

WASHINGTON ASSOCIATION OF SHERIFFS & POLICE CHIEFS

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Serving the Law Enforcement Community and the Citizens of Washington



November 9, 2018

Governor Jay Inslee
Office of the Governor
PO Box 40002
Olympia, WA 98504-0002

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

Representative Frank Chopp
Speaker of the House
PO Box 40600
Olympia, WA 98504-0600

Dear Governor Inslee, Lieutenant Governor Habib and Speaker Chopp:

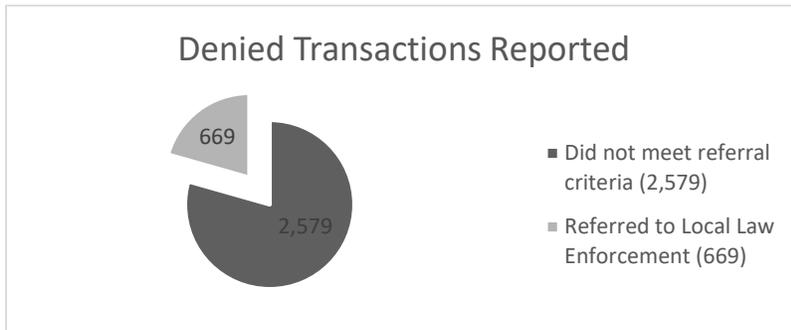
Subject: SHB 1501—An act relating to protecting law enforcement and the public from persons who illegally attempt to obtain firearms

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.

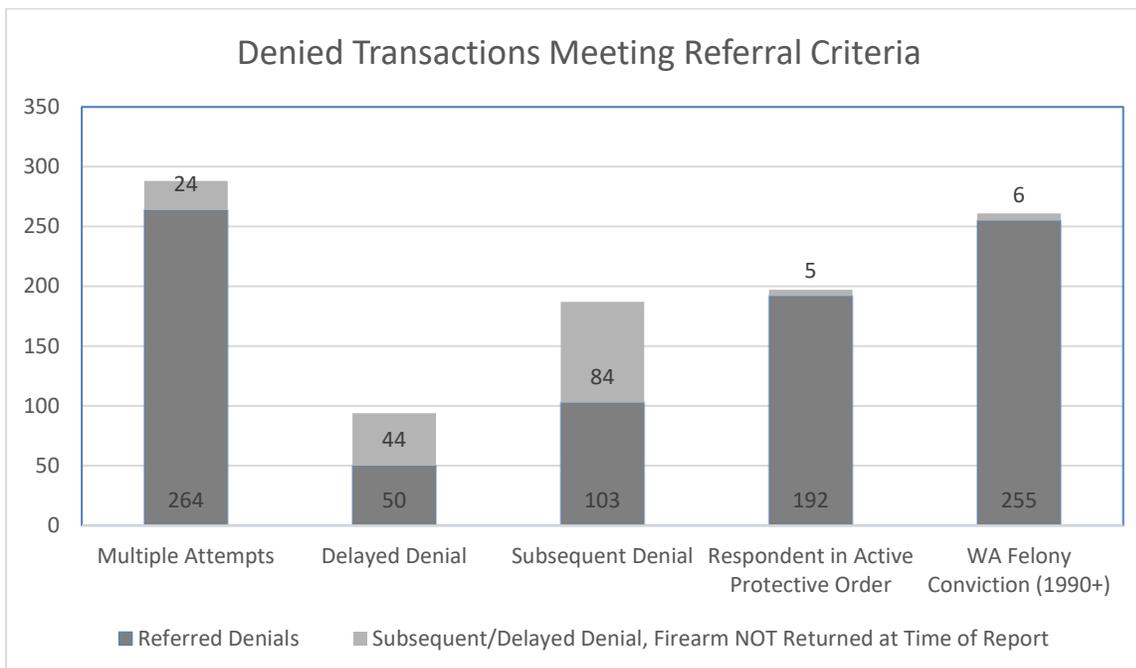
From the day of implementation, July 23, 2017 to July 23, 2018, 3,248 denied applications for the purchase or transfer of a firearm have been reported to WASPC. WASPC has referred 669 reports to local law enforcement. Referrals occur when: the applicant has multiple denials at one or more FFLs; a firearm was sold or transferred and the application was subsequently denied or the denial was delayed (and the firearm had not been returned); the applicant has a Washington State felony conviction; the applicant is the respondent in a Washington State

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RICK SCOTT <i>Sheriff—Grays Harbor County</i>	MARK COUEY <i>Director—OIC</i> <i>Criminal Investigations Unit</i>	JOHN BATISTE <i>Chief—WA State Patrol</i>	VACANT <i>SAC—FBI, Seattle</i>	STEVEN D. STRACHAN <i>Executive Director</i>

Protective Order; and upon FFL request. Local law enforcement partners have access directly to the denied firearms transaction system and can self-initiate investigations. A weekly email is also distributed informing local law enforcement where denied transactions occurred in the week prior. Two hundred seventy six (276) users have accessed the system more than 2,000 times since the system was deployed on February 2, 2018.



