



***Audit of the  
Sheriff's Office PFA Weapons Division  
for the Period  
January 1, 2011 to December 31, 2011***

**Fieldwork Performed by:**

**Patricia J. Llewellyn**

**Jason M. Parrish**

**Supervised By:**

**Walter L. Griffith, Jr., Controller**

## **Objective and Scope:**

The Luzerne County Controller's Office has audited the Luzerne County Sheriff's Office, Protection from Abuse (PFA) Weapons Division, for the year ended December 31, 2011. The focus of our audit is limited to determining if the Sheriff's Office PFA Weapon Division has designed and placed into its operations, the appropriate controls policy and procedures to ensure compliance with laws and regulations related to its inventory, booking, and returning of weapons confiscated through PFA's. During the period under review, the Sheriff was an independently elected row office within the County of Luzerne, Pennsylvania. It is management's responsibility to institute controls which are effective at detecting and preventing fraud, errors, and misappropriation of assets.

The Pennsylvania Protection from Abuse Act, 23 Pa. C.S § 6101 et seq., states the courts may order the defendant of a PFA to relinquish all weapons and ammunition and prohibit the defendant from acquiring or possessing any firearm for the duration of the order. The weapons may be relinquished to the Sheriff's office or a third party. Upon expiration of the PFA, the defendant may re-take custody of the firearms. In addition, the defendant may petition to have the firearms returned prior to the expiration of the PFA. A hearing is held by the Courts to rule on the defendant's request.

The Luzerne County Controller's office is required by the Home Rule Charter, Section 3.08, to conduct fiscal, performance, management, contract, grant, compliance, and/or related audits of any County division, department, bureau, office, agency, authority, board, commission, elective office, the judiciary, Office of Court Administration, or other administrative unit. The Controller is required to provide copies of the draft of each audit report to the audited entity for review and a written response must be submitted specifying agreement or reasons for disagreement within 14 days.

The final audit report shall be transmitted to the audited entity, County Council, and the County Manager and posted for public inspection in the Controller's Office and on the County website and/or other electronic medium for a period of at least 60 days after it is issued.

Internal auditing is an independent function established within an organization to examine and evaluate the activities of the office under audit. In planning and performing our audit, we considered Government Auditing Standards, issued by the Comptroller General of The United States and generally accepted auditing standards. When applicable, these standards were applied to the objective of our audit. An audit is not designed to detect fraud.

Auditors assigned to the engagement are employed by Luzerne County under the Controller's Office and report directly to the elected Controller. The audit staff is considered organizationally independent to conduct and report on the audit.

## **Methodology:**

In order to ascertain policies and procedures were used by the department to effectively manage and accomplish their responsibilities we:

1. Interviewed personnel in the Luzerne County Sheriff's Office who are responsible for processing PFA weapons, which includes the seizing of weapons, maintaining inventory & ownership records of the said weapons, including the safe return to the owners upon receipt of the proper documentation ordering such return. Our interview process also included the Sheriff and management personnel charged with overseeing the process.
2. Identified applicable laws, policies, procedures and regulations, identified and assessed controls, and documented the inventory of all seized weapons in the Wilkes-Barre and Hazleton weapon storage rooms.
3. Reviewed the log books, that are kept to track the weapons, to ensure that we had a complete record of all seized weapons in the designated weapons storage rooms.
4. Selected a sample of PFA's from the Prothonotary's Office to determine if any weapons were seized by Court Order, and if they were accurately inventoried in the designated weapons storage room. Based on the sample selected, we verified that the weapons seized were returned to the rightful owner, upon receipt of a Court Order.

Our procedures included planning and performing an audit to test the controls and procedures involved with seizing & maintaining inventory in accordance with Act 2005-66. Our findings and conclusions are based on test work, which included reviewing all evidence supporting the inventory. We believe that the evidence obtained provides a reasonable basis for our opinion.

## **Description:**

We conducted a management interview of the Sheriff and the Deputy responsible for the PFA weapons. We obtained a copy of the Protection from Abuse Act, 23 Pa. C.S § 6101 et seq., and reviewed the requirements. The Sheriff's Office is primarily responsible for license to carry permits, license to sell permits, Sheriff's real estate sales, writs, warrants, prisoner transport, capias, PFA and civil/criminal actions.

