

# Consolidation of Statewide Involuntary Commitment Information

Workgroup Recommendations  
December 2013



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## Department of Licensing

### Consolidation of Statewide Involuntary Commitment Information

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#### Report Requirement

Substitute Senate Bill 5282, passed during the 2013 regular legislative session, charged the Department of Licensing to convene a workgroup for “making a proposal for consolidation of statewide involuntary mental health commitment information...”

The explicit outcome of the effort is “...for the purpose of accurate and efficient verification of eligibility to possess a firearm.”

Required members of the workgroup included representatives from:

- Department of Licensing (DOL)
- Department of Social and Health Services (DSHS)
- Washington State Patrol (WSP)
- Administrative Office of the Courts (AOC)
- Regional Support Networks (RSN)
- Superior Courts

In addition, to ensure a full understanding of the issues, the workgroup added representatives from:

- Washington Association of Sheriffs and Police Chiefs
- Washington State Association of County Clerks

The workgroup is required to make recommendations to the Governor and the Legislature by December 1, 2013 on:

- “how to maintain the privacy of commitment information” and
- “whether access to the database can legally be provided to designated mental health professionals or law enforcement officials for use in the official course of their duties”

# Department of Licensing

## Consolidation of Statewide Involuntary Commitment Information

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### Executive Summary

The workgroup first met in August, 2013. The representatives reviewed current processes for collection, dissemination and retention of involuntary commitment information and how it relates to the verification of eligibility to possess a firearm.

Below is a summary of the workgroup's recommendations. More detailed information is provided in the recommendation section of this report.

- **The Department of Licensing (DOL) firearms database should become the consolidated database to maintain the statewide involuntary commitment information regarding eligibility to possess firearms.** The DOL database already includes some records on persons who are ineligible to possess firearms based on commitment.
- **Enhancements should be made to the DOL firearms database to accommodate consolidation.** Many changes can be done to make the data sharing efficient and still appropriate for access by law enforcement and by Designated Mental Health Professionals (DMHPs).
- **DSHS should no longer be required to complete firearm background checks for involuntary commitment information.** DSHS will be able to provide DOL with an electronic data feed of historical data that is not in DOL's database. This recommendation is based on the condition that the validation of DSHS historical records project is completed in a timely manner.
- **Statute changes are needed to allow efficient data sharing and access to the data.** Law enforcement needs authority to access the database from the field, DMHPs need access for safety reasons and DSHS needs the authority to transfer historical data to DOL. Additional statute changes may be needed for clarity and efficiency.

Consolidating statewide involuntary commitment information within DOL's firearms database will allow more timely and efficient access to information by law enforcement and DMHPs.

The estimated costs for the modifications to DOL's firearms database for implementation of the recommendations in this report is approximately \$45,000. In addition, DOL would request a resource for ongoing customer support to assist users with database output or system issues.

### Background

The workgroup's first task was to understand the roles of the various agencies and organizations relating to involuntary commitment information, background checks for firearms eligibility, and current databases and processes supporting these functions.

## Department of Licensing

### Consolidation of Statewide Involuntary Commitment Information

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#### **Roles of Agencies & Organizations in the Current Process**

**County Clerks** – As of 2009, county clerks, on behalf of the committing courts, report the loss of firearms rights when:

- An individual is involuntarily committed by court order for at least 14 days– commitments are required to be reported within three judicial days.
- A person is found not guilty by reason of insanity in a criminal case–filings must be completed within three judicial days from when the order is filed.

The information is reported using a web application through the Administrative Office of the Courts. The county clerks maintain the official legal record of documents filed on these types of cases and record information in a statewide database called SCOMIS.

**The Administrative Office of the Courts (AOC)** – The AOC provides administrative and policy support for Washington courts. The agency maintains a case management system that supports daily operations of the courts and provides a statewide network connecting courts and criminal justice agencies. The AOC does not maintain any court case files. Courts are provided a web application by AOC to report mental health commitments that make persons ineligible to possess firearms. AOC sends this information electronically each day to both the National Instant Criminal Background Check System and to the Department of Licensing. This daily electronic submission ensures mental health records are available for determinations on all pistol transfers as well as concealed pistol, aliens firearms, and firearms dealer licensing.

