



2A Maryland

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**Background Information and Documentation
SB 826 - Handgun Permits – Qualifications – High–Risk Occupations**

**Questions often asked, but not answered or not fully answered during JPR
Committee Hearings:**

1. Comparison of crime rates: Maryland v. Contiguous surrounding States.
 2. Legality of the use of deadly force to defend property.
 3. Legality of the use of deadly force to defend one’s life or that of another.
 4. Duty to retreat when confronted with a threat in public.
 5. Duty to retreat when confronted with a threat in the home.
 6. Frequency of persons carrying without a permit to wear and carry a handgun.
-

Overview

Of the 6 jurisdictions reviewed (Maryland, Pennsylvania, Virginia, Washington, D.C., Delaware and West Virginia), Maryland is the only jurisdiction with a strict “may issue” approach to the issuance of permits to wear and carry a handgun.

Pennsylvania, Virginia, and Washington, D.C. are “shall issue” which means any citizen who is not otherwise prohibited from purchasing or possessing a handgun will, upon application, be issued a permit to wear and carry a handgun.

Delaware is a “may issue” State, but effectively functions as a “shall issue” State. While West Virginia is a true “Constitutional Carry” State which means any citizen, who is not otherwise prohibited from purchasing or possessing a handgun, may carry a handgun without the need for a State issued permit. West Virginia does issue physical carry permits for use in other States where out of State carry permits are recognized.

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1. Comparison of crime rates: Maryland v. Contiguous Surrounding Jurisdictions:

Overall, the FBI data indicate that Maryland's crime rates, especially homicides and violent crimes, are higher than the rates in surrounding jurisdictions. This data runs contrary to assertions by gun control advocates that allowing law-abiding citizens to carry firearms leads to an increase in murders and crimes of violence. *Source:* <https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/topic-pages/tables/table-4>

2. Circumstances under which private citizens can use deadly force to defend property:

This issue is not addressed in statute. There is no authority for a private citizen to use deadly force to protect property. *Source: PIA to MD Atty General 1999, Question #7 (copy attached)*

3. Circumstances under which private citizens can use deadly force to protect life:

This issue is not addressed in statute. A private citizen may use deadly force in self-defense or defense of another if death or serious bodily harm is threatened. The citizen must have reasonable grounds to believe himself or another, in apparent immediate danger of death or serious bodily harm. See, *Guerriero v. State*, 213 Md. 545 (1957)

Source: PIA to MD Atty General 1999, Question #6 (copy attached)

4. Circumstances under which private citizens have an obligation to retreat when confronted by an attacker on a public street or in a public place:

This issue is not addressed in statute. Generally, Maryland law does impose a duty to retreat when confronted in a public place. See, *Redcross v. State of Maryland*, 121 Md. App. 320 (1998)

Source: PIA to MD Atty General 1999, Question #9 (copy attached)

5. Circumstances under which private citizens have an obligation to retreat when confronted by an intruder in the home:

This issue is not addressed in statute. There is no duty to retreat if one is attacked [sic] in his or her own home. See, *Redcross v. State of Maryland*, 121 Md. App. 320 (1998) *Source: PIA to MD Atty General 1999, Question #9 (copy attached)*

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6. Frequency of persons carrying a handgun without a permit to wear and carry a handgun.

Approximately 1,019 firearm traces in Maryland during 2019 were related to concealed weapon incidents.

Source: ATF Trace Report 2019 – Maryland, page 6 (copy attached)

**John H. Josselyn
2A Maryland
March 6, 2021**

**Crime in the United States
2019 FBI Report
Maryland v. Contiguous Jurisdictions**
<https://ucr.fbi.gov/crime-in-the-u.s/2019/crime-in-the-u.s.-2019/topic-pages/tables/table-4>
Handgun Permit Data by state added by 2A Maryland

