



Washington Association of
**SHERIFFS &
POLICE CHIEFS**

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December 27, 2019

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Lieutenant Governor Cyrus Habib
President of the Senate
PO Box 40400
Olympia, WA 98504-0400

Representative Laurie Jinkins
Speaker Designate
PO Box 40600
Olympia, WA 98504-0600

Dear Governor Inslee, Lieutenant Governor Habib and Speaker Designate Jinkins:

Subject: Denied Firearms Transaction Program—2019 Annual Report

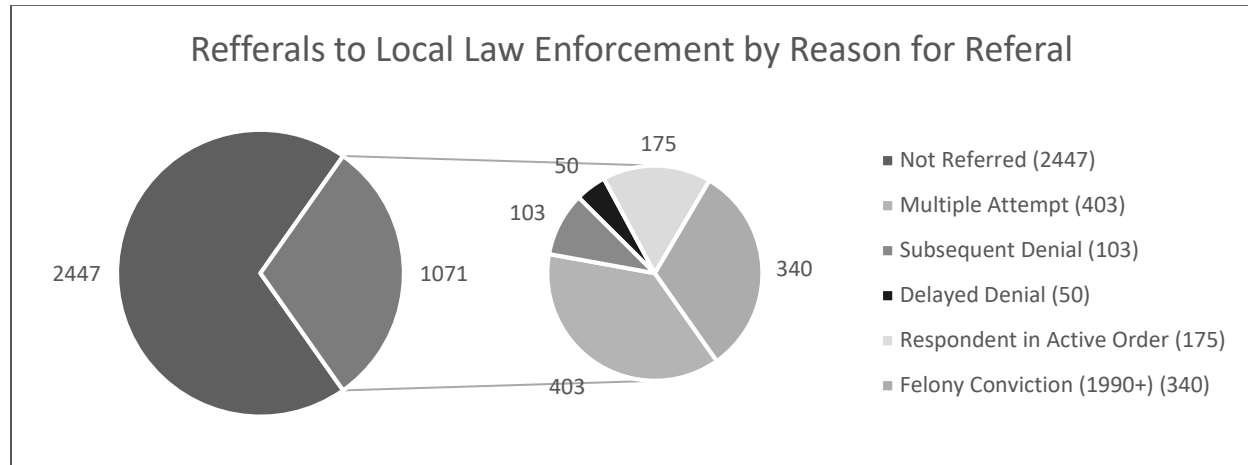
Substitute House Bill 1501 was passed during the 2017 legislative session. SHB 1501 established a variety of requirements for Federal Firearms Licensees (FFLs), the Washington State Patrol (WSP) and the Washington Association of Sheriffs and Police Chiefs (WASPC). Section 4 of the bill requires WASPC prepare an annual report on the number of denied firearms sales or transfers reported pursuant to this act. The report shall indicate the number of cases in which a person was denied a firearms sale or transfer, the number of cases where the denied sale or transfer was investigated for potential criminal prosecution, and; the number of cases where an arrest was made, the case was referred for prosecution, and a conviction was obtained. Please accept our report on the status of WASPC's responsibilities as related to SHB 1501.

For State Fiscal Year 2018 (July 1, 2018 to June 30, 2019), WASPC received 3,365 reports of denied transactions and 116 subsequent approval reports. Local law enforcement agencies have direct access to the denied firearms transaction system and can self-initiate investigations. A weekly email is also distributed informing local law enforcement of the denied transactions that occurred in their jurisdiction in the week prior. Additionally, WASPC referred 919 reports directly to local law enforcement agencies. Referrals occur when: an applicant has multiple denials at one or more FFLs in a two-year period; a firearm was sold or transferred and the application was subsequently denied or the denial was delayed (and the firearm had not been returned at the time of report); records indicate that the applicant may

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have a Washington State felony conviction; the applicant is the respondent in a Washington State Protective Order; and upon FFL request.

The 919 referrals to local law enforcement represent the following 1,071 reasons. It should be noted that a single referral can be referred for more than one reason. There were 403 multiple attempts. One hundred three (103) denials occurred after a firearm was sold or transferred; in 84 of those cases, the firearm had not been returned to the FFL at the time the transaction was reported. Fifty (50) denials were reported as a result of a delayed denial; in 44 of those cases, the firearm had not been returned to the FFL at the time the transaction was reported. One hundred seventy five (175) individuals were named in active protective orders and 340 individuals had in-state felony convictions (1990+).



The following outlines our progress on specific responsibilities:

- The Washington Association of Sheriffs and Police Chiefs must create and maintain an electronic portal for a dealer, as defined in RCW 9.41.010, to report the information as required pursuant to section 1 of this act pertaining to persons who have applied for the purchase or transfer of a firearm and were denied as the result of a background check or completed and submitted firearm purchase or transfer application that indicates the applicant is ineligible to possess a firearm under state or federal law.*

On July 25, 2017, WASPC launched www.wafirearmsreport.org. The site contains an electronic portal for FFLs to report denied purchase or transfer applications. FFLs also report subsequent approvals via the portal as required by SHB 1501. The portal is password protected.

- Upon receipt of the information from Washington Association of Sheriffs and Police Chiefs pursuant to section 2 of this act, the Washington State Patrol must incorporate the information into its electronic database accessible to law enforcement agencies and officers, including federally recognized Indian tribes that have a connection to the Washington State Patrol electronic database.*

WASPC began reporting denied purchase or transfer application information to the Washington State Patrol on August 8, 2017. WASPC also reports subsequent approvals as required. In the last year, WASPC made several improvements to automate delivery of this information to WSP.