**National Instant Criminal Background Check System (NICS)** – The NICS system checks available records in the National Crime Information Center, Interstate Identification Index, and the NICS Index to determine if prospective transferees are disqualified from receiving firearms. NICS is managed by the FBI with the Washington State Patrol acting as the state’s liaison.

**Department of Licensing (DOL)** – DOL is responsible for maintaining the statewide firearms database. Local law enforcement issue firearms dealer licenses, concealed pistol licenses and alien (non-Washington resident) firearms licenses, then report the information to DOL. DOL also receives reports of all pistol transfers from licensed firearms dealers and occasional transfer reports from individuals. The database also receives information on involuntary commitment orders daily from the courts via AOC. DOL notifies law enforcement if a concealed pistol licensee or applicant, or a person who received or requested a firearm transfer is ineligible to possess a firearm. State, federal and local law enforcement have the ability to access DOL’s database 24 hours a day, seven days a week for background checks, criminal investigations and firearm trace requests (history of a firearm) through WSP ACCESS system. On average, this database performs 1.9 million searches per year.

**Washington State Patrol (WSP)** – A Central Computerized Enforcement Service System (ACCESS) provides the state law enforcement communications switch to 520+ criminal justice agencies inside of Washington. Law enforcement agencies use ACCESS to conduct their required background checks for concealed pistol licenses, alien firearms licenses,

## Department of Licensing

### Consolidation of Statewide Involuntary Commitment Information

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firearms dealer licenses and pistol transfers. WSP does not retain any firearms or commitment information, but background checks through ACCESS provides data from both the NICS database and the DOL database. In 2013, the legislature enacted Substitute House Bill 1612, which requires WSP to maintain a felony firearm offense conviction database of felony firearm offenders. Felony firearm offenders are persons who have been convicted or found not guilty by reason of insanity in this state of various felony firearm offenses. The database is only for law enforcement purposes.

**Department of Social and Health Services (DSHS)** –The DSHS Division of Behavioral Health and Recovery is the state mental health authority, and through 13 Regional Support Networks, contracts for the administration of the Involuntary Treatment Act. DSHS collects reports about civil commitments from regional support networks (RSN) under contract to administer involuntary treatment activities. DSHS maintains a database of patient treatment service activities and billing records which include civil commitments. When law enforcement requests a background check for a firearm transfer or a concealed pistol license, a search is performed for a match to those patient treatment service activity and billing records. If a record is found, it is reviewed to determine if there was an involuntary commitment for psychiatric treatment.

**Office of the Attorney General (ATG)** – The Office of the Attorney General works closely with the Governor’s Office, DSHS, DOL and WSP on issues of firearms and mental health. In 2007, the agency issued a “white paper” recommending both legislative and administrative changes called, “Restricting Access to Firearms by Persons with Mental Health Commitments in Washington State.” Many of the recommendations were adopted by the legislature under EHB 1498 (*Ch. 293, Laws of 2009*). The workgroup’s recommendations in this report are consistent with the changes yet to be made from that report.

## Issues Discussed

The workgroup discussed many issues regarding the consolidation of data, accuracy and access. A brief summary of the issues is provided below; a more complete record of the issues may be found in Appendix A.

### **Information Accuracy and Timeliness**

The accuracy and timeliness of the information is critical to verification of eligibility to possess a firearm and for use by law enforcement and DMHPs in the official course of their duties.

**Reporting of Commitments** – The AOC and County Clerks workgroup representatives did not find issues with courts reporting involuntary commitments since 2009. If a court did not report, it was determined the court did not have any commitment cases that would cause ineligibility to possess a firearm or there were no mental treatment facilities in that county, resulting in a nearby court handling those cases and thus reporting the ineligibility to possess a firearm. If WSP, DSHS or DOL find any involuntary commitment cases from 2009

## Department of Licensing

### Consolidation of Statewide Involuntary Commitment Information

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to present that were unreported, the County Clerks and AOC will work together with the other agencies to investigate.

