



January 2, 2013

The Honorable Martin O'Malley
Governor of Maryland
100 State Circle
Annapolis MD 21401

The Honorable Thomas V. Mike Miller, Jr.
President of the Senate
State House, H-107
Annapolis MD 21401-1991

The Honorable Michael Erin Busch
Speaker of the House of Delegates
State House, H-101
Annapolis MD 21401-1991

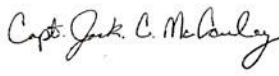
Dear Governor O'Malley, President Miller and Speaker Busch:

Chapter 131 (House Bill 618) of the 2012 General Assembly established the Task Force to Study Access of Individuals with Mental Illness to Regulated Firearms ("Task Force"). The report of the Task Force is enclosed.

Should you have any questions relating to the information provided in this report, please contact Patrick Dooley, Co-Chair of the Task Force, at 410-767-0907.

Sincerely,


Patrick Dooley
Co-Chair


Capt. Jack McCauley
Co-Chair

Enclosure

**REPORT OF THE
TASK FORCE TO STUDY ACCESS
OF MENTALLY ILL INDIVIDUALS
TO REGULATED FIREARMS**

January 2, 2013

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Members of the Task Force

Co-Chairs

Patrick Dooley, Chief of Staff of the Department of Health and Mental Hygiene

Captain Jack McCauley, Commander of the Licensing Division of the Department of Maryland State Police

Members

Wayne Brooks, Executive Administrative Law Judge and Deputy Director of Operations of the Office of Administrative Hearings

Kathleen Campbell, Assistant Attorney General in the Firearms Trafficking Unit of the Office of the Attorney General

Ricardo Flores, Director of Government Relations of the Office of the Public Defender

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Laura Cain, Esq., Representative of Maryland Disability Law Center

Marjorie Sue Diehl, Representative of National Alliance on Mental Illness of Maryland

Chief Kim Dine, Representative of Maryland Chiefs of Police Association

Dr. George Durst, Representative of Maryland Shall Issue, Inc.

Dr. Shannon Frattaroli, Representative of JHU Center for Gun Policy and Research

Tara Harrison-Jackson, Esq., Representative of Maryland State's Attorneys' Association

John Josselyn, Representative of Associated Gun Clubs of Baltimore, Inc.

Dan Martin, Representative of Mental Health Association of Maryland

Lt. Mark Paddock, Representative of Maryland Fraternal Order of Police

Message from the Task Force Co-Chairs

In approaching our charge by the Maryland General Assembly to examine the links among individuals with mental illness, access to firearms, and a propensity for violence, we have endeavored to balance the views of the Task Force members and craft recommendations that reflect the broadest consensus for action. In so doing, the recommendations of the Task Force balance the need to protect the public from dangerous individuals with the need to protect individuals with mental illness from undue discrimination and stigma.

In order to inform our process, we have sought input from mental health providers, law enforcement, and other advocates and stakeholders. We have also heard from individuals who have struggled to overcome mental illness and those that have been tragically impacted by gun violence.

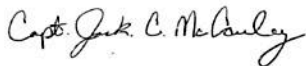
While we believe that the recommendations contained in this report are an important step, we recognize that more work needs to be done to increase our understanding of the connection between mental illness, substance abuse, and violence. The Task Force plans to continue meeting until the authorization sunsets on May 31, 2013 to review additional issues.

We must continue to work together to approach the issue with an open mind, as this Task Force has done, and identify the areas where new or strengthened laws and policies will protect the safety and security of all Marylanders while upholding other fundamental rights.

We are grateful to the Maryland General Assembly for bringing a renewed focus to this important issue. It has been an honor to lead this task force.



Patrick Dooley



Captain Jack McCauley

Introduction

Charge to the Task Force

Chapter 131 (House Bill 618) of the 2012 General Assembly established the Task Force to Study Access of Individuals with Mental Illness to Regulated Firearms (“Task Force”). The Task Force was directed to:

1. study the adequacy of State laws and policies relating to:
 - a. the access of individuals with a history of mental illness to regulated firearms; and
 - b. the access of law enforcement officers to mental health records; and
2. consider whether existing law adequately protects the public, as well as the civil rights of individuals with mental illness, and make recommendations as appropriate; and
3. consider and to what extent: there should be further limits on the access of individuals with a history of mental illness to regulated firearms; and the State should expand access of law enforcement officers to certain mental health records.

