



State of Washington
DEPARTMENT OF FISH AND WILDLIFE

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December 30, 2022

The Honorable Christine Rolfes
Chair, Senate Ways and Means
303 John A. Cherberg Building
Post Office Box 40466
Olympia, WA 98504-0466

The Honorable Timm Ormsby
Chair, House Appropriations
315 John L. O'Brien Building
Post Office Box 40600
Olympia, WA 98504-0600

The Honorable Kevin Van De Wege
Chair, Senate Agriculture, Water
Natural Resources, and Parks
212 John A. Cherberg Building
Post Office Box 40424
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The Honorable Mike Chapman
Chair, House Rural Development,
Agriculture, and Natural Resources
132B Legislative Building
Post Office Box 40600
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Dear Chairs,

I am writing to provide you with the Washington Department of Fish & Wildlife's annual report to the legislature regarding enforcement of Initiative 1401 - the Washington Animal Trafficking Act. The Department is required to submit an annual report (per RCW 77.15.135) outlining current and future enforcement activities and strategies related to the Washington Animal Trafficking Act.

In 2015, Washington State residents passed Initiative Measure No. 1401, which concerns the trafficking of animal species threatened with extinction. Later known as the Washington Animal Trafficking Act, this measure makes the selling, purchasing, trading, or distribution of certain animal species threatened with extinction, and products containing such species, a gross misdemeanor, or class-C felony.

The following report includes background on the Washington Animal Trafficking Act, describes the Department's current activities, catalogues the Department's funding and expenditures, and lays out the Department's plans for addressing wildlife trafficking in the future.

If you have any questions or concerns about this report or the Department's enforcement of wildlife trafficking activities, please feel free to contact Tom McBride, WDFW's Legislative Director, at (360) 480-1472.

Sincerely,

Kelly Susewind
Director

The Washington Animal Trafficking Act

Report to the Legislature



December 2022

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For more information, see <https://wdfw.wa.gov/accessibility/requests-accommodation>.



Executive Summary

Global Wildlife Trafficking

Effective December 3, 2015, Initiative 1401 amended and created a new section of the Revised Code of Washington (RCW) to make it a crime to sell, offer to sell, purchase, trade, barter for, or distribute any covered animal species part or product. Covered animal species are any species of elephant, rhinoceros, tiger, lion, leopard, cheetah, pangolin, marine turtle, shark or ray. Covered animal species are defined, in RCW 77.08.010, as any of the previously listed species that are: 1) listed in Appendix I or II of Convention on International Trade in Endangered Species of wild flora and fauna; or 2) listed as critically endangered, endangered, or vulnerable on the IUCN “Red List” of threatened species.

Implementation of the Washington Animal Trafficking Act

Washington Department of Fish and Wildlife (WDFW) Police is the law enforcement agency tasked with the authority to enforce the Washington Animal Trafficking Act (WATA), representing a significant responsibility for the agency. The work is a natural fit for the Department, with detectives specializing in investigating illegal trade in local natural resources, as well as a presence at border crossings, marine ports, and airports.

Department efforts to address wildlife trafficking support the act’s emphasis on eliminating markets for illegal goods and reducing the profits of those who procure, traffic, and sell them by engaging in outreach and education among the public. WDFW continues enforcement of the act through the authority the WATA grants, in partnership with international enforcement bodies to protect remaining animals currently at risk.

Ongoing success protecting endangered and threatened species, both globally and locally, depends upon bolstering cross-border partnerships, outreach and education, strong relationships with state and local prosecuting attorneys, and continued resources to investigate and eliminate markets for wildlife trafficking.

The report summary will provide 1) a description of investigative activities generated by WDFW Enforcement officers and detectives; 2) highlights of WDFW Enforcement’s WATA coordination and partnership efforts with the public, other regulatory agencies, and non-governmental organizations; and 3) a summary of observed WATA trends and other related issues of potential concern.



Current Activities: 2022

Outreach and Education

In May of 2022 the Seattle-Tacoma International Airport, the Association of Zoos and Aquariums' Wildlife Trafficking Alliance, Woodland Park Zoo, Point Defiance Zoo & Aquarium, Northwest Trek Wildlife Park along with the U.S. Fish and Wildlife Service and the Washington Department of Fish and Wildlife partnered to display the Savvy Traveler exhibit. This exhibit was the first proposed at the onset of the COVID pandemic. The goal of the exhibit is to bring attention to the potential impacts to endangered species travelers may have when they purchase various wildlife parts or souvenirs.

The exhibit displays items unlawfully possessed or could not be sold with the passage of I-1401. WDFW Detective Clementson was an instrumental part of the initial process to develop the exhibit and was able facilitate the transfer of some of the displayed items from WDFW.