**Timely and complete records from the courts.**– It is important that the information submitted by the courts for reporting loss of firearms rights have the accurate name, date of birth and gender. The court is required to report within three judicial days of the commitment.

**The accuracy of DSHS billing data as a reference for ineligibility to possess a firearm.**– The DSHS database containing involuntary commitment information is a treatment service activity and billing record system, not a database for access of information for completion of background checks. An extra step in the process would be required for DSHS and the courts to compare records to validate DSHS’ accuracy. DSHS and WSP are working together to validate historical data. AOC does not have historical data prior to 2009.

**RSNs reporting mental health information within 24 hours.**– DSHS worked with their Regional Support Networks and verified that all mental health historical data was provided to DSHS by August 1, 2013. Some RSNs report delays in receiving mental health commitment data from their DMHPs within the 24 hour reporting period; DSHS will continue to monitor this requirement.

## Data & Data Access

The idea of a consolidated database raised questions regarding the sharing of data and who would have access.

### ***What needs to be done to provide access to DOL’s database by DMHPs and law enforcement in the field for first responders?***

- Current statute provides authority for DOL to share information with law enforcement. Statute changes are recommended for clarity of the authority to disclose firearms database information to law enforcement in the field and to DMHPs to minimize safety risks.

### ***Could law enforcement and health professionals use only NICS for background checks?***

- Access to NICS is controlled by the FBI, and it is only to be used for background checks for eligibility to possess a firearm. NICS can only be used by criminal justice agencies and only for background checks. NICS cannot be used for criminal investigations or for information to minimize safety risks for DMHPs.

### ***Does a new system need to be built for consolidation of involuntary commitment data and ineligibility to possess a firearm?***

- There is a clear link between ineligibility to possess firearms, possible possession of a firearm and authorization to carry concealed weapons, making the need to consolidate the data evident. DOL’s database is currently accessible by law enforcement for those who are ineligible to possess firearms based on a conviction

## Department of Licensing

### Consolidation of Statewide Involuntary Commitment Information

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or involuntary commitment. The database retains the commitment information but at this time does not retain any information related to convictions. The system should be enhanced to allow for retention and access to relevant information for law enforcement in the field for first responders and DMHPs.

#### ***Can DOL provide “total protection” of the firearms database from misuse?***

- DOL’s firearm database would continue to be accessible through the ACCESS switch for standard background checks conducted by criminal justice. Providing information to law enforcement for investigations through ACCESS and to DMHPs using the Department of Enterprise Services’ Secure Access Washington (SAW) protocol is a viable solution. Users would be given authorization from DOL (for law enforcement) or from DSHS (for DMHPs). Each type of user would be provided only the data they are authorized to view.

#### ***How to give timely information to DMHPs dispatched to a crisis?***

- Logging into DOL’s firearms database and retrieving information regarding previous commitments should take an authorized DMHP less than one minute and is available 24 hours a day, seven days per week.

#### ***Do law enforcement and DMHPs have authority to access the information?***

- Civil commitment information is authorized to be shared with law enforcement and prosecuting attorneys as necessary to enforce the ineligible to possess firearms statute. (RCW 71.05.390(17)) Corrections and law enforcement agencies are also entitled to all “necessary and relevant information” in the event of a crisis or emergent situation that poses a significant and imminent risk to the public. RCW 71.05.390(11)(a). Finally, information about a person’s history of dangerousness or potential dangerousness is required to be available to any DMHP dispatched on a crisis visit under RCW 71.05.715.

#### ***Can law enforcement or DMHPs release the information?***

- Civil commitment information provided to law enforcement and prosecuting attorneys can be used to enforce the law regarding eligibility to possess a firearm, and can be released to the individual’s attorney or jury or judge in a trial. RCW 71.05.390(17) Law enforcement agencies will need to develop policies and procedures that ensure information received is only used in accordance with the statute.