The Task Force consists of the following members:

1. the Secretary of State Police, or the Secretary’s designee;
2. the Secretary of Health and Mental Hygiene, or the Secretary’s designee;
3. the Attorney General, or the Attorney General’s designee;
4. the Chief Administrative Law Judge of the Office of Administrative Hearings, or the Judge’s designee;
5. the Public Defender of Maryland, or the Public Defender’s designee;
6. the Director of the Office of Forensic Services in the Department of Health and Mental Hygiene, or the Director’s designee; and
7. the following individuals, appointed by the Governor:
 - a. one representative of the Maryland Fraternal Order of Police;
 - b. one representative of the Johns Hopkins Center for Gun Policy and Research;
 - c. one representative of Maryland Shall Issue, Inc.;
 - d. one representative of the Mental Health Association of Maryland;
 - e. one representative of the Maryland Disability Law Center;
 - f. one representative of the National Alliance on Mental Illness of Maryland;
 - g. one representative of Associated Gun Clubs of Baltimore, Inc.;
 - h. one representative of the Maryland Chiefs of Police Association;
 - i. one representative of the Maryland Sheriffs’ Association; and
 - j. one representative of the Maryland State’s Attorneys’ Association.

Process

The Task Force held three general and public meetings in August, September, and November 2012. Three working groups also met throughout October to consider the following topics:

Workgroup #1: Technical and legislative solutions to existing gaps in information sharing among agencies;

Workgroup #2: Assessment of research on mental illness and propensity for violence to self or others; and

Workgroup #3: Potential changes to Maryland law based on state and federal best practices.

In addition, the Task Force sought public input on a series of questions in order to provide additional perspectives on the topic and allow outside stakeholders to participate in the process. The following questions were posted on the Governor's Office of Crime, Control & Prevention website during the month of September:

1. Under current law, a person is prohibited from purchasing a regulated firearm if they have been confined to a facility for more than 30 consecutive days. Should this requirement be amended?
2. Under current law, a person must be determined to be dangerous in addition to their mental illness in order to be prohibited from purchasing a firearm. Should this requirement be amended?
3. Should there be further limits on the access of individuals with mental illness to firearms?
4. Does current State law adequately balance the rights of individuals to own firearms with appropriately protecting the public?

Based on the series of general meetings, workgroup meetings, and public input, the Task Force has developed numerous findings and recommendations outlined below.

Current State and Federal Law

The current Maryland statute that governs the possession of a regulated firearm by individuals with a history of mental illness is *Maryland Annotated Code*, Public Safety Article, § 5-133, which states:

A person may not possess a regulated firearm if the person:

1. suffers from a mental disorder as defined in § 10-101(f)(2) of the Health - General Article and has a history of violent behavior against the person or another, unless the person has a physician's certificate that the person is capable of possessing a regulated firearm without undue danger to the person or to another;
2. has been confined for more than 30 consecutive days to a facility as defined in § 10-101 of the Health - General Article, unless the person has a physician's certificate that the person is capable of possessing a regulated firearm without undue danger to the person or to another.

Maryland Annotated Code, Health-General Article, § 10-101 provides the following definitions:

Facility --

1. Except as otherwise provided in this title, "facility" means any public or private clinic, hospital, or other institution that provides or purports to provide treatment or other services for individuals who have mental disorders.
2. "Facility" does not include a Veterans' Administration hospital.

Mental disorder --

"Mental disorder" includes a mental illness that so substantially impairs the mental or emotional functioning of an individual as to make care or treatment necessary or advisable for the welfare of the individual or for the safety of the person or property of another.

Under current law, based on a series of formal clinical evaluations, a person charged with a criminal offense and determined to have a mental illness or disorder that shows they are a danger to themselves or the public can be ruled to be either Incompetent to Stand Trial (IST) or Not Criminally Responsible (NCR). These individuals, after examination and diagnosis, are ultimately recorded in the Criminal Justice Information System (CJIS). This database is accessible to all members of law enforcement.

