



October 13, 2021

Sheriff William P. Mullen  
Allegheny County Sheriff's Office  
436 Grant Street, Courthouse 111  
Pittsburgh, PA 15219

Dear Sheriff Mullen:

[Gun Owners of America](#) (“GOA”) is a nonprofit organization, exempt from federal income taxes under Section 501(c)(4) of the Internal Revenue Code, and represents the interests of over 2 million of its members and supporters, many of whom reside in Allegheny County, Pennsylvania. GOA’s mission is to preserve and defend the Second Amendment rights of gun owners. [Gun Owners Foundation](#) (“GOF”) is a Virginia non-stock corporation, exempt from federal income taxes under Section 501(c)(3) of the Internal Revenue Code. GOF is supported by gun owners across the country.

It has come to the attention of GOA and GOF that the Stephen R. Kaufman, Acting U.S. Attorney for the Western District of Pennsylvania, has asked the sheriffs of counties located within the Western District to revoke the otherwise “valid concealed carry permit[s]” of those individuals who inadvertently bring a firearm on their person or in carryon luggage into the security screening area at airports. Acting USA Kaufman claims that this will be a “new way of dealing with travelers who have guns in their carryon bags at Pittsburgh International Airport security checkpoint.”<sup>1</sup> Moreover, Acting USA Kaufman *claims to have received support from your office for this new policy*, claiming that you have agreed to revoke valid Pennsylvania LTCFs on this basis.

Mr. Kaufman’s instruction to revoke valid LTCFs is not authorized by any statute or legal precedent, but rather is based on his anti-gun personal policy predilections. GOA and GOF write to you to put you on notice that Mr. Kaufman’s “new way of dealing with those individuals” violates Pennsylvania state law, along with depriving Pennsylvania citizens of their Article I, Section 21 and Second Amendment rights. Should you act to revoke valid LTCFs for the reason that the Acting U.S. Attorney recommends, GOA and GOF will pursue available legal remedies to challenge such unlawful action.

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<sup>1</sup> The press release is available at: <https://www.justice.gov/usao-wdpa/pr/passengers-guns-carryon-bags-pittsburgh-international-airport-now-face-revocation-their>.

## **BACKGROUND**

As you know, the Transportation Security Administration (“TSA”) is tasked with various duties at the nation’s airports, including accepting and screening checked luggage and screening of individuals and accessible property. *See* 49 U.S.C. § 44901. *See also* 49 CFR 1544.203 and 49 CFR 1544.201. In order to enforce its requirements, Congress has authorized the imposition of civil penalties. The TSA provides an Enforcement Sanction Guidance Policy (“Guidance Policy”) on its website, outlining the various penalties for violating its standards, including for those who bring firearms into the security checkpoint at an airport, including the passenger screening area.<sup>2</sup> It should be noted that the TSA considers these repercussions to be “civil penalties” and not criminal sanctions.

The TSA’s Guidance Policy indicates that individuals who violate the prohibition on bringing firearms (loaded or unloaded) to the “Checkpoint/Sterile Area/Onboard Aircraft” may be assessed a range of civil penalties. These range from \$3,000 to nearly \$14,000, plus a “criminal referral” for discovery of “loaded firearm (or unloaded firearms with accessible ammunition).” For unloaded firearms, an individual may be assessed a civil penalty in an amount between \$1,500 to \$2,475 plus a criminal referral to authorities.

Acting USA Kaufman recognizes that a civil penalty is the generally accepted sanction for violating the TSA’s firearm restrictions, stating that: “[t]he United States Attorney’s Office, the FBI, the Allegheny County Police and TSA currently review every incident in which TSA screeners discover a gun during security screening at the airport checkpoint. Almost inevitably, the passenger being interviewed claims that they forgot that the gun was in their bag and no criminal charges are filed.” As such, Mr. Kaufman acknowledges that a civil penalty is almost always sufficient to discourage the general public from bringing firearms into TSA checkpoints, and that criminal charges are not warranted.

Additionally, Acting USA Kaufman reports that, in 2021, TSA screeners at Pittsburgh International Airport have located 27 firearms thus far, but Mr. Kaufman fails to put this number into context, as the Allegheny County Airport Authority’s website shows that it screened approximately 3,779,167 passengers during the same period.<sup>3</sup> In context, then, the number of firearms discovered at the airport is miniscule, accounting for about 1 in 140,000 travelers. The inadvertent carrying of firearms in the Pittsburgh airport thus is hardly a rampant problem.

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<sup>2</sup> The TSA guidance is available at:  
[https://www.tsa.gov/sites/default/files/enforcement\\_sanction\\_guidance\\_policy.pdf](https://www.tsa.gov/sites/default/files/enforcement_sanction_guidance_policy.pdf).

<sup>3</sup> *See* <https://flypittsburgh.com/aaa-corporate/about/airport-statistics/>.