PFA weapon seizure is initiated by Court Order and a copy is maintained by the Sheriff's Office and filed as supporting documentation. The Sheriff holds the weapons in two weapons storage rooms located in Wilkes-Barre and Hazleton. Almost all deputies employed by the Sheriff's Office have at one point or another served a PFA and confiscated weapons. There is only one deputy authorized to return the weapons to their owner. The weapons are stored in a secure area which is accessible using a keypunch code to unlock the door; there is only one deputy with access to this room. The information from the weapon tag is recorded in a log book kept by a deputy named by the Sheriff.

Once the PFA has expired or the Courts mandate their return, the defendant may retrieve his/her weapon(s) from the Sheriff's custody. The defendant provides the proper documentation to the Sheriff's Office, the weapons are identified in the log book and retrieved from the weapons storage room and returned to the defendant. There is currently no requirement for the Sheriff's Office to obtain a signature confirming the weapons were returned to the defendant.

### **Opinion and Conclusion:**

In our opinion, the Luzerne County Sheriff's Office PFA Weapon Seizure Division did not correctly record, report and reconcile all inventory related to their office. The testing performed in this audit revealed no material financial findings or misstatements. They did, however, reveal inadequate policies and procedures in the recordkeeping, returning and inventory processing of confiscated PFA weapons.

### **Testing Methodology:**

An inventory of every weapon in the Sheriff's PFA weapon storage rooms was taken. This included recording the date of seizure, make, model, serial number, weapon type, PFA number (if included on the tag), caliber and owner of the weapon.

The aforementioned inventory list was then compared to the entries listed in the three log books that the Sheriff provided to us. This was completed for a twofold purpose. We reviewed the logbook entries to verify we could locate all items in the weapon storage room inventory and determine all items located in the weapon storage inventory were entered in the log books.

Using the Prothonotary's records, we selected a sample of 55 PFAs related to 248 weapons to compare the names and PFA case numbers to the data listed in the log books. We then traced the information to the weapons and tag information located in the weapons storage rooms.

In addition, we identified PFA cases in the Prothonotary's records that included 26 Court Orders involving 121 weapons to be returned to the owner. We verified the weapons were not located in the weapon storage room and determined Sheriff's Office maintained adequate documentation to support the weapon return.

### **Findings:**

1. The Protection from Abuse Act, 23 Pa.C.S. § 6101 et seq., states that the Court's PFA Order shall require the defendant to relinquish any firearm license within 24 hours of the service of a temporary order or final order. The Sheriff's Office currently has no procedure established to verify if the defendant has a License to Carry and therefore cannot determine if the defendant has relinquished their license.
2. We inventoried 830 weapons, in both weapons storage rooms, however, 583 (70%) of the weapons were not recorded in the log books which prevented us from reviewing the PFA and Court Order. Due to insufficient documentation, we

could not verify if the weapons should have been returned to their owners and/or if they should have been confiscated initially.

3. We found 81 weapons that were not tagged and not recorded in the log book. Due to insufficient documentation, we could not determine the owner of the weapons to ascertain whether the weapons should have been confiscated initially and/or if the weapons should have been returned to their owners.
4. We reviewed 26 Court Orders, based on this review it was determined that there are currently 12 weapons that should have been returned to their rightful owner and were currently still in inventory.
5. We located weapons maintained in the weapons storage room which were confiscated as early as 1977. The Sheriff's office currently has no policy to mandate the amount of time required to retain or return confiscated weapons. If these weapons are not claimed by their owners a policy should be put into place that identifies the proper method to dispose of the weapons.
6. We requested a report that would identify the amount of access gained to the weapons storage rooms through the secure system. The Sheriff's Office did not provide the requested report. Due to the lack of documentation, we were unable to verify adequate security of the weapons maintained in the custody of the Sheriff's Office.
7. Act 2005-66 requires the weapons be returned in the same condition in which they were received. We noted during our inventory that many of the weapons were not maintained in an environment that would protect them from deterioration or prevent the weapons from being damaged. This could cause a decrease in value of the firearm that is a direct result of a lack of reasonable care by the Sheriff's Office. If this occurs, Act 2005-66 states the law enforcement agency is liable to the owner for any loss.