In practice, individuals who attempt to purchase a regulated firearm in Maryland are subject to a background check conducted by the Department of Maryland State Police (MSP). If the background check reveals that the individual has been found NCR or IST, he or she is prohibited by federal statute from possessing or purchasing the regulated firearm. Likewise, if during an investigation, any law enforcement officer finds that a person in the possession of a

firearm has such a record, the officer may determine that this individual is prohibited from possessing the firearm.

However, if a person has been committed to a State mental institution for a period of more than thirty days, the only law enforcement entity that has access to that "indicator," (an incomplete record) is the MSP Licensing Division. The Department of Health and Mental Hygiene (DHMH) has granted the Licensing Division limited access to a database that only reveals, based on entry of a name and social security number, if the individual has or has not been committed for longer than 30 days. The only records entered into this database are those of individuals who are ordered to confinement to a state institution. This database does not include any records from private hospitals or voluntary admissions.

The prohibition to possess a firearm due to a court finding of NCR or IST is based on a federal statute and not outlined in Maryland law. The federal statute is 18 U.S.C. § 922(g) (4), Title 18, U.S. Code which states:

It shall be unlawful for any person who has been adjudicated as a mental defective or who has been committed to a mental institution; to ship or transport in interstate or foreign commerce, or possess in or affecting commerce, any firearm or ammunition; or to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

Regulations issued by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), 27 C.F.R. § 478.11 state the following:

A person is "adjudicated as a mental defective" if a court -- or other entity having legal authority to make adjudications -- has made a determination that an individual, as a result of mental illness: 1) Is a danger to himself or to others; 2) Lacks the mental capacity to contract or manage his own affairs; 3) Is found insane by a court in a criminal case, or incompetent to stand trial, or not guilty by reason of lack of mental responsibility pursuant to the Uniform Code of Military Justice.

A person is "committed to a mental institution" if that person has been involuntarily committed to a mental institution by a court or other lawful authority.

Literature Review

Prior to making recommendations and to better understand the link between mental illness and propensity for violence, the Task Force conducted a review of the relevant literature.

Mental illness and violence are complex issues. Efforts to understand whether persons diagnosed with a mental illness are at an increased risk of committing violence are complicated undertakings. Despite this challenge, the evidence to date does offer useful insights. First among those insights is that any elevated risk of violence among persons diagnosed with a mental illness is limited to those with a severe mental illness (SMI). SMI is a term operationalized in the literature to include conditions such as schizophrenia, bipolar disorder, and major depression.¹² No evidence exists to suggest that persons with non-severe mental illness diagnoses commit more violence than the general population. However, studies examining risk of violence among those with SMI are numerous and unequivocal in establishing that persons with SMI are at a higher risk of committing suicide. The risk of violence toward others by persons with SMI is less definitive. Although the latest research does suggest that persons with SMI have elevated risk of committing serious violence toward others, the majority of this risk appears to be caused by co-morbid risk factors, such as substance abuse, rather than SMI alone.¹

While the research literature suggests a direct link between SMI and heightened risk of suicide, the relationship between SMI and violence toward others is more complex. Studies using national data suggest that between 5% and 7% of persons with SMI commit violence toward others in a given year, compared to between 2% and 3% of the general population.^{1,12} These estimates vary based on the specific population studied and definition of violence.

While persons with SMI are more likely to commit violence toward others than persons without SMI, research suggests that this risk is largely due to the high prevalence of other risk factors for violence, such as substance use and unemployment, among the population with SMI.^{1,12-15} Studies consistently show that co-morbid substance use – present in an estimated 46% of persons with SMI over the course of their lifetime, compared to 15% of the overall population¹ – is responsible for much of the association between SMI and violence. History of physical abuse, divorce, and unemployment – which, like substance use, are risk factors for violence in persons both with and without SMI – are also significantly associated with violence toward others among persons with SMI.¹ One recent study that used a nationally representative US sample calculated the probability of committing violence toward others among various groups. The probability of committing violence among persons with SMI alone was 2%, compared to 3% in the overall US population.¹ However, the probability of committing violence among persons with a combination of SMI, substance use, and history of violence was 14%.¹

The research cited in this section has two key limitations that pertain to this report. First, the majority of outcome data in studies about violence toward others is self-reported. This may lead to underreporting of violent acts. Second, while gun violence is included in measures of violence toward others in existing studies, no studies to date examine the link between SMI and gun violence alone.