Table 4

Crime in the United States¹

by Region, Geographic Division, and State, 2018–2019

Area (with info type of permit system, number of permits and percent of population with)	Year	Population ²	Violent crime ³		Murder and nonnegligent manslaughter		Rape (revised definition) ⁴		Robbery		Aggravated assault		Property crime		Burglary		Larceny-theft		Motor vehicle theft	
			Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000	Rate per 100,000
a handgun carry permit																				
United States Total (18,660,000 permits estimated) or approximately 5.7% of the US population	Per+B6:B26 2019	326,687,501 328,239,523	1,252,399 1,245,410	383.4 379.4	16,374 16,425	5.0 5.0	143,765 139,815	44.0 42.6	281,278 267,988	86.1 81.6	810,982 821,182	248.2 250.2	7,219,084 6,925,677	2,209.8 2,109.9	1,235,013 1,117,696	378.0 340.5	5,232,167 5,086,096	1,601.6 1,549.5	751,904 721,885	230.2 219.9
	Percent change		-0.6	-1.0	+0.3	-0.2	-2.7	-3.2	-4.7	-5.2	+1.3	+0.8	-4.1	-4.5	-9.5	-9.9	-2.8	-3.3	-4.0	-4.4
Pennsylvania (shall issue carry permit) 248,487 Active Permits or 2% of population (2019)	2018 2019 Percent change	12,800,922 12,801,989	39,099 39,228	305.4 306.4	784 669	6.1 5.2	4,490 4,351	35.1 34.0	9,854 9,743	77.0 76.1	23,971 24,465	187.3 191.1	190,633 179,665	1,489.2 1,403.4	27,054 23,354	211.3 182.4	150,441 143,921	1,175.2 1,124.2	13,138 12,390	102.6 96.8
	Percent change		+0.3	+0.3	-14.7	-14.7	-3.1	-3.1	-1.1	-1.1	+2.1	+2.1	-5.8	-5.8	-13.7	-13.7	-4.3	-4.3	-5.7	-5.7
Delaware (may issue carry permit operates as shall issue) no data published	2018 2019 Percent change	965,479 973,764	4,079 4,115	422.5 422.6	46 48	4.8 4.9	334 310	34.6 31.8	861 790	89.2 81.1	2,838 2,967	293.9 304.7	22,405 21,931	2,320.6 2,252.2	3,154 2,968	326.7 304.8	17,780 17,359	1,841.6 1,782.7	1,471 1,604	152.4 164.7
	Percent change		+0.9	*	+4.3	+3.5	-7.2	-8.0	-8.2	-9.0	+4.5	+3.7	-2.1	-2.9	-5.9	-6.7	-2.4	-3.2	+9.0	+8.1
District of Columbia (shall issue carry permit) 3,000 (estimated) Active Permits or .4% of population	2018 2019 Percent change	701,547 705,749	6,995 7,403	997.1 1,049.0	160 166	22.8 23.5	450 345	64.1 48.9	2,415 2,713	344.2 384.4	3,970 4,179	565.9 592.1	30,726 30,821	4,379.7 4,367.1	1,788 1,843	254.9 261.1	26,345 26,645	3,755.3 3,775.4	2,593 2,333	369.6 330.6
	Percent change		+5.8	+5.2	+3.8	+3.1	-23.3	-23.8	+12.3	+11.7	+5.3	+4.6	+0.3	-0.3	+3.1	+2.5	+1.1	+0.5	-10.0	-10.6
Maryland (may issue carry permit) 25,986 (2020) Active Permits or .4% of population	2018 2019 Percent change	6,035,802 6,045,680	28,330 27,456	469.4 454.1	491 542	8.1 9.0	1,991 1,913	33.0 31.6	9,716 9,203	161.0 152.2	16,132 15,798	267.3 261.3	122,945 117,901	2,036.9 1,950.2	18,910 16,862	313.3 278.9	91,887 89,780	1,522.4 1,485.0	12,148 11,259	201.3 186.2
	Percent change		-3.1	-3.2	+10.4	+10.2	-3.9	-4.1	-5.3	-5.4	-2.1	-2.2	-4.1	-4.3	-10.8	-11.0	-2.3	-2.5	-7.3	-7.5
Virginia (shall issue carry permit) 429,837 active permits (estimated) or 7% of the population	2018 2019 Percent change	8,501,286 8,535,519	17,357 17,753	204.2 208.0	417 426	4.9 5.0	3,072 2,816	36.1 33.0	3,610 3,524	42.5 41.3	10,258 10,987	120.7 128.7	142,931 140,213	1,681.3 1,642.7	15,659 13,900	184.2 162.8	116,496 116,044	1,370.3 1,359.5	10,776 10,269	126.8 120.3
	Percent change		+2.3	+1.9	+2.2	+1.7	-8.3	-8.7	-2.4	-2.8	+7.1	+6.7	-1.9	-2.3	-11.2	-11.6	-0.4	-0.8	-4.7	-5.1
West Virginia (Constitutional Carry - no permit required)	2018 2019 Percent change	1,804,291 1,792,147	5,411 5,674	299.9 316.6	76 78	4.2 4.4	716 754	39.7 42.1	333 378	18.5 21.1	4,286 4,464	237.5 249.1	27,888 28,376	1,545.6 1,583.4	5,916 5,891	327.9 328.7	19,783 20,066	1,096.4 1,119.7	2,189 2,419	121.3 135.0
	Percent change		+4.9	+5.6	+2.6	+3.3	+5.3	+6.0	+13.5	+14.3	+4.2	+4.9	+1.7	+2.4	-0.4	+0.3	+1.4	+2.1	+10.5	+11.3