## Recommendations

Based on the legislature’s concern that the current system is spread across too many agencies and the interest in enhancing efficiency, the workgroup makes the following recommendations:

## Department of Licensing

### Consolidation of Statewide Involuntary Commitment Information

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- 1. The Department of Licensing (DOL) firearms database should become the consolidated database to maintain the statewide involuntary commitment information regarding eligibility to possess firearms.**

DOL is the legal record holder for all firearms-related licenses including some records on persons who are ineligible to possess firearms based on involuntary commitment or conviction data. This data is immediately accessible by law enforcement for background checks. Allowing access to this information by DMHPs for use in the official course of their duties and by law enforcement in the field will require some enhancements to the system and minor changes in statutes to authorize access, sharing of data and reporting of data to DOL's database.

- 2. Enhancements to the DOL firearms database to accommodate consolidation would include:**

- Ensuring all records regarding ineligible to possess a firearm are maintained and are accessible to authorized users.
- Ineligible to possess a firearm records would include identification of the case number, commitment date and the court that issued the order, allowing for further research by requester if needed.
- Ineligible to possess a firearm records would indicate if it was due to a conviction or an involuntary commitment.
- Provide DMHPs access to the database. When they are dispatched on a crisis visit, RCW 71.05.715 states they shall have prompt access to information about any history of dangerousness or potential dangerousness on the client they are being sent to evaluate that is documented in crisis plans or commitment records and is available without unduly delaying a crisis response.
- Authorized parties would be provided tailored logon and access views of the data, restricting or allowing data fields appropriate for use in official course of duties.
- Develop fields in the database to retain uploaded data from DSHS' historic involuntary commitments.

- 3. DSHS should no longer be required to complete firearm background checks for involuntary commitment information.**

Using a secure link, DSHS would provide data from their historic involuntary commitment information to DOL for uploading into DOL's database. Because the current DSHS database does not separate civil commitment information from other behavioral health services that clients receive, a clean-up effort is currently in the process of being completed. The data share with DOL would be a one-time data upload; since 2009 civil commitment information is received electronically from the AOC.

If DSHS continues to be involved in background checks, it would be best to have a statutory change to allow for comparisons of information or audits of the records.

## Department of Licensing

### Consolidation of Statewide Involuntary Commitment Information

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#### 4. **Statute changes are needed to allow efficient data sharing and access to the data.**

Current statute restrictions stand in the way of creating efficiencies to verify eligibility to possess a firearm and consolidation of involuntary commitment information. Statutes sometimes seem to be in conflict regarding access to information and records.

Suggested language changes are available for most of these recommendations in a separate resource document (Appendix A):

- a. Add language to RCW 9.41.047(1) (b) authorizing courts to require the party petitioning for a commitment to provide the required information. Courts struggle to obtain complete information required for reporting loss of firearms rights like accurate name, date of birth, and sex.
- b. Reduction in the reporting requirements for county court clerks would assist them in providing faster reporting. Courts currently report ineligibility based on each order in a chain of commitments under the same case number. The NICS system only requires reporting once per case number. A simple clarification in RCW 9.41.047(1) (b) would eliminate multiple entries and reduce workload.
- c. Eliminate the requirement for law enforcement to run background checks through DSHS. Draft legislation was proposed in 2011. Language for this recommendation may be found in companion bills House Bill 1628 (Z-0272.3) and Senate Bill 5634 (Z-0019.4).
- d. DOL needs to be allowed to share information with designated mental health professionals, who need access due to safety concerns. This can be added to RCW 9.41.
- e. DSHS needs the authority to transfer their historic data to DOL so that DOL can appropriately share it with law enforcement and mental health professionals. This can be added to RCW 9.41.
- f. Additional statute changes are needed for clarity. For instance, RCW 71.05.390(17) allows disclosure of limited commitment information; to ensure clarity of DOL's authority to disclose, it is recommended that RCWs 9.41.047(2), 9.41.097(1), and 9.41.097(2) be amended.
- g. Authority needs to be provided to DSHS to allow DOL access to DSHS data for the purpose of conducting occasional comparisons or audits of commitment information in the DOL database. A statutory change to RCW 71.05.620 would allow DSHS access to files and records of court proceedings under chapters 71.05, 70.96A, 71.34 and 70.96B RCW in order to validate data received from other sources.

