



AUDITOR GENERAL

DAVID W. MARTIN, CPA



DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

CONCEALED WEAPONS LICENSING AND

PRIOR AUDIT FOLLOW-UP

Operational Audit

SUMMARY

This operational audit, for the period March 1, 2005, through February 28, 2007, and selected actions taken through June 30, 2007, focused on the Department of Agriculture and Consumer Services' administration of the State's concealed weapons and firearms licensing program. Our audit also included a follow-up on prior audit findings contained in audit report Nos. 2006-029 (contract management procedures and practices) and 2006-051 (Department inspection programs). Our audit disclosed:

Finding No. 1: For fiscal years 2005-06 and 2006-07, the Department's legislatively-approved performance measures and standards required that 90 percent of license revocations or suspensions be initiated within 20 days after receipt of disqualifying information. Audit tests disclosed that Department staff did not accurately record the date upon which reports of disqualifying events or conditions were received.

Finding No. 2: Upon receipt of information concerning disqualifying events or conditions, the Department did not always timely initiate administrative actions to suspend, revoke, or deny licenses. Additionally, we noted that the Department did not always timely initiate application suspensions.

Finding No. 3: The Department sometimes sent unnecessary correspondence to concealed weapon and firearm licensees and error or omission letters which did not properly reflect actual deficiencies in the applications received.

Finding No. 4: The Department, in consultation with FDLE, should consider developing a methodology that would allow the efficient use of outstanding warrant information to identify licensees and applicants who are awaiting disposition of formal charges relating to a disqualifying crime. To fully evaluate the cost-effectiveness of the use of warrant information, the Department should initially approach using the information through a pilot project.

Prior Audit Findings: The Department has taken adequate corrective actions for findings included in audit report Nos. 2006-029 and 2006-051.

BACKGROUND

The Department of Agriculture and Consumer Services (Department), under Florida law,¹ is authorized to issue to qualified persons licenses to carry concealed weapons or firearms for a period of five years. The Department's statutory responsibilities are carried out by the Division of Licensing and specify, among other things, when and under what conditions the Department shall issue, deny, suspend, or revoke a license.

Individuals issued concealed weapon or firearm licenses may carry, for lawful self-defense purposes, a firearm (handgun) or weapon (electronic weapon or device, tear gas gun, knife, or billie) in such a manner as to conceal the firearm or weapon from the ordinary sight of another person. Section 790.06, Florida

¹ Section 790.06(1), Florida Statutes.

Statutes, stipulates the criteria that an individual must meet before the Department may grant licensure. For example, an individual must not have been convicted of a felony and must demonstrate competency with a firearm by completing one of several designated firearms safety or training courses.

As of June 30, 2007, 438,864 persons were licensed to carry a concealed weapon or firearm in Florida. For fiscal year 2005-06, the Department issued 56,788 new concealed weapons and firearms licenses, which represented a 44.6 percent increase from the 39,269 new licenses issued for fiscal year 2004-05. The increase in licenses issued resulted in a corresponding increase in revenue as concealed weapons-related receipts rose 43.5 percent over the same period from just over \$3 million to over \$4.4 million. Department staffing levels remained constant during this period of increased licensing activity.

As shown below in Table 1, for three key legislatively-approved performance measures, the Department reported the following:

Table 1
Division of Licensing
Performance Measure Compliance

Approved Performance Measure	Approved FY 2005-06 Standard	Reported Actual FY 2005-06 Performance
Percent of license ² revocations or suspensions initiated within 20 days after receipt of disqualifying information	90%	91%
Percent/number of concealed weapon/firearm licenses issued within 90-day statutory timeframe without fingerprint results	5%/1,200	1.8%/1,040
Number of default concealed weapon/firearm licensees with prior criminal histories	200	76

Source: Department Long Range Plan, FY 2007-2008 through 2011-2012.