Research examining SMI and violence is one source of information that informed the Task Force recommendations presented herein. The research included in this report and presented to the Task Force represents the most rigorously designed studies related to the Task Force's charge.

Findings and Recommendations

Based on the research and expertise of Task Force members, it is recommended that any changes in Maryland law governing access of mentally ill individuals to regulated firearms focus on those who have a propensity for violence. As discussed above, a diagnosis of mental illness alone is not a compelling reason to permanently restrict access to firearms. Task Force members have considered the laws of other states. More specifically, discussion has focused on California's Dangerous Weapons Law, solely as it relates to mental illness. However, further discussion is needed to draw a conclusion on what may work best for Maryland's citizens.

Finding 1 – A Need for Additional Research

In reviewing the relevant literature to determine the likelihood that someone with mental illness is more likely to commit violence absent other factors, the Task Force is not persuaded that mental illness alone should be a determinant in restricting access to firearms. However, serious mental illness combined with substance use and a history of violence does significantly heighten the risk of violence. There is currently insufficient data regarding violent acts involving firearms that are committed by individuals with mental illness.

In contrast to existing evidence concerning violence against others, there is a clear and strong connection between severe mental illness and suicide risk. People diagnosed with severe mental illness contemplate and commit suicide at higher rates than persons without such a diagnosis.

Recommendation 1

The Task Force recommends additional consideration of the research literature related to substance abuse as a predictor of violent behaviors. Such consideration should inform current Maryland law regarding access to guns by people with substance abuse disorders. Particular attention should be paid to the implementation and enforcement of federal and state substance abuse prohibitions for firearm ownership and strategies for assuring compliance with this aspect of the law. Additional research may be needed in order to inform these strategies. Given the clear connection between serious mental illness, substance abuse, and a history of violence, a closer examination of the relationship between substance abuse and violent behavior is a natural complement to the Task Force's work.

Recommendation 2

The Task Force recommends future studies to increase our understanding of the prevalence of mental illness among individuals who commit crimes, including violent crimes involving firearms. These studies should then compare the rates of violence, particularly gun violence, between individuals with mental illness and the general population. Cases of suicide or suicide attempt involving a firearm should also be included in these studies.

Finding 2 – Reporting Not Currently Mandated

The strongest visible indicator that an individual may pose a risk to public safety is the act of making specific threats against themselves or other individuals. Such threatening behavior is a precursor to violence and provides a way to identify people (including those with serious mental illness) who are at immediate risk of committing violence. However, state law does not currently mandate reporting of these incidents. Even if a threat is reported to local law enforcement, there is currently no mechanism to ensure that MSP is aware of the incident for firearms licensing and enforcement purposes.

Recommendation 3

All verbal or physical actions threatening suicide or serious violence toward a reasonably identifiable victim or victims should be reported to local law enforcement. Mandated reporting should apply to psychiatrists, psychologists, physicians, social workers, addiction treatment counselors, educators, case managers, and probation agents.

Recommendation 4

Local law enforcement should be required to promptly investigate any reported threats of violence. If the report is substantiated, local law enforcement should be required to submit a copy of their investigative report to the MSP Firearms Enforcement Section for the purpose of conducting firearms background checks and investigative support.

Finding 3 – Firearms Should be Seized from Dangerous Individuals

Once an individual is determined by law enforcement to present a threat to self or others, the temporary seizure of firearms may be necessary. This seizure should be appropriately balanced with judicial oversight and due process to ensure that an individual's civil rights are adequately protected.