## Funding

DOL has estimated the cost to revise and enhance the current firearms database for storage of involuntary commitment information and additional access and query to the system by

## Department of Licensing

### Consolidation of Statewide Involuntary Commitment Information

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law enforcement in the field and DMHPs for safety information to be \$45,000. This is based on an estimate of approximately 500 hours of computer programming.

The additional access and query to the system by DMHPs and law enforcement will require set-up of a web page accessed using Secure Access Washington (SAW). There may be additional changes to the WSP ACCESS service to provide more information on convictions and involuntary commitments. DOL anticipates the need for up to one additional customer service FTE to assist users with system questions or issues.

The Firearms program at DOL is funded through the general fund. The workgroup is recommending that funding for these enhancements and continued maintenance of DOL's firearms database be provided.

### Summary

The workgroup's recommendation to consolidate statewide involuntary commitment information into DOL's firearms database is a cost effective solution requiring minimal changes to business practices for law enforcement and DMHPs. The recommendations will result in more accurate and efficient verification of eligibility to possess a firearm. It is anticipated the business process changes for law enforcement will result in time and efficiency savings.

In addition to content provided in this report, a significant amount of information was solicited from agency experts, authored by workgroup members, and collected as resource materials for the development of this report. To ensure brevity of this report, detailed information on the workgroup's discussions of issues, recommendations, and statutory changes has been consolidated into Appendix A. In addition, a separate resource document is available from DOL with detailed information on recommended statute changes necessary to authorize data share and access to data for purposes of accurate and efficient verification of eligibility to possess a firearm.

## Department of Licensing

### Consolidation of Statewide Involuntary Commitment Information

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#### APPENDIX A:

#### Summary of the Workgroups Issues Discussion and Proposed Resolutions

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The workgroup discussed many issues regarding consolidation of data, accuracy, and access to involuntary commitment information. A summary of the issues discussion and proposed resolutions is provided below.

#### Information Accuracy and Timeliness

The accuracy and timeliness of information is critical to verification of eligibility to possess a firearm and for use by law enforcement and Designated Mental Health Professionals (DMHPs) in the official course of their duties.

- When reporting loss of firearms rights per RCW 9.41.047(1)(b), courts are required to have personal identifying information such as that contained on a driver's license or ID card in order for National Instant Criminal Background Check System (NICS) or Department of Licensing (DOL) to properly identify the individual who has lost their firearms rights. Courts must receive complete information from petitioners in order to report the loss of firearms rights i.e., accurate name, date of birth, race and sex.

*Resolution: Recommend a statutory requirement that the petitioning party provide the court with required information. Add language to 9.41.047(1)(b).*

- Often, individuals are committed more than once per court case number yet the courts must still report the loss of firearms rights to NICS and DOL each time. The current law does not specify that if the loss of firearms rights has already been reported on an individual, there is no need to report it for every single order of commitment that individual receives less than one case number.

*Resolution: Recommend that courts only report the loss of firearms rights once per case number or if it's another court jurisdiction for the same individual. The current reporting requirements are in RCW 9.41.047(1)(b). A simple clarification to this statute could make this requirement clear.*

- Regional Support Networks (RSN) reporting in 24 hours (second portion of SB5282). Are all RSNs reporting? Are there lag times?