Our audit found that while the Department’s administration of the State’s concealed weapons and firearms licensing program was effective in certain operational respects and in meeting its statutory responsibilities, improvements could be made in the reliability of certain performance measure data and in the timeliness of the actions taken to suspend and

revoke licenses upon receipt of disqualifying information. Additionally, we found that improvements could be made to some Department processes.

FINDINGS AND RECOMMENDATIONS

Finding No. 1: Data Accuracy

The Department’s statutory responsibility to ensure that concealed weapon or firearm licenses are held only by individuals who meet the statutory qualifications necessitates that the Department accurately capture, monitor, and act on data related to events or conditions that under Florida law³ may lead to the suspension or revocation of a concealed weapon or firearm license. For fiscal years 2005-06 and 2006-07, the Department’s legislatively-approved performance measures and standards required that 90 percent of license revocations or suspensions be initiated within 20 days after receipt of disqualifying information.

As part of its effort to ensure that licenses are held only by statutorily qualified persons, the Department generates several “match reports” which detail for concealed weapons licensees, potential disqualifying events or conditions. The match reports include:

- A daily Domestic Violence Injunction (DVI) match report from data provided by the Florida Department of Law Enforcement (FDLE). The Department matches DVI information provided by FDLE to its database of concealed weapons licensees using several criteria to match disqualifying events to licensees.
- A weekly FDLE report which matches disqualifying criminal activity to the Department’s database of concealed weapons licensees.
- A monthly Department of Corrections (DOC) report which matches a DOC offense file to the Department’s database of concealed weapons licensees.
- A monthly Department of Highway Safety Motor Vehicles (DHSMV) report which matches DHSMV criminal and declaration of

²Includes concealed weapon, private investigator, security officer, and recovery agent licenses.

³ Section 790.06, Florida Statutes.

incompetency information to the Department's database of concealed weapons licensees.

The receipt of disqualifying information triggers the start of the performance measure clock, giving the Department 20 days to initiate either suspension or revocation of a license.

The Department reported for the Division of Licensing, relative to all license types, 91 percent compliance with the 20-day performance standard for fiscal year 2005-06. However, relative to concealed weapons licenses, our tests disclosed that Department staff did not always accurately record in the licensing system, the date upon which disqualifying information was received. We examined 36 cases for which the Department reported the timely initiation of the processing of license suspensions and revocations and found that the date disqualifying criminal information was received was incorrectly recorded in 16 (approximately 44 percent) of the instances. The Department confirmed that for these cases, it recorded in its licensing system a receipt date ranging from 14 to 100 days later than the actual match report receipt date. Consequently, in these instances, the Department significantly understated the amount of time involved in initiating license suspensions and revocations.

Absent accurate data and its impact on Department management's ability to reliably gauge the timeliness of license suspensions and revocations, the public has less assurance that concealed weapon and firearm licenses are held only by individuals who meet the statutory qualifications. Further, given the data accuracy concerns noted above, the reported levels of Department compliance with the 20-day performance standard may be overstated and the Legislature's ability to accurately assess operational performance impaired.

Recommendation: To improve the reliability of Department data related to the timeliness of concealed weapon and firearm license suspensions and revocations, match report dates should be accurately recorded. Department management should also periodically monitor staff compliance with Department procedures

requiring the accurate recording of the date match reports are received.

Finding No. 2: Timeliness of Initiating Administrative Actions

Florida law⁴ provides the circumstances under which the Department shall deny, revoke, or suspend a concealed weapon or firearm license and when the processing of a license application shall be suspended.

Our audit disclosed that contrary to the Department's legislatively-approved performance standard, the Department did not always initiate⁵ administrative actions⁶ within 20 days after receipt of disqualifying information. As shown by Table 2 below, our audit tests disclosed that in 8 out of 34 instances (approximately 24 percent) tested, administrative actions were not initiated within 20 days after receipt of disqualifying information.

