURITY GUARD: a certified individual who is employed by and provides security guard services on behalf of any licensed security guard agency pursuant to Business Occupation and Professions, Annotated Code of Maryland Title 19.

SPECIAL POLICE OFFICER: an individual who holds a valid special police officer commission issued under Public Safety Article, Title 3.

.04 References

[18 USC § 922\(g\)\(1-9\)](#)

[MD. CODE ANN., PUB. SAFETY §5-133](#)

[MD. CODE ANN., PUB. SAFETY §5-301, *et seq.*](#)

[COMAR 29.03.02](#)

.05 CALEA Standards

LE: N/A

TA: N/A

CM: N/A

.06 Procedures

A. Responsibilities

1. The Commander, of Licensing Division, or his designee, is authorized to act on behalf of the Secretary of the Maryland State Police when administering the laws and regulations established for the processing and issuance of handgun permits.
2. The Commander of the Licensing, or his designee, will conduct an Informal Command Review when properly requested, by any person who is denied a permit or renewal of a permit or whose permit is revoked or limited and notify the person who requested the informal review of the decision, in writing, within 30 days after receipt of the request for informal review, pursuant to Public Safety Article § 5-311.
3. The Handgun Permit Unit personnel will:
 - a. Ensure all permits are issued in accordance with: 18 U.S.C. §922(g) (1-9), the Annotated Code of Maryland, Public Safety Article §5, Sub-Title 3, Annotated Code of Maryland, Public Safety Article §5-133 and the Code of Maryland Regulations, Title 29.03.02.
 - b. Assign within three business days of receipt, applicable applications to the Administrative Investigation Unit to complete the investigation required in Public Safety Article § 5-306.

Processing of Handgun Permit Applications

- c. Ensure all applicants meet the requirements outlined in Public Safety Article § 5-306.
 - d. Conduct all National Instant Criminal Background Check (NICS) and Department of Health & Mental Hygiene (DHMH) queries and analyze responses against qualifications and restrictions on the possession of regulated firearms, as outlined in Public Safety Article, §5-133.
 - e. Approve or deny all initial applications within 90 days of receipt of a completed application.
 - f. Approve and deny all renewal applications within 30 days of receipt of a completed application.
 - g. Track all applications, initial and renewal, to ensure issuance within 90 days or 30 days respectively.
 - h. Provide competent, transparent and professional service to all applicants.
 - i. Conduct Investigative Staff Review meetings, when requested by either the Commander, his/her designee or an applicant.
 - j. Maintain all records and track all decisions, as required, of the Handgun Permit Review Board.
 - k. Act as the Division's liaison for the Handgun Permit Review Board.
4. The Administrative Investigation Unit will:
- a. Assign firearm investigators assigned to the Licensing Division to complete the investigation required in Public Safety Article § 5-306 (a) (6) (i) & (ii) using the Division's worksheet, MSP Form 29-04 within 45 days from receipt of an application by the Handgun Permit Unit.
 - b. Render an informed decision based upon facts collected and confirmed as to whether or not an applicant meets qualifications.
 - c. Complete all investigations and reports according to S.O.P. 29-13-001.

B. Initial Handgun Permit Applications

- 1. Applications for a Maryland handgun permit will be forwarded to the Licensing Division's Handgun Permit Unit.
- 2. Applications should be stamped with the date received upon delivery to Licensing Division.
- 3. Handgun Permit Unit's personnel will review the application for completeness no later than three business days from receipt. If the application is not complete, the Handgun Permit Unit's supervisor will determine whether the applicant will be e-mailed explaining the shortage or the entire application will be returned to the applicant with an explanation as to why the package was unable to be processed. In either case, corresponding notes will be logged in the Handgun Permit Unit's folder in the department's shared drive. Unit members will make every effort to process applications that may be missing information which may be added to the file at a later time.
- 4. Acceptable applications will be entered into the Licensing Division's Lotus Notes Application Tracking System.

Processing of Handgun Permit Applications

5. All checks and/or money orders received with the application will be processed in accordance with ADM 10.03 and S.O.P. 29-13-014.
6. The Handgun Permit Unit will make an entry into Lotus Notes that indicate the date the fingerprints were taken. Likewise, the Handgun Permit Unit will note the date the Unit receives the results of the Maryland Criminal Justice Information System (CJIS), National Instant Criminal Background Check (NICS), Department of Health & Mental Hygiene (DHMH) and the Federal Bureau of Investigation (FBI) criminal history record check results.
7. Any received handgun permit applications that indicate a request for another certification within Licensing Division, will be conspicuously marked, and a copy of the application will be forwarded to the corresponding section. The Handgun Permit Unit will track the progress of both applications and ensure the timely processing of all applications.
8. The Handgun Permit Unit will immediately, or within three business days, scan and distributed applicable, completed applications to the Administrative Investigations Unit and record the assignment in the corresponding tracking log.
9. Upon return from the Administrative Investigations Unit, the entire investigative packet; application, criminal history record checks responses, investigative reports and all documents submitted by the applicant, will be forwarded to Handgun Permit Unit's personnel assigned to determine approval or denial to conduct the NCIS and DHMH queries and make final determination.