*Resolution: After review Department of Social and Health Services (DSHS) determined reporting times are continually improving. RSNs reported all mental health historical data to DSHS by August 1, 2013. Some RSNs report delays in receiving mental health commitment data from DMHPs which delays 24 hour reporting. DSHS has committed to continue to monitor this requirement. If the recommendation of a consolidated database with DOL is supported, this reporting requirement is no longer necessary.*

## Department of Licensing

### Consolidation of Statewide Involuntary Commitment Information

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- In 2010, DSHS provided a list of 45,000 records to NICS of person ineligible to possess firearms based on historical billing data. The list inaccurately included individuals with 72 hour commitment that are still eligible to possess a firearm.

*Resolution: In coordination, Washington State Patrol (WSP) and DSHS are auditing and cleaning the records DSHS provided to NICS. This along with the daily submissions by AOC covers the needed mental health information used in determining firearms rights through the NICS check. There is no additional state database needed for this purpose.*

- Concerns were raised that DSHS cannot validate the accuracy of its administrative data, data provided to DSHS by other sources, or data provided to the DOL database against court records. DSHS is currently prohibited access to files and records of court proceedings under chapters 71.05, 70.96A, 71.34 and 70.96B RCW that could be used to check the accuracy of the data.

*Resolution: Suggest a statutory change to RCW 71.05.620 to allow DSHS access to files and records of court proceedings under chapters 71.05, 70.96A, 71.34 and 70.96B RCW.*

- Ineligibility to Possess due to a Forensic Commitment - A concern was raised that criminal courts entering orders for restoration of competency under RCW 10.77 may not be reporting notice of ineligibility to possess a firearm through the Administrative Office of the Courts' (AOC) web application for inclusion in the DOL and NICS databases. If the case is not later converted to an RCW 71.05 commitment, or an RCW 71.05 petition is not granted by the court, an Ineligible to Possess a Firearm (ITPF) form may not be sent to AOC.

*Resolution: A best practice procedure will be created and disseminated to all the court personnel affected regarding reporting requirements on RCW 10.77, competency restoration commitment orders; no law change is required. RCW 9.41.040 and federal law already confer ineligibility to possess based on a RCW 10.77 order of commitment for restoration of competency. A sample of cases is being developed where no civil commitment followed the restoration order. That list will be checked to see if ineligible to possess a firearm (ITPF) orders were issued.*

#### Data & Data Access

For the workgroup, a consolidated database raises questions around who would need access to the information, how would it be packaged and made available, when should the information be available to criminal justice, what could they use the information for? Specifically, the issues discussed were:

- The DSHS database containing involuntary commitment information is a treatment service activity and billing record system, not a database for access of information to complete background checks. Currently, to complete a background check and verify

## Department of Licensing

### Consolidation of Statewide Involuntary Commitment Information

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any discrepancies in information requires review of billing data, additional DSHS database systems and manual review of records. To complete a background check is a highly manual process.

*Resolution: Recommend that DSHS should no longer complete firearm background checks for involuntary commitment information with the condition that the validation of historical records project is completed in a timely manner. Law enforcement and DMHPs will access DOL's database.*

- Currently, AOC provides information daily to NICS. If a consolidated state database is created, AOC will be providing the same information to a consolidated database that they already provide NICS. A state consolidated database would be a redundant data source as it relates to pistol transfers and concealed pistol licenses. Can NICS, as a federal information resource, be accessible to law enforcement for the administration of criminal justice purposes and to the RSNs for their related duties?

*Resolution: Direct access to NICS by law enforcement in the field for first responders and DMHPs is not an option. Direct access to NICS is available through ACCESS. The only acceptable uses of NICS, identified by the FBI, are for law enforcement to determine firearms transfers and concealed pistol licenses. DMHPs would not meet the definition of a criminal justice agency and use of NICS by law enforcement for purposes other than background checks for firearms would not be permitted.*

- Pre-2009 civil commitment information has not been reported to NICS by the courts, only by DSHS. Can AOC now report that historical information? The AOC cannot directly report pre-2009 civil commitments to NICS due to how the data was entered and stored in SCOMIS and JIS databases. Furthermore, JIS/SCOMIS does not have all the data for commitments in criminal cases. Due to generic order codes in JIS, verification of information would need to be done via review of paper files and the microfiche collection of the court that issued the order.