**Table 2
Administrative Actions Examined**

Administrative Action	Number Tested	Number Not Initiated Within 20 Days
License Suspensions	16	3
License Revocations	5	3
License Denials	9	1
License Application Suspensions	4	1
Total	34	8

For example, we noted that the Department did not initiate:

- Suspension of a license until 52 days after disqualifying information was received indicating the licensee had been arrested on charges of resisting an officer without violence, use of a firearm while under the influence, and openly carrying a weapon.
- Revocation of a license until 143 days after disqualifying information was received from FDLE disclosing for a licensee an

⁴ Section 790.06, Florida Statutes.

⁵ We considered the initiation of license revocations, suspensions, and denials, as well as license application suspensions, to occur upon the Department's recommendation for administrative action (where available), although the actual execution of the action may have occurred at a later date. If the date of recommendation was not available, the actual execution date was used for purposes of our audit tests.

⁶ We considered an administrative action to be the suspension, revocation, or denial of a concealed weapon or firearm license, or the suspension of a license application.

adjudication withheld⁷ disposition on a charge of felony battery on a victim 12 years of age up to 16 years of age. While the initiation of the revocation of the license had not been timely, this individual's license had been timely suspended.

- Revocation of a license until 115 days after disqualifying information was received from FDLE disclosing for a licensee an adjudication withheld disposition on charges of felony battery (great bodily harm) and aggravated battery with a deadly weapon. While the initiation of the revocation of the license had not been timely, this individual's license had been timely suspended.
- Suspension of a license application until 544 days after the licensee failed to meet the Department's deadline for submitting criminal disposition information necessary to determine license eligibility. As of May 17, 2007, no license had been issued; however, the file remained in open status.

In response to inquiry, the Department stated that time delays occurred because of staffing shortages and a high caseload. Absent the timely initiation of administrative actions, there is an increased risk that unqualified persons may remain licensed to carry a concealed weapon or firearm.

Recommendation: To promote the efficient handling of license application suspensions and ensure that concealed weapons or firearms licenses are not issued to and held by unqualified persons, we recommend the Department increase its efforts to initiate administrative actions within 20 days of the receipt of disqualifying information.

Finding No. 3: Process Enhancements

In addition to the instances of untimely initiation of administrative actions noted above in Finding No. 2, our audit tests also disclosed additional cases in which efficient action was not taken by the Department. In these instances, excessive amounts of time or other resources were expended. Specifically:

- The Department has established an error or omission (EO) letter process to help ensure that upon the receipt of an application for a concealed weapons license, applicants are

timely and accurately notified of any deficiencies.

During the course of our testing, we noted that 2 of 29 (approximately 7 percent) of the EO letters tested did not properly reflect actual deficiencies in the application received. In one instance, the Department erroneously requested from an applicant \$42 for a fingerprint card processing fee that had already been paid. In the other instance, the Department requested from an applicant, personal information which had previously been submitted with the application.

- Our audit found that the Department sent unnecessary correspondence⁸ to concealed weapon and firearm licensees while processing 4 out of the 34 reviewed administrative actions (approximately 12 percent).

For example, we noted for one licensee, over a period of approximately 14 months, the following occurred. Initially, the Department sent a notice of suspension three times. Then, the Department requested the notice of suspension be served three times by a process server. After the Department received an affidavit indicating that the notice could not be delivered by the process server, publication of the notice of suspension was requested. Finally, an administrative complaint⁹ was sent to the licensee twice, followed by a request that the complaint be served to the licensee.

Improvements in the efficiency with which licensure actions are processed may enable the Department to more effectively utilize limited resources. As indicated in Finding No. 2, the Department has attributed some processing delays to staffing shortages and a high caseload.

Recommendation: We recommend the Department review the instances cited above and consider whether processing enhancements, including the implementation of service of process guidelines, may be appropriate.

⁷ Court decision at any point after filing of a criminal complaint, to continue court jurisdiction, but stop short of pronouncing judgment.