#### **Recommendations:**

1. The Sheriff's Office should develop procedures to determine if a defendant has a license to carry and invalidate the license upon weapon confiscation. The Sheriff's Office should ensure the license is surrendered when the weapons are relinquished.
2. The Sheriff's Office should ensure all weapons received are placed in the log book, tagged appropriately and stored securely in the weapons storage rooms. Procedures should be established in order to track the weapons to the PFAs, as necessary.
3. The Sheriff's Office should ensure all items recorded as being in storage in the log book, are located in the weapons storage rooms. In the event weapons are removed from the weapons storage rooms, supporting documentation should be maintained and the log book should be marked upon the removal of a weapon from inventory.

4. The Sheriff's Office should exercise due diligence in returning weapons to the defendant upon termination of the PFA or receipt of the Court Order. If the person cannot be reached then there must be a policy put into place on how to properly take the weapon out of inventory.
5. The Sheriff's Office should review the inventory and determine if older items should be removed. A procedure should be established that states the amount of time weapons will be maintained. Due diligence should be performed by the Sheriff's Office to locate the owners and return the weapons that should no longer be maintained in storage. Other County Sheriff's contacted by the Controller's Office indicated the unclaimed weapons should be handled as escheatment to the state and/or otherwise destroyed at the issuance of a Court Order. The Sheriff should contact other Counties and review the statutes to develop appropriate procedures.
6. The Sheriff should ensure restricted authorized access to the weapons storage rooms and that there is a means to monitor the individuals' entry and access to the area.
7. The Sheriff should ensure the confiscated weapons are stored in a manner as to prevent loss, damage or substantial decrease in value. Periodic maintenance of the weapons should be performed to ensure reasonable care is taken while in custody of the Sheriff's Office. They should be placed in boxes, cases, or bubble wrap so they do not get damaged while under the care of the Sheriff's Office allowing us to better comply with Act 2005-66 6105 4(i). (finding 12)

**Responses:**

1. The Sheriff's Office has developed, and will implement a P.F.A. Intake/Service Work Sheet that will document each step of the process, and the Sheriff's Department employee responsible for completing each step.  
The steps indicated on the Work Sheet will include:
  - Date P.F.A. received – Employee signoff and date.
  - Search of Firearms Ownership of the Defendant – Employee signoff and date.
  - Search of Firearms Carry Permit for Defendant – Employee signoff and date.
  - Verification of Revocation of Firearms Carry Permit – Employee signoff and date.
  - Verification of Notice of Service to Defendant of Firearms Carry Permit Revocation – Employee signoff and date. (Served at time of P.F.A. service.)
  - Seized Firearms Inventory Completed – Employee signoff and date.
  - Petition for Return of Firearms Obtained – Employee signoff and date.
  - Return of Seized Weapons Documented – Employee signoff and date.
2. This is a problem created by the prior Sheriff's Administrations that failed to properly document evidence retention. Note: As we relocate to our new secure evidence facility, in the basement of the courthouse, we anticipate conducting

research on those weapons and taking corrective action. This will be a long term project due to the lack of available information from previous failures.

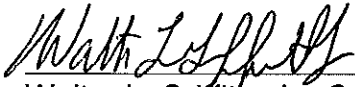
As we develop a strategic plan for weapons retention and return, we will work with the County Solicitor's Office to establish a time frame for defendants to take possession of their released weapons, and a legal method to dispose of unclaimed weapons.

The Sheriff's Department is also in the process of instituting an evidence tracking software program to better track weapons and evidence, and allow for more efficient auditing of property.

