

POLICIES & PROCEDURES OF THE HANDGUN PERMIT REVIEW BOARD

The Review Board's policies are established by Maryland statute, as interpreted by Maryland court decisions. The Board, comprised of five private citizens appointed by the Governor, is vested with authority to hear appeals and -- when appropriate -- to overrule the Superintendent of the Maryland State Police (the MSP) in instances where a permit to carry a handgun is denied or limited by the Superintendent. A quorum (3 members) is required to be present to hold a hearing. A majority of voting members present is required to take action on the decision of the MSP.

Board Procedures

Testimony is taken under oath, and the MSP bears the burden of proof. In each case, a representative of the MSP is called to testify to a) the type of permit applied for, b) the results of the MSP investigation, and c) the conclusions and ruling by the Superintendent. The applicant is permitted to question that witness with respect to the MSP findings of fact, and members of the Board may likewise ask questions.

Next, the applicant is permitted to provide sworn testimony to challenge the MSP findings. The applicant may produce additional witnesses to support his or her position, and documents may be placed in the record -- including evidence not earlier submitted to the MSP. The applicant may be asked questions by the MSP and by the Board members. A vote is taken after the MSP and the applicant retire, and a written decision is issued by the Board, affirming, reversing or modifying the Superintendent's decision within 30 days of the hearing. Should a tie-vote occur, no action can be taken and the MSP decision stands.

Legal Standards. The principles which guide the MSP as well as the Board are established in Maryland law. Sections 5-301 through 5-314 of the Public Safety Article of the Annotated Code of Maryland state the basic requirements for a permit: namely, that the applicant must be 18 years of age, not convicted of a crime or drug offense, not an addict, etc. Additionally the statute requires that an applicant have a good and substantial reason to carry or transport a weapon and that the applicant has not exhibited a propensity for violence or instability that may render him or her a danger to others.

a) Required positive finding -- Every applicant must prove a "good and substantial reason" for a handgun permit, including a "finding that the permit is necessary as a reasonable precaution against apprehended danger." Interpretation of these statutory concepts by the Maryland Court of Special Appeals in *Snowden vs. Handgun Permit Review Board*, 45 Md. App. 464, 413 A.2d 295, *cert. denied*, 288 Md. 742 (1980) requires an objective rather than an individual or subjective, assessment of the risk. The discretion granted by the court requires the MSP, and the Board on appeal, to weigh that risk based on the facts of the case, seeking to determine whether the applicant's reasonable "apprehension of danger" is substantially different from that experienced by other citizens in the same community.

b) Negative finding warranting denial – The MSP is guided by the statutory provision which prohibits the granting of a permit to applicants exhibiting a propensity for violence or instability. Therefore, in the past, permits have been denied not only to persons with a criminal record, but also to applicants with a history of family or domestic violence, prior misuse of firearms, or documented breaches of the peace. However, each case is decided based on the facts of that specific case.