

Appeal Process for Firearms Transfer

218.1 PURPOSE AND SCOPE

In accordance with state and federal regulations, law enforcement agencies shall develop a procedure whereby denied persons may request the reason for the denial from the agency that conducted the National Instant Criminal Background Check (NICS). Persons denied a firearm transfer or a Concealed Pistol License (CPL) must be made aware of the denying agency's appeal process.

218.2 DENIAL FACTORS

If a person is denied the purchase or transfer of a firearm or denied the issuance or renewal of a CPL, he/she can appeal the denial through the denying agency and request the reason for the denial.

The following are the 18 U.S. Code § 922 federal prohibitors for which an agency can deny an individual a transfer of a firearm or CPL:

- a. Section 922(g)(1) Felony Conviction
- b. Section 922(g)(2) Active Criminal Warrant
- c. Section 922(g)(3) Use of Controlled Substance
- d. Section 922(g)(4) Mental Health
- e. Section 922(g)(5) Illegal/Unlawful Alien
- f. Section 922(g)(6) Dishonorable Discharge
- g. Section 922(g)(7) Renounced Citizenship
- h. Section 922(g)(8) Protection Order
- i. Section 922(g)(9) Misdemeanor Crime of Domestic Violence
- j. Section 922(g)(n) Indictment/Information

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.

218.3 DEPARTMENTAL APPEAL PROCEDURE

The following steps must be followed by the Department in order to resolve the denial of the purchase/transfer of a firearm or issuance/renewal of a CPL.

218.3.1 INFORM DENIED PERSON

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

Vancouver Police Department

Vancouver PD Policy Manual

Appeal Process for Firearms Transfer

218.3.2 VERIFY IDENTITY OF INDIVIDUAL

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

Or

2. For prohibitors that are fingerprint based (example, felony conviction), it is strongly recommended that identity be verified by submitting fingerprints.

a. If the fingerprint based prohibitor is within Washington State, fingerprint cards may be submitted to the Washington State Patrol via mail to:

Background Check Unit

Washington State Patrol

PO Box 42633

Olympia, WA 98504

b. The reason fingerprinted must state "RECORD REVIEW NICS APPEAL" and there is a fee associated with this request. Electronic fingerprinting is not available for these requests.

c. There is no process for submitting fingerprints for out-of-state fingerprint based prohibitors. In these cases, appellants should be referred to the out-of-state law enforcement agency holding the denying record to address out-of-state prohibitors.

218.3.3 RELEASING DENIAL INFORMATION

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

2. The denying agency can share the following information after identity is verified:

a. FBI/SID number

b. Reason for denial

c. Date of arrest

d. Offense

e. Arresting agency and contact information

Attached to the appendix are the template denial letters provided by the FBI. The NICS Appeal Letter templates can be modified to reflect our Department's response.

Appeal Process for Firearms Transfer

218.4 UNRESOLVED DENIAL

If the denying agency is unable to resolve the appeal, the denying agency 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.

If the denying agency determines the appellant is not the subject of record via fingerprint comparison, the appellant may be directed to www.fbi.gov/nics-appeals to pursue the Voluntary Appeal File (VAF) options.