*Resolution: Do not report pre-2009 court information. Rely on DSHS information previously reported prior to 2009. DOL's system should be enhanced to include, with the ineligible to possess firearms information, an identifier as to the reason for ineligibility of either a conviction or an involuntary commitment and "pointer" information of the case number and identification of the court in order to obtain additional information.*

- Law enforcement needs one place to check eligibility for possession of a firearm with a pointer to agency of record for additional information. Today, law enforcement officers check DOL records through the ACCESS switch and see an ineligibility to possess a firearm. The officer cannot determine whether or not the ineligibility is due to a mental health prohibition or criminal conviction. In addition, if information is needed by law enforcement to complete an investigation this information is not accessible through ACCESS.

## Department of Licensing

### Consolidation of Statewide Involuntary Commitment Information

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*Resolution: The fact of commitment, the date, and facility can be disclosed to law enforcement under RCW 71.05.390(17). This statute may be cited as authority for DOL to disclose commitment information to law enforcement via its database. To ensure clarity of authority to disclose firearms database information to law enforcement the workgroup recommends amending RCW 9.41.047(2), RCW 9.41.097(1), and RCW 9.41.097(2) to clarify the authority.*

- As noted in the above issue, statute currently authorizes law enforcement to determine from DMHPs whether or not a person is ineligible to possess due to a mental health prohibition and the fact of commitment, the date, and facility can be disclosed to law enforcement. However, RSN representatives on the workgroup perceive that general access to this data should be prohibited unless for the specific reason of determining ineligibility to possess a firearm and not for other general investigative purposes. The concern is based on the inability to ensure “total protection” of the database by an un-authorized person or for unauthorized use, other than a firearms issue, of the information.

*Resolution: There is no way to ensure “total protection” of the database from unauthorized persons or for unauthorized purposes. Currently, in order to have access to the DOL’s firearms database the accessing entity must be a law enforcement or correctional agency and have full criminal justice agency status. The second step to authorization to access the database is to be approved as an agency and individual by the Washington State Patrol for authorized use of ACCESS to query information. If DOL’s database is accessible to law enforcement in the field for first responders access protocols will need to be reviewed. If DOL’s database is accessible to DMHPs, protocols will need to be established for authentication of authority to access information in the official course of their duties. “Official course of their duties” will need to be clearly defined in the protocols.*

- A DMHP dispatched on a crisis visit needs efficient and timely verification of previous civil commitment information. Under RCW 71.05.715, any DMHPs dispatched on a crisis visit shall have prompt access to information about any history of dangerousness or potential dangerousness on the client they are being sent to evaluate that is documented in crisis plans or commitment records and is available without unduly delaying a crisis response.

*Resolution: Recommendation DMHPs get access to DOL’s database. This will require enhancements to DOL’s database to include, with the ineligible to possess firearms information, an identifier as to the reason for ineligibility of either a conviction or an involuntary commitment and “pointer” information of the case number and identification of the court in order to obtain additional information.*

## Department of Licensing

### Consolidation of Statewide Involuntary Commitment Information

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#### Issues Beyond the Scope of the Workgroup

During the workgroup's discussions, other issues were identified as beyond the scope of workgroup's requirements identified in SSB 5282. The workgroup determined it was important to share the issues, however due to limited time available to the workgroup to meet the requirements of SSB 5282 these issues were not discussed in detail nor are recommendations proposed.

