

WASHINGTON ASSOCIATION OF SHERIFFS & POLICE CHIEFS

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Serving the Law Enforcement Community and the Citizens of Washington



December 21, 2017

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.

To date, 1,231 denied applications for the purchase or transfer of a firearm have been reported to WASPC. WASPC has referred 152 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 (and the firearm had not been returned); the applicant has a Washington State felony conviction; the applicant is the respondent in a Washington State Protective Order; and upon FFL request. A weekly report of all denied transactions is also provided to local law enforcement upon request.

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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>	JAY TABB <i>SAC—FBI, Seattle</i>	MITCH BARKER <i>Executive Director</i>

49 individuals have made multiple attempts. 55 individuals have been denied purchase or transfer after a firearm was sold or transferred. In 49 cases, the firearm had not been returned to the FFL at the time of the report. To date 71 individuals were named in active protective orders.

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.

- The 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 system is available at www.registervpo.com. At this time, service and expiration notifications are automatically sent to registered persons regarding protective orders. WASPC is working with our vendor to add denied firearm transaction notifications. We expect the denied firearm transaction notifications to be implemented by June 30, 2017.

Until denied firearms transaction notifications are added to the Protective Order Notification System, WASPC staff make manual notifications to registered persons. To date, WASPC has made one manual notification to a registered person.

- 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.

On December 5, 2017, WASPC announced the grant award process for the SHB 1501 Grant Program. The Washington State Legislature Provided \$150,000 for the state fiscal year 2017. WASPC will reimburse agencies up to \$500 per case investigated. To date, WASPC has received three grant applications. In one case, an individual was arrested and the case was referred to prosecution under RCW 9A.72.040 (false swearing). As we continue to promote the grant program, we expect the grant applications to increase. We also expect our ability to report on these cases to increase.

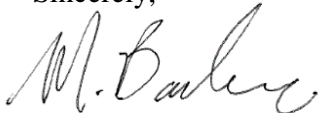
Through the implementation of SHB 1501, WASPC has discovered areas for potential clarification and improvement as it relates to firearm laws in our State. Washington is a partial point of contact state, meaning that background checks are conducted by local law enforcement agencies and the National Instant Criminal Background Check System (NICS). This complicates the background check process, as local law enforcement is responsible for background checks on handguns while FFLs check NICS for long-gun purchases. An additional complication pertains to subsequent denials. Clarity lacks as it relates to who is responsible for recovery of a firearm when an individual is sold or transferred a firearm and the application is subsequently denied. Our research indicates that responsibility falls to the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) for long gun purchases while the responsibility for recovery of handguns falls to local law enforcement.

In 2016, Attorney General Ferguson issued a [white paper](#), Access to Firearms in Washington State. We agree with the recommendation to “adopt a centralized firearms background check system allowing firearms dealers to go through a single state agency with access to all necessary state or federal records to perform background checks, rather than requiring dealers to contact different agencies for different transactions” (page 11). We also recommend further review and clarification of firearm retrieval responsibilities as discussed on page 9 of the report.

Additionally, through the implementation of SHB 1501, WASPC has received several questions related to the crime for which local law enforcement should be investigating. SHB 1501 did not create any new crimes nor did it provide direction as to the crime being committed. Additional clarification as to which crime code should be investigated and charged would be helpful.

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 mbarker@waspc.org.

Sincerely,



Mitch Barker
WASPC Executive Director