NOTE: Handgun Permit Unit's personnel assigned to review applications to determine approval or denial must inform the Commander or his designee anytime his determination of an applicant's qualification(s) differs from that of the assigned firearm investigator so that proper reconciliation may be accomplished.

10. Approved applications will be processed for photograph scanning, handgun permit card printing and mailed to the applicant with the approval letter with five days of completion. Should processing extend beyond 90 days, the applicant will be notified, via e-mail or telephone, as to the reason for the delay and provided with an expected date of completion. Appropriate comments will be entered into Lotus Notes.
 - a. Notification of Approval letters will:
 - (1) Outline any restrictions to the permit.
 - (2) Detail the permit holders obligations and responsibilities.
 - (3) Inform the applicant where he may find relevant Maryland statutes and regulations concerning the wearing, carrying and transportation of a regulated firearm.
 - (4) Provide the permit holder with renewal information.
 - b. Notification of Denial letters will:
 - (1) Inform the applicant of a disapproved application and identify which of the possession prohibitors are applicable, as outlined in Public Safety Article § 5-133.
 - (2) Inform the applicant of his/her option to request either an Investigative Staff Review or an Informal Command Review, defining each option and the procedures required to make the request.

Processing of Handgun Permit Applications

- (3) Inform the applicant of the procedures required to appeal the decision to the Handgun Permit Review Board pursuant to Public Safety Article § 5-312.

11. A letter of denial will be attached to the stored file and appropriate comments will be entered into Lotus Notes.

Exception: The handgun permit certification card from applications that are approved as a requirement of employment will be mailed to the applicant's employer within five days from completion. Should mailing be delayed, the applicant's employer/sponsor will be notified, via electronic mail or telephone.

12. Upon conclusion of the processing of the applications, the handgun permit application folder will be filed in the Handgun Permit Unit's storage facility.

C. Renewal Handgun Permit Applications

Renewal applications will require the applicant to submit current documentation, as was required with the initial application for a handgun permit.

1. Steps 1 through 7, as outlined above, will be followed.
2. Handgun Permit Unit's administrative personnel will conduct the State and federal criminal history checks. Appropriate comments will be entered into Lotus Notes.
3. Steps 10 through 12, as outlined above, will be followed.
4. Renewal applications will be processed within 30 days and following the same approval notification requirements outlined in B. 10 (a). Should the processing extend beyond 30 days, the applicant will be notified, via e-mail or telephone, as to the reason for the delay and provided with an expected date of completion.

D. Denial Procedures

1. The applicant of a disapproved application for renewal will be mailed a disapproval letter within 30 days of receipt of the application and following the same denial notification requirements outlined in B. 10 (b). If applicable, a copy of the letter will be mailed to the applicant's employer. Appropriate comments will be entered into Lotus Notes. The denial notification will be attached to the stored file.
2. Upon conclusion of the processing of the applications, the handgun permit application folder will be filed in the Handgun Permit Unit's storage facility.

E. Alternative Processing Procedures

The processing of applications for active, retired or former Maryland and applicable federal law enforcement officers will be processed considering S.O.P. 29-14-004.

F. Required Language on all Issued Permits

1. "Not Valid Where Firearms are Prohibited."
2. "MD only", except armored car drivers/guards.
3. May not carry, wear or transport a handgun while under the influence of alcohol or drugs.

Processing of Handgun Permit Applications

G. Restrictions / Handgun Permit Categories

Provided the required documentation parameters are met, the handgun permit language will read as identified in the below subsection, consistent with the appropriate handgun permit category.

1. Personal Protection: NONE (MD ONLY)(Not VALID where firearms are prohibited.)
2. Police Officer; Active: Off Duty hours while maintaining employment as a police officer with any recognized law enforcement agency. (MD ONLY) (Not VALID where firearms are prohibited.)
3. Police Officer; Retired: NONE (MD ONLY)(Not VALID where firearms are prohibited.)
4. Business Owner: Valid only while conducting business as owner of _____ (MD ONLY) (Not VALID where firearms are prohibited.) OR Valid only while conducting business as employee/position of _____.
5. Security Guard: Between residence and (or) Armed on any Maryland Licensed Security Guard (or) Private Detective agency job assignment or property only, and while actively engaged as a certified Armed Security Guard (or) Private Detective for same. (ON DUTY IN MD ONLY) (Not VALID where firearms are prohibited.)
6. Private Detective: Between residence and (or) Armed on any Maryland Licensed Security Guard (or) Private Detective agency job assignment or property only, and while actively engaged as a certified Armed Security Guard (or) Private Detective for same. (ON DUTY IN MD ONLY) (Not VALID where firearms are prohibited.)
7. Armored Car Driver: Between residence and (or) Armed on , name of agency job assignment or property only, and while actively engaged as an Armored Car Driver/Guard for same (ON DUTY ONLY) (Not VALID where firearms are prohibited.)
8. Special Police Officer: Between residence and (or) Armed on, name of agency job assignment or property only, and while actively engaged as a Special Police Officer for same (ON DUTY, IN MD ONLY)(Not VALID where firearms are prohibited.)
9. Bail Bondsman: Between residence and while acting as an employee or agent of a property bail bondsman or licensed bail bondsman (ON DUTY IN MD ONLY) (Not VALID where firearms are prohibited.)
10. Correctional Officer: Off Duty hours while employed as a Correctional Officer (MD ONLY)(NOT VALID for any other employment purposes)(Not VALID where firearms are prohibited.)
11. Private Security Officer: Between residence and (or) Armed on, name of agency job assignment or property Only, and while actively engaged as a title requested by company for same (ON DUTY IN MD ONLY)(Not VALID where firearms are prohibited.)