Recommendation 5

If a report is made by a licensed health care provider, educator, or member of law enforcement that an individual poses a threat to himself or others and the threat is substantiated following an investigation by local law enforcement:

1. A law enforcement officer shall immediately seize all firearms that the individual possesses or to which he has access.
2. The law enforcement officer must provide a written statement to the appropriate court describing the reasons for believing the person was dangerous.
3. A judge must review this written statement within 14 days and determine if the confiscation is justified. A judge may then order that the firearms remain confiscated for a period up to 6 months pending a hearing. If a hearing determines that the firearms should remain confiscated, the individual shall be placed on a registry of individuals prohibited from possessing, purchasing, receiving, or attempting to purchase or receive a firearm. If a hearing determines that the firearms should not

have been confiscated, then the firearms shall be immediately returned to the individual if they are not otherwise prohibited from possessing them.

4. In the case of a substantiated threat where a person does not have immediate access to or possession of a firearm, the law enforcement officer shall provide a written statement to the appropriate court and the Maryland State Police Firearms Enforcement Section stating that the persons should be prohibited from purchasing a firearm. A judge must review this written statement within 14 days and determine if the prohibition is justified. A judge may then order that the person remain prohibited from possessing, purchasing, receiving, or attempting to purchase or receive a firearm for a period up to 6 months pending a hearing.

Finding 4 – Training for Health Care Providers and Law Enforcement Necessary

Law enforcement officers receive very little training in recognizing the symptoms of severe mental illness and interacting with individuals exhibiting these symptoms. This poses a degree of danger for both the individual and law enforcement. Additionally, health care professionals are not well versed in firearms law, the prohibiting factors associated with mental illness, and the requirements to report dangerous individuals.

Recommendation 6

DHMH and the Governor's Office of Crime Control & Prevention, in collaboration with interested stakeholders, should develop and deliver appropriate training for law enforcement and health care professionals about how to recognize and interact with individuals with mental illness, to enforce state firearm laws, and to understand the reporting requirements under the law. Maryland's licensed firearm dealers and their employees should also be invited to participate in any training offered or receive any materials developed.

A good example of successful collaboration is Mental Health First Aid (MHFA). Mental Health First Aid USA is coordinated nationally by DHMH, the Missouri Department of Mental Health, and the National Council for Community Behavioral Healthcare, in partnership with the Mental Health Association of Maryland. MHFA is the initial help given to someone developing a mental health problem or in a mental health crisis before appropriate professional or other assistance, including peer and family support, can be engaged. The Mental Health Association of Maryland (MHAMD) has worked closely with the Maryland Police and Correctional Training Commissions (MPCTC) for more than a year to roll out Mental Health First Aid across the state. To date, approximately 100 certified instructors are working in facilities and departments, with plans to integrate the program into academies, standardized training programs and pre-requisite requirements for special teams and/or training. For example, the Harford County Sheriff's Department now requires successful completion of Mental Health First Aid before officers can apply for Crisis Intervention Teams or similar teams, and the Anne Arundel County Department of Detention Facilities has added the training to its academy agenda. MPCTC has also partnered with MHAMD to pilot the Public Safety Module of Mental Health First Aid scheduled for broad release in 2013.

Finding 5 – Crisis Intervention Teams Should be Expanded

A representative from the Montgomery County Police Department presented to the Task Force regarding the County's Crisis Intervention Team. The Montgomery County Police Crisis Intervention Team (CIT), based on the "Memphis Model," consists of police officers who are trained to respond to police calls relating to mental illness. In 2010, there were 4323 calls for service relating to mental illness, including suicides, in Montgomery County. CIT Officers serve as liaisons between police, consumers, and the public. These Officers often follow up on difficult cases to ensure the best possible outcomes. CIT officers have a variety of tools at their disposal, including referral to mental health resources and officer-initiated emergency evaluation petitions.

Montgomery County's Crisis Intervention Team Certification Course is a 40-hour course designed to train officers to respond to encounters with mentally ill and developmentally disabled consumers. Other agencies that have established CIT programs include the Baltimore County Police Department, Howard County Police Department, Harford County Sheriff's Office, Worcester County Sheriff's Office, and Prince George's County Police Department. However, there is currently no statewide standard or certification process for CIT programs.