- *The Washington Association of Sheriffs and Police Chiefs shall create and operate a statewide automated protected person notification system to automatically notify a registered person via the registered person's choice of telephone or email when a respondent subject to a court order specified in (b) of this subsection has attempted to purchase or acquire a firearm and been denied based on a background check or completed and submitted firearm purchase or transfer application that indicates the respondent is ineligible to possess a firearm under state or federal law.*

The Washington Protective Order Notification (VPO) system is available at www.registervpo.com. The VPO system provides registered individuals notification on service of a protection order, expiration warnings and automated notifications if the respondent in an order was denied the purchase/transfer of a firearm. Information in the VPO system is obtained from an interface with the Washington Crime Information Center (WACIC). From July 1, 2018 to June 30, 2019, 2,297 notifications regarding protective orders were made to registered individuals in Washington State. Three (3) firearm related notifications were successfully delivered in that period. Two (2) additional notifications were not successfully delivered.

In the last year, WASPC has focused our efforts on awareness trainings and outreach to social service providers and government agency partners to expand use of the VPO system. Information for the VPO system is now included on all protective order instructions and final order pattern forms through the Administrative Office of the Courts. WASPC has observed an increase in site visits and registrations in the VPO system resulting from this action.

- *The Washington Association of Sheriffs and Police Chiefs shall establish a grant program for local law enforcement agencies to conduct criminal investigations regarding persons who illegally attempted to purchase or transfer a firearm within their jurisdiction.*

For the 2018 fiscal year, WASPC awarded \$150,000 to local law enforcement agencies to support criminal investigations regarding person who illegally attempt to purchase or transfer firearms within their jurisdiction.

In order to receive grant funds, agencies must report if an arrest was made and the case status. The following information is specific only to the 300 denied transactions where grant funding was requested from July 1, 2018 to June 30, 2019. WASPC is aware of agencies investigating denied transactions while not requesting grant payments. Although this occurs, we do not have statistical data to provide.

As reported by local law enforcement:

- Arrests: 16
- Case Status
 - Referred to Prosecution—48
 - Not Referred/Closed Exceptional—216
 - Unresolved Case Status—27

Per data available through local court systems:

- Charges Filed as a result of SHB 1501—12
- Convictions
 - Yes—1
 - Deferral—6
 - Pending—3
 - Dismissed—2

WASPC is pleased with our work on the Denied Firearms Transaction Program. Each of the 3,365 denied records reported from July 1, 2018 and June 30, 2019, has been reviewed by an individual. Records meeting the referral criteria based on information available were referred to local agencies. The following anecdotes (names and agencies redacted) demonstrate the value of the program:

- “[X] has a current felony warrant for his arrest stemming from a [X] County case for the charge of unlawful possession of a short barrel firearm...”
- “Report has been forwarded to the prosecutor's office charging the suspect with unlawful possession of a firearm in the 2nd degree.”
- “[X] tried to purchase a firearm and was subsequently denied the purchase because of a felony conviction on [X]. [X] falsely swore on ATF Form 4473 that he had never been convicted as a felony. There is probable cause to charge [X] with an attempt to commit the crime of 2nd degree unlawful possession of a firearm and false swearing on form 4473. A charge request has been submitted.”
- “Charged with attempted unlawful possession of a firearm and false swearing.”
- “This subject has made multiple attempts to purchase a firearm, knowingly as a prohibited person. This case has been forwarded to a sergeant, along with a full narrative to assist in pursuing felony charges. This case has been transferred to investigations.”

We know that it only takes one person with ill intentions to cause a tragedy. Each of these denials could have had a very different outcome.

We also continue to learn about the firearms climate in Washington State. We have received word, through the grant program and anecdotally, about individuals incorrectly being denied transactions:

- “Unfounded. Subject had rights restored and obtained a CPL from the [X] County Sheriff's Department...”
- “...had his right to possess firearms restored through the Superior Court...”
- “Officer could find no reason that the subject was denied a firearms purchase. Case closed.”
- “Upon investigating this referral it was learned that the suspect's rights had been restored. A CPL was issued by the [X] County Sheriff's Office after receiving proof from the suspect.”
- “Our research did not support denial of this transaction.”

- “Research did not support valid denial.”
- “Research results did not support a denial.”

These instances continue to demonstrate the need to remedy identified gaps and inconsistencies within the firearms background check process. WASPC urges the Legislature to give full consideration to the December 2019 OFM Feasibility Study for a Single Point of Contact Firearm Background Check System, as many of these challenges are addressed in those recommendations.

Lastly, we had one agency report the following on grant funding:

- “Our agency, [X] Police Department, has used the funds obtained through the denied firearms investigation grant to send employees to training, including NICS. Our agency also utilizes the funds to pay for overtime to send the other employees to NICS training as well. Without these funds, we would not be able to send employees to these trainings due to overtime coverage and training cost.”

Firearms is a prevalent topic of discussion in Washington State and WASPC looks forward to providing the state expertise in this area. Please let me know if you have any questions or would like additional information on WASPC’s responsibilities on the Denied Firearms Transaction Program. I can be reached at (360) 486-2380 or steve@waspc.org.

Sincerely,



Steven D. Strachan
WASPC Executive Director

CC: Washington State Patrol