

NICS Appeal Policy

National Instant Criminal Background Check System

Policy Statement

Persons denied a firearm transfer or a CPL must be made aware of the denying agencies appeal process. In accordance with state and federal regulations, Whatcom County Sheriff's Office (WCSO) has developed a procedure whereby denied persons may request the reason for the denial from the WCSO that conducted the National Instant Criminal Background Check (NICS).

Persons Affected

All Records Personnel

Definition

Prohibitor - To forbid (an action, activity, etc.) by authority or law.

Directives Affected

None

Prohibitors

The following are federal prohibitors for which the WCSO can deny an individual a transfer of a firearm or CPL:

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| □ Section 922(g)(1) | Felony Conviction |
| □ Section 922(g)(2) | Active Criminal Warrant |
| □ Section 922(g)(3) | Use of Controlled Substance |
| □ Section 922(g)(4) | Mental Health |
| □ Section 922(g)(5) | Illegal/Unlawful Alien |
| □ Section 922(g)(6) | Dishonorable Discharge |
| □ Section 922(g)(7) | Renounced Citizenship |
| □ Section 922(g)(8) | Protection Order |
| □ Section 922(g)(9) | Misdemeanor Crime of Domestic Violence |
| □ Section 922(g)(n) | Indictment/Information |

Procedure

If a person is denied the purchase of a firearm or denied the issuance or renewal of a CPL by the WCSO, he or she can appeal the denial through the WCSO and request the reason for the denial. The denied individual may also appeal through the NICS Section. If the denied individual chooses to appeal through the NICS Section, the denying agency may refer the denied individual to www.fbi.gov/nics-appeals.

Step 1 -Inform

Inform the denied individual of the existence of a state or federal prohibitor. No further information is provided until identity is verified.

Step 2 -Verify Identity

If the individual is denied based on a federal or state prohibitor, the WCSO will verify identity by reviewing a valid, government issued photo identification such as a driver's license or passport.

For prohibitors that are fingerprint based (i.e. felony conviction), the identity of the individual will be verified by submitting fingerprints.

- I. If the fingerprint based prohibitor is within Washington State, fingerprint cards will be submitted to the Washington State Patrol via mail to:
 - a. Background Check Unit
 - b. WSP
 - c. PO Box 42633
 - d. Olympia, WA 98504
- II. The type of transaction will be NFUF.
- III. The reason fingerprinted must be Criminal Justice Investigative Purpose
- IV. For out-of-state fingerprint based prohibitors, appellants should be referred to the out-of-state law enforcement agency holding the denying record.
- V. If the WCSO determines the appellant is not the subject of the record via fingerprint comparison, the appellant will be directed to www.fbi.gov/nics-appeals to pursue the Voluntary Appeal File (VAF) option.

Step 3 -Releasing Denial Information

After identity is verified, WCSO will provide the reason for the denial to the appellant indicating the federal or state statute the individual was denied under. WCSO will respond to the appeal request within five (5) business days and/or advise of a reasonable timeline of when a determination will be prepared.

The WCSO will share the following information after identity is verified:

- i. FBI/SID number
- ii. Reason for denial
- iii. Date of arrest
- iv. Offense
- v. Arresting agency and contact information

Step 4 – Unable to Resolve Appeal

If the WCSO is unable to resolve the appeal, WCSO will notify the appellant and provide the name and address of the agency that originated the document containing the information upon which the denial was based.