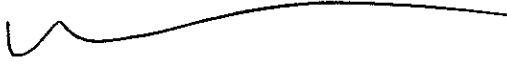
3. The weapons indicated in the audit were seized by prior Sheriff's Administration and not properly documented. These issues should be corrected as we implement the procedures outlined in item #2.
4. The Sheriff's Office recently relocated and the documentation for 3 of the weapons is located in a box not yet moved to the new office space. In addition, the Sheriff is holding one of the weapons until the PFA fees are satisfied by the defendant. The remaining 8 weapons will be researched by the Sheriff's Office to determine the reason they remain in the storage area. The Controller's Office will be notified of the status, once determined. These issues should be corrected as we implement the procedures outlined in item #2.
5. This issue is addressed under our response to Finding #2.
6. The Sheriff's Department currently adheres to established guidelines utilized by most Law-enforcement agencies throughout the Commonwealth. We utilize one authorized "Evidence Officer" that maintains sole control of the evidence room and its contents. This individual is solely responsible for the custody of the seized items and their retention. There is, however, no log utilized by the Evidence Officer for entry into the evidence room, without multiple evidence officers having access to the evidence room there would be no advantage to keeping such a log. It is our intent to install a proximity card reader to restrict access to the new evidence room as funding becomes available. This would not only restrict access, but provide a record of entry and attempted entry to the protected area through the CCURE system.
7. As Sheriff, I was not pleased with the method of storing the seized weapons that was encountered when I took over responsibility of operations. As a response to this problem, we are redesigning the storage method as we move into our new evidence/weapons retention room in the basement of the Courthouse. We are in the process of building a new shelf system in the new evidence room that will help protect the weapons, and support our inventory control system.
8. As a result of this audit process, it has helped to provide a better understanding of deficient areas within the operational record keeping side of the Sheriff's Department, and provided an avenue to explain the advances the department has made, and will continue to pursue. This department faces many challenges that are a result of a lack of progression of prior administrations. As with any organization, change is a result of thorough planning and implementation. We do anticipate many positive changes as we move forward with our plan, and hope to

establish an operational structure that will continue to keep the Sheriff's Department focused on its mission.

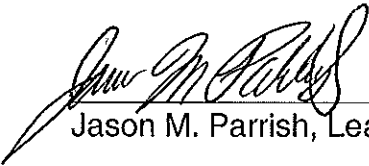
**Controller's Office:**



Walter L. Griffith, Jr., Controller



Patricia J. Llewellyn, Senior Auditor



Jason M. Parrish, Lead Auditor

**Sheriff's Office:**

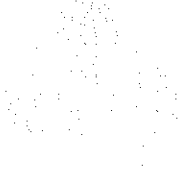


John Robshaw, Sheriff



Robert Lawton, County Manager





COUNTY *of* LUZERNE  
P E N N S Y L V A N I A  
ESTABLISHED 1 7 8 6  
OFFICE OF THE CONTROLLER

July 29, 2012

The Honorable Linda L. Kelly  
Attorney General of Pennsylvania  
Office of Attorney General  
16<sup>th</sup> Floor, Strawberry Square  
Harrisburg, PA 17120

Re: Audit of the PFA Weapons Division of the Sheriff of Luzerne County

Dear Ms. Kelly:

As part of the duties of the Office of Controller of Luzerne County, this office has performed an audit of the Luzerne County Sheriff's Office Protection From Abuse ("PFA") Weapons Division for the year ending December 31, 2011. I am transmitting herewith a copy of that audit, together with the response from the current acting Sheriff for your review.

In the opinion of this office, the Luzerne County Sheriff's Office PFA Weapon Seizure Division did not correctly record, report and reconcile all inventory related to its office. While the testing performed in the audit did not reveal any material financial findings or misstatements, it was revealed that there have been inadequate policies and procedures in the record keeping, returning and inventory processing of confiscated PFA weapons. There is a genuine concern, at least with respect to the last several acting Sheriffs, that there may not have been compliance with Act 2005-66 and/or the Protection From Abuse Act, 23 Pa.C.S. § 6101, *et. seq.* In fairness to the current acting Sheriff, he was not in office at any time during the period addressed in the audit. His attached response indicates that, in addition to noting certain changes which have been recently implemented.

WALTER L. GRIFFITH, JR.  
*County Controller*



THOMAS MOSCA, ESQ.  
*Solicitor*

FRANCIS PINNACOLI, JR.  
*Deputy County Controller*

**COUNTY of LUZERNE**  
P E N N S Y L V A N I A  
ESTABLISHED 1786  
**OFFICE OF THE CONTROLLER**

**The Honorable Linda L. Kelly**  
July 29, 2012  
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Because this audit has revealed matters which touch upon the Protection From Abuse Act as well as Act 2005-66 and the possession of firearms in connection therewith, I wish to make you aware of these findings so that an investigation may be initiated should you deem it to be appropriate. It is not up to the Controller to determine whether or not any laws have been violated, and I respectfully ask that you make that determination. By copy of this letter, I am also notifying the District Attorney so that she may take any action which she deems to be appropriate.

Please let me know if you have any questions or require any further information in connection with the audit.

Sincerely,

Walter L. Griffith, Jr.

Enclosure

Cc: Robert Lawton, Luzerne County Manager (via email)  
Stefanie J. Salavantis, Luzerne County District Attorney (via email)