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March 31, 1999

Mr. John H. Josselyn
Associated Gun Clubs of Baltimore, Inc.
P.O. Box 20102
Towson, Maryland 21284-0102

Dear Mr. Josselyn:

I have been asked by Attorney General Curran to respond to your letter of March 2, 1999. In your letter, you asked for clarification as to certain issues codified by existing Maryland law. In point of fact, with one exception, the nine issues you list are not codified in the Annotated Code of Maryland. To the extent that these issues have been addressed by Maryland's appellate courts, I will provide you with the relevant case citations.

1 & 2) Police responsibility and/or obligation to protect and defend private citizens, to protect society as a whole.

The Maryland State Police is charged, in Article 88B, Section 3 of the Annotated Code with "the general duty to safeguard the lives and safety of all persons within the State, to protect property, and to assist in securing to all persons the equal protection of the laws." However, the Maryland Court of Appeals has determined that police do not have a duty to protect individual citizens from the actions of other citizens absent a special relationship between the police and the victim or the police and the offender. See, Ashburn v. Anne Arundel County, 306 Md. 617 (1986)

3) Police civil liability when response time is too slow to prevent injury or death.

This issue is not addressed in statute. I have been able to find no appellate case law imposing such liability.

4) Circumstances under which the police can use deadly force to protect life.

This issue is not addressed in statute. In Tennessee v. Garner, 471 U.S. 1 (1985), the Supreme Court ruled that the use of deadly force was constitutionally permissible to protect the life of the officer or the life of another.

5) Circumstances under which the police can use deadly force to protect property.

This issue is not addressed in statute. There is no authority for a police officer to use deadly force to protect property.

6) Circumstances under which private citizens can use deadly force to protect life.

This issue is not addressed in statute. A private citizen may use deadly force in self defense or defense of another if death or serious bodily harm is threatened. The citizen must have reasonable grounds to believe himself, or another, in apparent immediate danger of death or serious bodily harm. See, Guerriero v. State, 213 Md. 545 (1957)

7) Circumstances under which private citizens can use deadly force to protect property.

This issue is not addressed in statute. There is no authority for a private citizen to use deadly force to protect property.

8) Circumstances under which private citizens have an obligation to retreat when confronted by an intruder in the home.

This issue is not addressed in statute. There is no duty to retreat if one is attacked in his or her own home: See, Redcross v. State of Maryland, 121 Md.App. 320 (1998).

9) Circumstances under which private citizens have an obligation to retreat when confronted by an attacker on a public street or in a public place.

This issue is not addressed in statute. Generally, Maryland law does impose a duty to retreat when confronted in a public place. See, Redcross v. State of Maryland, 121 Md.App. 320 (1998).

This letter does not constitute an official opinion of the Office of the Attorney General. You may wish to consult with your own counsel to obtain detailed advice on the issues you have raised.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark H. Bowen". The signature is fluid and cursive, with the first name "Mark" being the most prominent.

Mark H. Bowen
Assistant Attorney General
Maryland State Police

Top Categories Reported on Firearm Traces with a Maryland Recovery

January 1, 2019 – December 31, 2019

Possession of Weapon	Family Offense	Health - Safety	Firearm Under Investigation	Carrying Concealed Weapon	Found Firearm	Dangerous Drugs	Weapon Offense	Simple Assault	Homicide
1,705	1,687	1,123	1,027	1,019	558	403	394	329	234

NOTE: There were 986 additional traces that were associated with other categories.