## PENNSYLVANIA LAW ON LICENSES TO CARRY FIREARMS

As you know, revocation of a Pennsylvania license to carry firearms is governed by Pa.C.S. Title 18, Section 6109(i) (“A license to carry firearms *may* be revoked by the issuing authority for *good cause*. A license to carry firearms *shall* be revoked by the issuing authority for any reason stated in *subsection (e)(1)* which occurs during the term of the permit.”) (emphasis added). These justifications for revocation of an existing LTCF are the same as for the initial issuance of a LTCF. Importantly, courts have found that individuals have a protected property interest in their licenses to carry. *Murphy v. Doe*, No. 20-2230, 2021 U.S. Dist. LEXIS 183980, at \*12 (E.D. Pa. Sep. 27, 2021).

Subsection (e)(1), in turn, lists various specific grounds for which a LTCF “*shall*” be revoked. Unsurprisingly, the inadvertently carrying a firearm in a carryon bag into a TSA security checkpoint at an airport is not in the list. Nor do any of the provisions of subsection (e)(1) include the assessment of a federal *civil penalty* as a proper ground for LTCF revocation.

The statute does not define “good cause” (*see Tsokas v. Bd. of Licenses & Inspections Review*, 777 A.2d 1197, 1202 (Pa. Commw. Ct. 2001)) for which a sheriff “*may*” revoke a LTCF, however courts generally appear to consider the same “character and reputation” evidence that appears in subsection (e)(1)(i). In several cases, Pennsylvania courts have upheld revocations of LTCFs for “good cause” for those individuals “whose character and reputation is such that the individual would be likely to act in a manner dangerous to public safety.” *See, e.g., Harris v. Sheriff of Del. County*, 675 A.2d 400, 403 (Pa. Commw. Ct. 1996).

However, none of these “character and reputation” cases are even close to the situation here – inadvertently possessing a firearm in a restricted location. *See Tsokas* at 1198 (revocation of license to carry after holder of permit had an “active protective order” against him); *Caba* at 67 (“At the time the Sheriff made his revocation decision, he had information to suggest that Caba, *after the conclusion of a physical altercation outside of a bar*, charged his handgun, raised it above his waist, and pursued [individuals]”); *Smith v. Nace*, 824 A.2d 416 (Pa. Commw. Ct. 2003) (road rage); and *Gardner v. Jenkins*, 116 Pa. Commw. 107, 113, 541 A.2d 406, 409 (1988) (brandishing firearm in front of plumbers remodeling his home and stating that “this is how he gets his work done”). Also, for those who *intentionally* (not by mistake or accident), brought a firearm into a courthouse. *See Boyer v. City of Phila. Bd. of License & Insp. Review*, 201 A.3d 314 (Pa. Commw. Ct. 2018).

It is abundantly clear that a mistake or accident in having a firearm in a carryon bag that is found by TSA screeners at an airport security checkpoint does not even come close to establishing “good cause” permitting a sheriff to revoke a LTCF. This is also demonstrated by a plain reading of the enumerated Section 6109(e)(1) standard which states that permits can only be revoked for those individuals “whose character and reputation is such that the individual

would be likely to act in a manner dangerous to public safety.” Mistakenly carrying a firearm into a restricted area does not bear on a person’s “character and reputation” in any way, and would not demonstrate that an individual would be “likely to act in a manner dangerous to public safety.”<sup>4</sup> Any allegation to the contrary would be mere speculation. Indeed, Mr. Kaufman has recognized as much, determining a civil penalty to be sufficient, and routinely declining to prosecute those who TSA has found in inadvertent possession of firearms.

### CONCLUSION

It is abundantly clear that Pennsylvania courts will not permit your office to revoke LTCFs based on nothing more than a law-abiding person’s inadvertent oversight at a TSA security checkpoint. Innocent forgetfulness is not even close to “good cause” to deny a person his Second Amendment and Article I, Section 21 rights. GOA and GOF are committed to protecting the rights of Pennsylvania residents to keep and bear arms, and will vigorously pursue all available remedies until your office rescinds this misguided policy to engage in baseless revocations of LTCFs, in pursuance of the agenda of an unelected, federal anti-gun zealot. Indeed, a sheriff “cannot revoke a license as a matter of administrative whim” – or the whim of an acting USA, for that matter. *Caba v. Weaknecht*, 64 A.3d 39, 63 (Pa. Commw. Ct. 2013).

Please let us know at your earliest convenience as to your plans to quickly rescind this misguided policy suggested by the Acting U.S. Attorney and reportedly approved by your office. If you do not immediately address the situation, and it comes to our attention that your office has revoked valid LTCFs on this basis, we will be forced to pursue additional steps, potentially including legal action.

Sincerely yours,



Erich Pratt  
Senior Vice President  
Gun Owners of America  
Senior Vice President  
Gun Owners Foundation

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<sup>4</sup> In fact, numerous members of Congress inadvertently have brought firearms into TSA screening areas. See C. Duncan, “[N.C. Rep. Madison Cawthorn found with gun passing through airport security](#),” *Spectrum News 1*, Jul. 30, 2021; F. Kunkle, “[U.S. congressman is stopped at TSA checkpoint with loaded gun](#),” *Washington Post*, Oct. 1, 2020; J. Meserve and T. Barrett, “[Gun found in congressman's carry-on bag](#),” CNN, Apr. 20, 2004.