



Washington Association of
**SHERIFFS &
POLICE CHIEFS**

3060 Willamette Drive NE
Lacey, WA 98516
360-486-2380 (Phone)
360-486-2381 (Fax)
www.waspc.org

President
Chief Darrell Lowe
City of Redmond

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Subject: RCW 36.28A.405, Denied Firearms Transaction Information—Annual Report

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Sincerely,

Steven D. Strachan
Executive Director

Pursuant to Chapter 261, Laws of 2017, the Washington Association of Sheriffs and Police Chiefs (WASPC) is submitting its annual report on the Denied Firearms Transaction Grant Program. This report is submitted in accordance with RCW 43.01.036.

Washington State Denied Firearms Transaction Program—Annual Report (July 1, 2023-June 30, 2024)

In 2017, the Washington State Legislature passed legislation¹ that 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). [RCW 36.28A.405](#) requires WASPC to prepare an annual report on the number of denied firearms sales or transfers reported pursuant to Chapter 261, Laws of 2017. 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.

In 2020, the Washington State Legislature passed legislation² that established an update in requirements for FFLs, WSP, and WASPC. WASPC remains responsible for preparing an annual report on the number of denied firearms sales or transfers reported pursuant to Chapter 28, Laws of 2020. 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.

For State Fiscal Year 2024 (July 1, 2023-June 30, 2024), WASPC received 928 reports of denied transactions from FFLs and 2,889 reports of denied transactions from WSP, totaling 3,636 reports of denied transactions. WASPC also received 20 subsequent approvals from FFLs and 794 subsequent approvals from WSP, totaling 948 subsequent approvals. 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 agencies of the denied transactions that occurred within their jurisdiction in the prior week. Additionally, prior to the implementation of ESSHB 2467² WASPC referred 263 reports directly to local law enforcement agencies. These direct referrals occurred when:

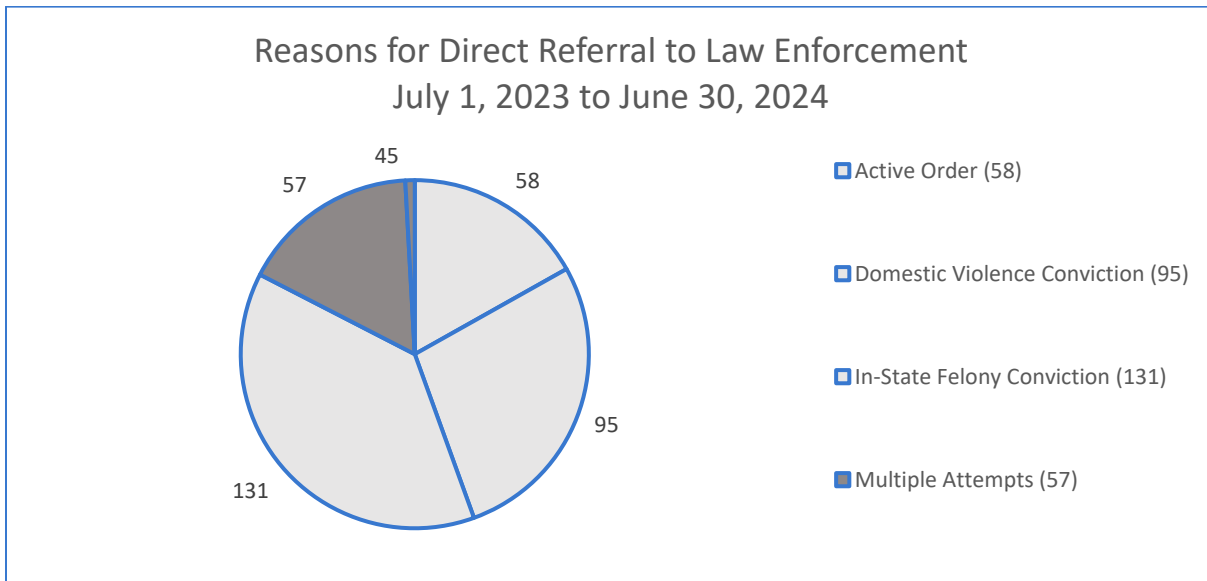
- an applicant had multiple denials at one or more FFLs in a two-year period;
- a firearm was sold or transferred, and the application was subsequently denied, or the denial was delayed (and the firearm had not been returned at the time of the report);
- records indicate the applicant may have a Washington State felony conviction;
- records indicate the applicant may have a Washington State domestic violence conviction;
- the applicant is the respondent in a Washington State protective order, and
- upon FFL request.