In the aforementioned timeframe, there were two hundred sixty four (264) multiple attempts. One hundred three (103) denials occurred after a firearm was sold or transferred. In eighty-four (84) 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 forty-four (44) cases, the firearm had not been returned to the FFL at the time the transaction was reported. One hundred ninety-two (192) individuals were named in active protective orders and two hundred fifty-five (255) individuals had in-state felony convictions (1990+). The chart below displays this information and includes the number of times a firearm was transferred and was then subsequently/delayed denied, and the firearm had not be returned at the time of report, to an individual with a felony conviction; a respondent in a protective order; or an individual with multiple denials.



The following outline our progress as it relates to more 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. Within the site is 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.

- 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 now, 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 23, 2017 to July 23, 2018, 2,425 notifications regarding protective orders were made to registered individuals in Washington State.

The automated notifications for denied firearms transactions began on Wednesday September 5, 2018. Until denied firearms transaction notifications were automated through the Protective Order Notification System, WASPC staff made manual notifications to registered persons. For the reporting period, three (3) notifications were made.

Since automating the registration and notification process, WASPC will now focus our efforts on outreach to inform interested individuals of the Protective Order Notification System. WASPC is currently updating print materials to reflect the new notification for denied firearms transactions.

- 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 \$62,141.98 to local law enforcement agencies to support criminal investigations regarding person who illegally attempt to purchase or transfer a firearms within their jurisdiction.

In order to receive grant funds, agencies must report the number of cases where the denial was investigated; the number of the cases where and arrest was made; the number of cases referred for prosecution and the number of convictions obtained. **The following information is specific only to the 123 denied transactions where grant funding was requested.** WASPC is aware of agencies investigating denied transactions while not requesting grant payments. Although we know this to be happening, we do not have any statistical data to provide.

As reported by local law enforcement:

- Investigations as a result of a direct referral from WASPC: 104
- Investigations as a result of information made available by WASPC: 15
- Arrests: 10
- Case Status
 - Referred to Prosecution—Charged: 12
 - Referred to Prosecution—Not Charged: 13
 - Not Referred/Closed Exceptional—87
 - Blank Case Status—10
 - Unresolved Case Status—1

Per data available through the District and Municipal Court Information System:

- Charges Filed as a result of SHB 1501—8
- Convictions
 - Yes—2
 - Pending—1
 - Unknown—3
- Individuals with Subsequent Arrests/Charges Convictions: 6

At this time, WASPC is pleased with the work through the Denied Firearms Transaction Program. We have developed partnerships with FFLs and the Bureau of Alcohol, Tobacco, Firearms and Explosives and we have enhanced our existing partnerships with local law enforcement agencies. Just over a year into the implementation of SHB 1501, we are seeing additional participation in the reporting by FFLs and utilization of the grant funds to support investigation of denied firearms transactions.

Each of the 3,248 denied transactions reported from July 23, 2017 to July 23, 2018, has been reviewed by an individual. Transactions meeting the referral criteria based on information available in the Judicial Information System (JIS) provided by Washington Courts, were referred to local agencies. Local agencies where denied transaction are occurring now have information previously unknown. The following stories demonstrate the value of the program.

- WASPC was notified by an FFL that WSJ had attempted to purchase a firearm and was denied. After conducting routine checks on WSJ using publicly available information, WASPC staff were able to locate an Extreme Risk Protection Order (ERPO) that listed WSJ as the respondent. WASPC staff notified the appropriate law enforcement agencies that WSJ had attempted to purchase a firearm. WSJ was subsequently arrested and charged with False Swearing and Firearm Transfer/Sale Violation.
- WASPC staff became aware that TKS had a denied transaction in one county. Six days later, TKS had an additional denied transaction in another county. Upon referral from WASPC, a local law enforcement agency conducted an investigation and discovered that TKS was a former gang member attempting to purchase a firearm. TKS was subsequently charged with forgery. TKS pleaded to false swearing and was sentenced to 90 days in custody and two years of probation.
- A denied transaction was reported for AVM. WASPC referred the transaction to a local law enforcement agency. The agency found that AVM had been arrested five days prior for felony theft. AVM answered untruthfully to question 11(b) on the ATF Form 4473, Firearms Transaction Record.

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

We are also learning much about the firearms climate in Washington State. We have received word, through the grant program and anecdotally, about individuals incorrectly being denied transactions. We believe these instances further demonstrate the need for consistency and additional training across the state as it relates to background checks.

- “Subject provided a court order signed by a Superior Court Judge restoring firearms rights as of 09/11/17.”
- “Firearms rights restored on 10/26/16.”
- “Subject of the investigation has not had firearm privileges revoked and, in fact, has a valid CPL issued by...”
- “Not able to establish that the subject could not lawfully possess a firearm.”

With firearms being such a prevalent topic of discussion in Washington State, WASPC looks forward to continuing to provide expertise in this area. We expect the upcoming changes in the

processing of National Instant Background Check System (NICS) background checks in Washington State to continue to be of great interest to our members. WASPC is also cognizant of the potential impacts Initiative 1639 may have on the background check process and other firearms related concerns. We continue to monitor both of these situations and are happy to provide information and assistance, as we are able.

Please let me know if you have any questions or would like additional information on WASPC responsibilities as they relate to SHB 1501. I can be reached at (360) 486-2380 or steve@waspc.org.

Sincerely,

A handwritten signature in black ink, appearing to read "Steven D. Strachan". The signature is fluid and cursive, with the first name "Steven" and last name "Strachan" clearly distinguishable.

Steven D. Strachan
WASPC Executive Director

CC: Washington State Patrol