Recommendation 7

Local jurisdictions should be encouraged to establish Crisis Intervention Teams similar to one established by the Montgomery County Police Department, to prepare for public safety emergencies related to mentally ill individuals and prevent violence to self and others. Statewide standards should also be established in order to be recognized as a CIT for purposes of funding. Consideration should be given for a phase in for existing programs to come into compliance with higher standards.

Finding 6 – Funding Should be Leveraged to Protect Public Safety

Many of the recommendations outlined in this report will require additional funding. Currently, individuals applying for a Maryland firearms license pay licensing and application fees. These user fees are similar to licenses for other services and are targeted at a level to properly regulate the entity being overseen.

Recommendation 8

The Task Force recommends that a portion of firearms licensing and application fees be directed to funding continuing education for law enforcement and health care professionals regarding regulation of firearm possession by individuals identified as a credible threat to themselves or others. Funding could also be used to support local jurisdictions in establishing Crisis Intervention Teams.

Finding 7 – Full Restoration Process Should be Established

Individuals who are prohibited from possessing a firearm under *Md. Annotated Code*, Pub. Safety Article, § 5-133 currently do not have a process whereby they may petition to have their ability to purchase firearms permanently restored.

Recommendation 9

A formal process for individuals prohibited from possessing or purchasing firearms to petition to have their rights restored fully should be established in accordance with the National Instant Criminal Background Check System Improvement Amendments Act of 2007 (NIAA), enacted by Congress in 2008. A proposed process is outlined in **Appendix 1**.

Conclusion

The Task Force believes that the recommendations cited above are targeted to address the issues that were raised in HB 618 (2012). The studies that are recommended will provide a more comprehensive picture of the groups of individuals or specific circumstances that warrant additional attention. The Task Force will continue to meet to discuss additional issues and options for possible recommendations.

Appendix 1: Process to Restore Firearms Disqualification Due to Mental Disability

(a) An individual subject to a firearms disqualification may seek relief from that disqualification under this section.

(b) An individual who seeks relief from a firearms disqualification under this section shall file an application with the Secretary of Health and Mental Hygiene (“Secretary”) on a form designated by the Department and pay a fee established by the Department of Health and Mental Hygiene (“Department”).

(c) In addition to providing complete and accurate data on all information required in the application, the applicant shall:

(1) explain the reason why the individual does not meet criteria for disqualification or should be relieved from that disqualification;

(2) submit a certificate, on a form approved by the Department signed by an individual licensed in the state of Maryland as a physician who is board certified in psychiatry or as a psychologist and listed in the national register of health services providers in psychology, that provides:

(i) the certificate was issued within 30 days of the date of filing the petition.

(ii) that the individual has been evaluated and the signatory opines that the individual is competent to understand and comply with the rules, regulations and statute governing gun ownership and possession and the risks and responsibilities inherent to gun ownership, and there is no reason to opine that the individual will become incompetent in the foreseeable future; and

(iii) an opinion as to whether applicant will be likely to act in a manner dangerous to self or public safety and whether granting a gun permit would be contrary to the public interest.

(3) submit a signed authorization, on a form approved by the Department allowing the department to access all relevant health care, mental health, disability, guardianship and criminal justice records, including court ordered or required mental health records, of the applicant for use with this process.

(4) include three statements on a form designated by the Department attesting to applicant’s reputation and character relevant to gun ownership or possession:

(i) at least two of these statements must be by an individual not related to the applicant;

(ii) statements must be signed and dated within 30 days of submission to the department;

(iii) statements must include contact information for the references.

(5) If disqualified due to finding by a court of need for guardianship of person or property, the following additional information is required:

(i) a copy of all pleadings, affidavits and certificates submitted into evidence at the guardianship proceeding, and

(ii) all orders issued, including, if applicable, an order indicating the guardianship is no longer in effect.