Of the 263 direct referrals to local law enforcement based on denied firearms transactions reported by FFLs, WASPC recorded the following reasons for referral. Please note a single referral can have multiple

¹ [1501-S.SL.pdf \(wa.gov\)](#)

² [2467-S2.PL.pdf\(wa.gov\)](#)

reasons for referral.



With the adoption of RCW 9.41.1135 in 2020, WSP developed the Secure Automated Firearm E-Check (SAFE) System. FFLs must submit all background checks, regardless of firearm type, through SAFE and pay the \$18.00 assessed fee. All denial notifications generated by SAFE are sent directly to local law enforcement through the WSP Watch (CRD) Portal. Denial notifications include subject information, FFL information as well as the reason for the denial. Due to this, WASPC has discontinued the practice of providing direct referrals to local law enforcement agencies, so as to not create duplicative alerts.

The following outlines WASPC’s progress on specific statutory responsibilities:

I. Under RCW 36.28A.400(1), 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.

- a. On July 25, 2017, WASPC launched www.wafirearmsreport.org. The site contained an electronic portal for FFLs to report denied purchase or transfer applications. FFLs also reported subsequent approvals via the portal as required by Chapter 9.41 RCW. The portal was password protected.

With the adoption of RCW 9.41.1135, the requirement for FFLs to report denied firearms transactions per 9.41.114 has been amended. FFLs no longer report denied transactions to WASPC (as of February 1, 2024). All background checks for firearms sales or transfers, regardless of firearm type, are submitted to SAFE and processed by the background check unit with WSP. Each day, WSP provides WASPC with a daily file containing all denied firearms transactions from the previous day. The denied firearms transaction data is utilized in accordance with Chapter 9.41 RCW and Chapter 28, Laws of 2020. WSP also provides WASPC with a weekly file containing all subsequent approvals (overturns) that occurred in the previous seven days. Since the implementation of SAFE, www.wafirearmsreport.org has been deactivated.

II. *Under RCW 36.28A.400(2), upon receipt of the information from WASPC 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 WSP electronic database.*

- a. WASPC began reporting denied purchase or transfer application information to the WSP on August 8, 2017. WASPC also reported subsequent approvals as required.

With the adoption of ESSHB 2467 in 2020, the requirement for the WSP to incorporate the information per RCW 43.43.823 has been amended. All background checks for firearms sales or transfers are processed through SAFE and the background check unit at WSP. Subsequently, WSP now provides all denied firearm transaction and subsequent approval information to WASPC via Secured File Transfer Protocol (SFTP).

III. *Under RCW 36.28A.410, the Washington Association of Sheriffs and Police Chiefs shall create and operate a statewide automated protected persons 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.*

- a. The Washington State Protective Order Notification (VPO) system is available at www.VINELink.com. The VPO system provides registered individuals notification on service of a protection order that has been issued by a Washington State Court, 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 WSP Washington Crime Information Center (WACIC) system.

From July 1, 2023-June 30, 2024, the VPO system made 2,033 notifications regarding protection orders, to registered individuals. There was one firearm related notification delivered in that period. There are no changes to the requirement for WASPC to create and operate a statewide automated protected person notification system.

During a planned migration of the VPO system to the broader VINE platform, WASPC identified data inconsistencies. In February 2024, WASPC disabled the VPO system to address data inconsistencies. During this process, WASPC identified that the current source of protective order information from the Washington State Patrol (uploaded to WACIC by local law enforcement) is routinely incorrect and does not match information in various court systems. In lieu of this discovery, WASPC is working with stakeholders to propose legislative changes that will direct WASPC to work with the Administrative Office of the Courts (AOC) to obtain protective order information necessary to provide the VPO system. It is WASPC's expectation that receiving protective order information directly from the AOC will yield more accurate and timely information, thus making the VPO system a significantly more valuable resource for petitioners.

IV. *Under RCW 36.28A.420, 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.*

- a. For Fiscal Year 2024, WASPC awarded \$67,100.00 to local law enforcement agencies to support criminal investigations regarding persons who illegally attempted to purchase or transfer firearms within their jurisdiction.

To receive grant funds, agencies must report if an arrest was made and the case status. The following information is specific to only the 198 denied transactions where grant funds were requested from July 1, 2023-June 30, 2024. WASPC is aware of agencies that have investigated denied transactions without a request for grant funds. Although this occurs, WASPC does not have specific information available to report.