⁸ We considered Department administrative action-related correspondence to include notices of suspension, certificates of service, requests for service of a notice of suspension, and administrative complaints.

⁹ An administrative complaint is a legal process by which the Department formally expresses its intent to revoke a concealed weapon or firearm license.

Finding No. 4: Warrant Information

Florida law¹⁰ requires that the Department “shall, upon notification by a law enforcement agency, a court, or the Florida Department of Law Enforcement and subsequent written verification, suspend a [concealed weapons] license or the processing of an application for a license if the licensee or applicant is arrested or formally charged with a crime that would disqualify such person from having a license under this section, until final disposition of the case.”

Although warrants issued by a court provide, in some instances, an indication that an individual may have been charged with a disqualifying crime, the Department has been unable to utilize warrants as a source of information in making licensure decisions. Based on responses received to our inquiries of Department and FDLE staff, the electronic information that has been available in the past did not allow an efficient match of potentially disqualifying warrant data to that shown for licensees and applicants. However, the capability for the Department to employ warrant information in determining license eligibility is emerging. As of May 2007, FDLE reported that 349,745¹¹ warrants were recorded in the Florida Crime Information Center (FCIC) system. In response to inquiry, FDLE staff stated that FCIC warrant information currently includes various items regarding the warrant, including the name, sex, race, date-of-birth, and social security number of the wanted individual.

Additionally, FDLE staff noted that FDLE has the capability to disclose the underlying offense shown by the warrant, and as of March 1, 2007, programming has been added to FCIC that allows the charge level (felony/misdemeanor) to also be identified. Though FDLE indicated that many of the older warrant records in FCIC do not show a charge level code, law enforcement agencies responsible for inputting FCIC data are in the process of record validation that will incorporate charge level codes for some of the older warrants.

¹⁰ Section 790.06(3), Florida Statutes.

¹¹ This figure represents the cumulative total number of warrants entered into FCIC.

Recommendation: The Department, in consultation with FDLE, should consider developing a methodology that would allow the efficient use of outstanding warrant information to identify licensees and applicants who are awaiting disposition of formal charges relating to a disqualifying crime. To fully evaluate the cost-effectiveness of the use of warrant information, the Department should initially approach using the information through a pilot project.

PRIOR AUDIT FOLLOW-UP

As part of our current audit, we determined that the Department had taken adequate corrective actions for findings included in audit report Nos. 2006-029 and 2006-051.

OBJECTIVES, SCOPE, AND METHODOLOGY

This operational audit focused on the Department’s administration of the State’s concealed weapons and firearms licensing program. Additionally, it included a follow-up on prior audit findings contained in audit report Nos. 2006-029 and 2006-051 relating to the Department’s contract management procedures and practices and various Department inspection programs, respectively.

The objectives of this audit were:

- To evaluate selected internal controls relevant to the Department’s administration of the State’s concealed weapons and firearms licensing program.
- To evaluate the extent to which the Department has complied with statutory provisions related to license issuance, denial, suspension, and revocation.
- To determine whether the Department has corrected, or is in the process of correcting, deficiencies disclosed in audit report Nos. 2006-029 and 2006-051.

Our operational audit included examinations of various transactions (as well as events and conditions) occurring during the period March 1, 2005, through February 28, 2007, and selected actions taken through June 30, 2007. In conducting our audit, we:

- Interviewed Department personnel and reviewed Department procedures.

- Obtained an understanding of internal controls and observed, documented, and tested key processes and procedures related to the concealed weapons licensing process.
- Tested 40 initial concealed weapons license issuances from the population of 113,568 initial concealed weapon license issuances.
- Tested 35 concealed weapons license renewals from the population of 103,164 concealed weapon license renewals.
- Tested 30 error or omission letters from the population of 31,329 error or omission letters.
- Examined concealed weapons-related receipts and selected transactions (30 receipts totaling \$1,832 from the population of concealed weapons-related receipts totaling approximately \$20 million).
- Examined 34 administrative actions taken by the Department against concealed weapons licensees and applicants from the population of 8,107 administrative actions. Additionally, we examined 36 administrative actions for the validity of the Department’s recording of match report receipt dates from the population of 3,989 such administrative actions.
- Performed various analytical reviews of Department-provided data, including default license issuances.