Processing of Handgun Permit Applications

H. Required Fees

1. Original handgun permit: \$75.00
2. Renewal and/or subsequent handgun permit: \$50.00
3. Modified and/or duplicate handgun permit: \$10.00
4. In accordance with Public Safety Article, Title 5-304, the Secretary may not charge an application fee to a State, county, or municipal public safety employee who is required to carry, wear, or transport a handgun as a condition of governmental employment; or a retired law enforcement officer of the State or county or municipal corporation of the State.

I. Required Documents

Each handgun permit category identified below will require specific documentation to sufficiently authenticate and support the applicant's good and substantial reason for a handgun permit.

1. **Personal Protection:** Copies of documented evidence that the applicant's life is in imminent danger or is currently being targeted by individuals wishing to do the applicant harm. Documents may include, but may not be limited to, police reports, sworn affidavit from third party individuals with first-hand knowledge of the threats, or Orders of Protection. Temporary Protective/Peace Orders are not, in of itself, sufficient documentation.
2. **Law Enforcement Officer:** Whether retired or active, the applicant is requested to submit a copy of their identification card/retirement credentials and a letter from their department stating they retired or are employed in good standing and that there are no open/unresolved internal investigations.
3. **Business Owner/Employee:** A copy of verifiable documentation, certificates, or licenses recognizing a legal business entity. An employee of the business must provide a letter from the business owner verifying that it is a requirement of the employee to carry a handgun in the performance of their responsibilities for that business. Where a license and certification are not required, the Maryland State Police Administrative Investigation Unit may verify and affirm legal business entities.
4. **Security Guard:** All armed security guards must provide the following: (1) A certified firearm score sheet (MSP Form 29-14) with a minimum 70% passing score having qualified within one year from the date of submitting the application. (2) A letter from the licensed security guard agency verifying employment and the purpose for which the employee is required to be armed. (3) Ownership of the firearm to be carried in the performance of duties. (4) The location of where the firearm will be stored during off-duty hours.
5. **Private Detective:** All private detectives must provide the following: (1) A certified firearm score sheet (MSP Form 29-14) with a minimum 70% passing score having qualified within one year from the date of submitting the application. (2) A letter from the licensed private detective agency verifying employment and the purpose for which the employee is required to be armed. (3) Ownership of the firearm to be carried in the performance of duties. (4) The location of where the firearm will be stored during off-duty hours.
6. **Armored Car Driver:** All armored car drivers must provide the following: (1) A certified firearm score sheet (MSP Form 29-14) with a minimum 70% passing score having qualified within one year from the date of submitting the application. (2) A letter from the licensed security services agency verifying employment and the purpose for which the employee is required to

Processing of Handgun Permit Applications

- be armed. (3) Ownership of the firearm to be carried in the performance of duties. (4) The location of where the firearm will be stored during off-duty hours.
7. Special Police Officer: All special police officers must provide the following: (1) A certified firearm score sheet (MSP Form 29-14) with a minimum 70% passing score having qualified within one year from the date of submitting the application. (2) A letter from the employer verifying employment and the purpose for which the employee is required to be armed. (3) Ownership of the firearm to be carried in the performance of duties. (4) The location of where the firearm will be stored during off-duty hours.
 8. Bail Bondsmen: All bail bondsmen must submit the following: (1) A letter from a licensed agency verifying employment and describing the employee's job functions. (2) Ownership of the weapon to be carried and the agency's request for the employee to be armed. (3) Owners of a bail bondsman company are required to submit a copy of their Maryland Insurance Commission certificate.
 9. Correctional Officer: All correctional officers will be required to submit the following: (1) A copy of their ID card/employment credentials. (2) A letter from their department stating they retired or are employed in good standing, and there are no open/unresolved internal investigations. (3) Incident reports documenting threats or threats verified by the employer.
 10. Private Security Officer: All private security officers must submit the following: (1) A letter from the company verifying employment containing a request by the company for the employee to be armed. (2) Ownership of the weapon to be carried.

Approved:

Captain Dalaine M. Brady
Commander 08/24/2015