As reported by local law enforcement:

- Arrests – 16
- Case Status:
 - Referred to Prosecution – 40
 - Not Referred/Closed Exceptional – 81
 - Unresolved Case Status – 9
 - Not Referred – Prosecution will Decline – 65
 - Unknown – 3

Was an investigation started as a direct result of a direct referral from WASPC regarding a denied firearm transaction:

- Yes – 70
- No – 14 (agency initiated investigations)

Per data available through court systems:

- Charges filed as a result of SHB 1501 – 15
- Convictions:
 - Yes – 0
 - Deferral – 1
 - Pending – 6
 - Dismissed – 8

The following status updates from grant applications (names and agencies redacted) demonstrate the value of the program:

- “Subject denied as he was found to have a mental defect in 2013 by CA DOJ BUREAU OF FIREARMS. Due to this, subject is prohibited under 18 USC 922(g)(4). Attempt to contact subject negative - msg was left subject should not attempt further purchase unless issue is resolved. Unable to prove crime at this time.”
- “Per Subject's criminal history (III), Subject was charged with Rape - 3 (felony) through the Skagit County Superior Court with an arrest date of 1/24/1999 and received a GUILTY disposition for Communicating with a Minor for Immoral Purposes (gross misdemeanor) on 7/1/1999. Subject's criminal history list includes zero felony convictions. Per Subject's criminal history (III), Subject was charged with Interfering with Reporting DV (gross misdemeanor) and Assault 4 - DV (gross misdemeanor) through Skagit County District Court with an arrest date of 6/18/2017 and received a DISMISSED disposition for Interfering with Reporting DV (gross misdemeanor) on 12/12/2017 and a GUILTY disposition for Disorderly Conduct - DV PLED/PROVED on 12/12/2017. Which with the information being known above, Subject is being referred for Attempted

Unlawful Possession of a Firearm 2nd (RCW 9.41.040.2A.A) and False Swearing (RCW 9A.72.040).”

- “On 4/18/2024, I made contact with [FFL] for several denied firearm transactions. I had previously been contacted by WSP regarding Subject due to Subject possessing a CPL permit and being denied a firearm purchase. It was learned that Subject had a deferred juvenile finding that qualified as a conviction and not had her rights restored yet. Subject CPL has been revoked and Subject has been notified.”

While WASPC is pleased with the investigations conducted by local law enforcement agencies, we continue to be concerned by feedback from multiple local law enforcement agencies regarding prosecutorial decline of cases. Though a significant number of investigations conclude without charges for a variety of reasons, those cases that either can be or are referred for prosecution should be considered with greater emphasis. The State of Washington invests significantly in battling gun violence and promoting firearms safety while some instances where prohibited persons who have attempted to obtain firearms, sometimes successfully, are not pursued.

WASPC continues to participate in ongoing collaborative efforts with WSP on the topic of denied firearm transactions. WSP’s SAFE system has resulted in a higher number of denied firearm transactions statewide, as well as a much higher number of subsequent approvals. Additional legislation, through ESSHB 1143³, requiring firearms to be held by the FFL until the background check is completed and 10 business days have elapsed since the date of background check request, has resulted in the near elimination of delayed and subsequent denials, further protecting victims of crime, petitioners of court ordered protection orders, and the community at large.

The SAFE system has also provided some challenges for local law enforcement as it relates to investigating denied firearm transactions. Conversations with multiple law enforcement agencies have suggested that WSP has much more access into an individual’s criminal history than any other agency. Local law enforcement struggles to complete investigations in a timely manner with their already limited resources, as they are unable to find/confirm the reason for denial through systems readily available to them. Local law enforcement agencies have communicated to WASPC that this has a direct impact to the drastic decline in grant applications related to denied firearm transactions.

WASPC continues to work through these challenges with local law enforcement and WSP, related to the Denied Firearm Transaction Grant Program and all denied firearm transaction investigations. These ongoing challenges have heavily impacted grant fund issuance as shown in the section below.

WASPC has awarded the following grant funds to support investigations of attempted transactions:

- Fiscal Year 2019 - \$150,000 of \$150,000
- Fiscal Year 2020 - \$149,500 of \$150,000
- Fiscal Year 2021 - \$150,000 of \$150,000

³ [1143-S2.SL.pdf \(wa.gov\)](#)

- Fiscal Year 2022 - \$150,600 of \$180,000
- Fiscal Year 2023 - \$140,600 of \$180,000
- Fiscal Year 2024 - \$67,100 of \$150,000

There are no changes to the requirement for WASPC to administer the grant program.

Firearms continue to be a predominant topic with high representation in both the public health and political sectors across Washington State and the nation. The ongoing lack of criminal prosecution related to denied firearm transactions remains disconcerting. As Washington continues to invest in the battle of gun violence, and promotion of firearm safety, WASPC would expect to see higher levels of accountability where there are clear opportunities to hold individuals accountable. Creating barriers for law enforcement in relation to investigating denied firearm transactions and the subsequent lack of prosecutorial follow through for those cases that have been investigated and referred for prosecution has notably impacted denied firearm investigations statewide.