(6) if disqualified due to admission to an involuntary admission to a mental health facility, state residential facility, finding of not guilty by reason of insanity or not criminally responsible, or not

competent to stand trial and dangerous, on the certificate set forth in paragraph (c)(2) above, the following additional information shall be included by the signatory:

(i) an opinion as to whether the applicant has symptoms of a mental disorder or developmental disability that causes the applicant to be a danger to self or others;

(ii) if the applicant has no symptoms that causes applicant to be a danger, how many months has the applicant had no symptoms of a mental disorder or developmental disability that caused applicant to be danger to self or others ;

(iii) the time period the applicant has been compliant with treatment recommendations for the individual's mental illness;

(iv) the name, address and telephone number of all mental health providers or service providers within last 12 months; and

(v) if applicant had been found not guilty by reason of insanity or not criminally responsible, a statement whether the applicant is on conditional release pursuant to criminal procedure §3-114.

(vi) if applicant had been found not competent to stand trial and dangerous, a written statement regarding status of criminal case.

(d) if an applicant provides a complete application, and the individual is not otherwise prohibited from owning or possessing gun, the Department shall refer the applicant for a mental health evaluation by an independent licensed mental health professional:

(1) if requested, the applicant must submit to an in-person mental health examination by the independent reviewer. After the examination of the applicant and upon review of the application, the reviewer shall provide a report to the Department which addresses the criteria found in paragraphs (h)(1)-(3).

(e) The Department shall disapprove an application if it determines that:

(1) the applicant supplied false information or made a false statement,

(2) the application is not properly completed, or

(3) upon review of the report of the independent licensed mental health professional, the application and supporting documentation, the Secretary finds the applicant has not proven by substantial evidence the criteria found in paragraph c(2)(iii) of this subtitle has been met.

(f) An applicant who is aggrieved by the action of the Secretary may request a hearing by writing to the Secretary within 30 days after the Secretary forwards the decision to the applicant.

(g) The hearing shall be held in accordance with title 10, subtitle 2 of the State Government article, within 60 days after receiving the request.

(h) If the applicant notes an appeal, the Administrative Law Judge shall conduct a hearing at which the applicant may testify and provide other evidence.

(i) At the hearing, the applicant is required to provide evidence:

(1) the applicant does not have symptoms of a mental disorder or a developmental disability that would cause the applicant to be a danger to self or others and has not had such symptoms for a minimum of six months;

(2) the applicant does not have a mental disorder, developmental disability or mental health or medical condition that prevents applicant from having an understanding of the rules, regulations and

statutes governing handgun ownership and possession, or the responsibilities and risks involved in gun ownership and possession.

- (3) the applicant is not likely to act in a manner dangerous to public safety;
- (4) granting relief would not be contrary to public interest; and
- (5) the applicant is not otherwise prohibited from owning or possessing a gun.

(j) At the hearing, the Department is a party and shall provide evidence regarding:

(1) the circumstances under which the firearms disabilities prohibition was imposed under state or federal law; and

(2) the applicant's record, including his mental health and criminal history records.

(k) If the Administrative Law Judge finds that the applicant has met, by clear and convincing evidence, the standards of part (i) above:

(1) the Administrative Law Judge shall issue a written determination that the applicant is relieved from the firearms disqualification imposed by 18 U.S.C. §922(d)(4) and (g)(4); and

(2) the Administrative Law Judge shall provide to the NICS Index:

- (i) the name and identifying information concerning the individual; and
- (ii) the date of the determination.

(k) Information provided to the NICS Index under this section shall be included in the database authorized by § 5-206 of the Public Safety Article for use in connection with the determination of firearms disqualifications under federal and state law, but shall not be disclosed or used for any other purpose.

(l) An applicant or the Department may appeal a determination of the Administrative Law Judge on an application under this subtitle for relief from firearms disqualification in the Circuit Court pursuant to the State Government Article §10-222, except that pursuant to federal law §105 of Public Law 110-180, the judicial review on the record.

(m) After a determination on the merits of a petition filed under this section, an applicant may not file a subsequent appeal within 1 year after the completion of the appeal process. The Department shall enter into a memorandum of understanding with the Department of Maryland State Police to assist in clinical consultation and implementation of this section.

(1) The evaluating mental health professional shall be designated by the Department.

Appendix 2: Sources

1. Elbogen EB, Johnson SC. The Intricate Link Between Violence and Mental Disorder: Results From the National Epidemiologic Survey on Alcohol and Related Conditions. *Arch Gen Psychiatry* 2009;66:152-61.
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