- Reviewed Department information technology controls related to the concealed weapons licensing system.
- Evaluated Department actions taken to correct the deficiencies disclosed in audit report Nos. 2006-029 and 2006-051.
- Performed various other audit procedures as necessary to accomplish the objectives of the audit.

AUTHORITY

Pursuant to the provisions of Section 11.45, Florida Statutes, I have directed that this report be prepared to present the results of our operational audit.



David W. Martin, CPA
Auditor General

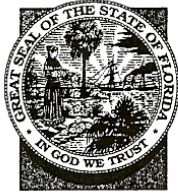
MANAGEMENT RESPONSE

In a letter dated December 13, 2007, the Commissioner provided a response to our preliminary and tentative audit findings. The letter is included at the end of this report as Appendix A.

To promote accountability in government and improvement in government operations, the Auditor General makes operational audits of selected programs, activities, and functions of State agencies. This operational audit was conducted in accordance with applicable *Generally Accepted Government Auditing Standards*. This audit was conducted by Matthew Tracy, CPA, and Melisa Hevey, CPA, and was supervised by Richard Munson, CPA. Please address inquiries regarding this report to Kathryn D. Walker, CPA, Audit Manager, by e-mail (kathrynwalker@aud.state.fl.us) or by telephone (850-487-9085).

This report and other audit reports prepared by the Auditor General can be obtained on our Web site (<http://www.myflorida.com/audgen>); by telephone (850-487-9024); or by mail (G74 Claude Pepper Building, 111 West Madison Street, Tallahassee, Florida 32399-1450).

APPENDIX A
MANAGEMENT RESPONSE



Florida Department of Agriculture and Consumer Services
CHARLES H. BRONSON, Commissioner
The Capitol • Tallahassee, FL 32399-0800
www.doacs.state.fl.us

Please Respond to:

December 13, 2007

David W. Martin, CPA
Auditor General
111 West Madison Street
Claude Pepper Building, G-74D
Tallahassee, Florida 32399

Dear Mr. Martin:

The following comments are provided in response to the preliminary and tentative findings and recommendations in your audit of "Concealed Weapons Licensing" in the Department of Agriculture and Consumer Services.

As acknowledged in your report, concealed weapons licensing activities have significantly increased while staff resources have remained constant in the Division of Licensing. Increased licensing activity with a constant level of human resources may have resulted in the accuracy and timeliness issues identified in the audit.

Finding 1: Data Accuracy

Reports have been reformatted to facilitate data entry and training of staff was provided.

Finding 2: Timeliness of Initiating Administrative Actions

Efforts have been increased to initiate administrative actions within 20 days of receipt of disqualifying information by prioritizing activities. The current order of priority is domestic violence injunction suspensions, arrest suspensions, and license issuance. While this has improved the timeliness of suspensions/revocations, it has had an adverse impact on concealed weapons licensing and other Division regulatory programs.

Finding 3: Process Enhancements

Process enhancements have been made to the computer application to prevent multiple error/omission letters and duplicative correspondence, and training of staff was provided. Service of process guidelines are being strengthened and formalized.

Finding 4: Warrant Information

The potential use of outstanding warrant information as recommended will be considered.



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APPENDIX A
MANAGEMENT RESPONSE (CONTINUED)

David W. Martin, CPA
Auditor General
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I appreciate the interest and efforts of your staff and the professionalism they exhibited in helping to improve operations of state government.

Sincerely,



CHARLES H. BRONSON
COMMISSIONER OF AGRICULTURE

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