- Restoration of Rights – Washington State does not have a federally-certified “relief from disabilities” provision. Although state law currently has a mechanism to seek restoration of firearm rights following a civil commitment (see RCW 9.41.047(3)), the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has determined that the State's law does not meet federal certification criteria under the NICS Improvement Amendments Act of 2007. This means that Washington citizens do not have an effective law that will result in complete restoration of rights such that they can pass a federal NICS background check after receiving an order of restoration by a state court. In addition, the state is ineligible to apply for federal records improvement grants under the NIAA. A bill to correct this situation was drafted in the 2013 legislative session as S-0187.2/13 but no member sponsored it.
- Record Clean-up – In 2010, 45,000 commitment records were reported to NICS by DSHS based on historical billing data. Due to a misunderstanding the list inaccurately included individuals with 72 hour commitments who are still eligible to possess a firearm. WSP and DSHS will start a process to audit and clean the records DSHS provided to NICS.
- Proposed legislation in HB 1839 (2013) – If it passes, this bill will have an impact on this workgroup's recommendations. The bill requires that if a person is buying a pistol and has a valid CPL issued on or after July 22, 2011, the dealer is not required to do a state or NICS background check for as long as the five-year concealed pistol license remains valid.
- Convictions - Maintain minimal information in the DOL database regarding persons who have been convicted and are now ineligible to possess a firearm. DOL currently receives this data but only keeps it if there is a link to a license that exists in the database.
- Revocation or Forfeiture of Firearm – Per 9.451.075 (2) and 9.41.047 (2), law enforcement is responsible for the revocation of concealed pistol licenses and arrangements for either turning in or obtaining proof of lawful transfer of ownership of the firearms. Due to limited resources for most law enforcement agencies this process is handled with a letter to the person notifying them of lawful requirements once identified to be ITPF. No further follow-up is done.
- Increase Fiscal Support for Law Enforcement's Role – Law enforcement receives only \$14 (plus \$4 for fingerprint fee) of the \$52.50 fee to process a concealed pistol license application and they receive no reimbursement for performing background

## Department of Licensing

### Consolidation of Statewide Involuntary Commitment Information

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checks on behalf of firearms dealers for pistol transfers. The concealed pistol license fee has not changed since 1994.

Allocation of revenues from fees collected for a concealed pistol license is regulated in statute. Fees are allocated as follows:

FUND (Fee allocation)	Original CPL License (Application)	CPL Renewal	CPL Late Renewal
General Fund	\$15.00	\$15.00	\$15.00
Issuing Authority or Agency	\$14.00 plus \$4.00 Local Fingerprint fee	\$14.00	\$21.00
Firearms Range Account	\$3.00	\$3.00	\$3.00
FBI (Finger Print Fee)	\$16.50	-	\$3.00
Range Account	-	-	\$3.00
<b>TOTAL COST</b>	<b>\$52.50</b>	<b>\$32.00</b>	<b>\$42.00</b>

The amount of fees allocated to the general fund account has not changed since 1994. The last change to the concealed pistol license fees was a slight reduction in 2012, the result of a finger print fee reduction by the FBI. Any additional fee revenue could support ongoing maintenance and upgrade of the firearms database as well as additional funding to the issuing authority.

- Single Point of Contact (Oregon) - Discussed recommending Washington to become a “single point of contact state” as an alternate consideration for our recommendations. Oregon’s single point of contact:
  - Individuals who wish to purchase firearms can contact a dealer/private party. In turn the dealer/private party will contact the Firearms Unit in the Division of the Oregon State Police (OSP) to run a background check for the purpose of purchasing a firearm.
  - An individual who wishes to obtain a concealed pistol license, contacts the county Sheriff’s Office (SO). The Sheriff’s office will take fingerprints and other pertinent information and send a request for a background check to the Fingerprint Unit at OSP. The results of that background check is returned to the Sheriff’s Office, which then makes the determination if the individual is eligible for the concealed pistol licenses.
  - OSP maintains a database containing minimal information (name, date of birth, and gender) on individuals who have been either civilly or criminally committed in the state of Oregon. These records are provided by the Oregon Health Authority (civil), Psychiatric Review Board (criminal), and the Department of Human Services (civil). This information is sent to NICS. When a firearms background check is performed by OSP’s Firearms Unit, the system searches the NICS Index for the mental health information. Currently, mental health records are only to be used for firearms purchaser/concealed handgun licenses.