The first-of-its-kind interactive installation to help stop wildlife trafficking at SEA Airport.

Photo credit: Katie Cotterill, Point Defiance Zoo & Aquarium and Northwest Trek Wildlife Park, Port of Seattle:
<https://www.portseattle.org/news/savvy-travelers-can-stop-wildlife-trafficking-sea-airport-and-beyond>.



Enforcement Training

The detectives of the Statewide Investigative Unit (SIU) are primarily responsible for investigating unlawful wildlife trafficking matters, to include I-1401 complaints, within the State of Washington. Detective Clementson, the Senior Detective within SIU and the most experienced detective concerning I-1401 species was activated for military service throughout 2022. To ensure WDFW was able to adequately pursue complaints regarding the unlawful sale of protected species, SIU detectives committed to taking advantage of training opportunities through the University of Washington and the U.S. Fish and Wildlife Service (USFWS) at the national forensic lab in Ashland, Oregon.

Dr. Wasser of the University of Washington Center of Environmental Forensic Science provided the detectives with an extensive overview of his ongoing work concerning the DNA tracking of African Elephants along with how smugglers are trying to conceal their shipping of poached elephant tusks. The UW Center also provided an introduction into their canine detection program used in conjunction with various federal agencies to detect undocumented shipments of wildlife parts through ports of entry into the United States.

Following this introduction, three detectives were granted an opportunity to attend a two-day training at the USFWS National Forensic Lab in Ashland, OR. This hands-on lab provided the necessary training to better be able to identify elephant ivory, worth more than cocaine when compared kilogram to kilogram, on the black market. From this training the detectives were also provided a much-needed identification kit which contained equipment which can assist in the detection of ivory.

Ongoing Investigations

For the past several years, because of high profiled investigations and prosecutions of I-1401 violations along with an aggressive media campaign regarding I-1401 related activities, there has been a decreasing number of complaints received regarding the unlawful trafficking of these protected species. Most of the complaints received in 2022 were related to the online auction of unique estate items. To best address these auctions, detectives focused on educating the auction company to ensure they were fully aware of the prohibitions under I-1401. The responses from most of the companies has been very positive with items in questions being removed from the listings. From some of these contacts the families have decided to donate the items to WDFW to ensure such items are not sold in the future.

The concern of protecting these sensitive and endangered species is not limited to the just the State of Washington. In the spring of 2022 WDFW detectives were contacted by Dr. Wasser of the University of Washington. He advised that an individual from the Great Lakes area had attempted to send him a pair of elephant tusks, which were to be donated to UW for research purposes. Unfortunately, the box arrived empty, with a large hole on one end, giving it the appearance, the tusks had somehow broken through and fell out while in transient. A joint investigation by WDFW detectives along with Special Agents from the USFWS and Postal Inspectors from the U.S. Postal Service was initiated. Unfortunately, the package tracking ability by the U.S. Postal Service was not functioning properly and it could not be determined when the tusk might come out of the package. At this time, we only know it arrived empty but had initially been shipped with a weight of over nine pounds. Based on a black-market value upwards of \$2,500 per kilogram (China Save the



Elephants September 9, 2021), the near 8 lbs. of elephant ivory have a potential black-market value of just over \$9,000.

As noted previously, WDFW Enforcement is routinely contacted regarding the possession and potential sale of various protected species. This year WDFW Enforcement was again contacted to determine the legality of selling an elephant mount harvested in the mid-1920s. The current owners attempted to pursue the 100-year exception but could not provide the necessary “historical documentation evidencing provenance and showing the antique to be less than one years old...” In speaking with the caller, it was learned the original elephant tusk had been left in Africa at the time of the harvest and the “tusks” on the mount were made of wood. The training received this year had noted this was a means of substituting tusks to other markets. Unfortunately, the hide of the elephant mount was real and made the item illegal to sell in Washington. The caller then opted to take the mount to another state to sell the piece on the internet. We reached out to our federal counterparts, and they notified the want to be seller of the potential federal laws they would be violating. By selling a protected species lawfully possessed prior to a certain date, the item loses its protection and is subject to seizure along with the potential of federal charges being filed. The want to be seller decided to pursue other options and not sell the mount, in any state.

At the time of this writing, WDFW detectives are involved in an investigation in which an auction company, previously warned about selling protected wildlife items, is potentially mis-labeling items as “bone” carvings. The items were only available to view online and were being held at an undisclosed location. To proceed with the investigation, detectives were needing to bid against others, who appeared to have both a large sum of money and a strong desire to purchase the many items thought to be made from elephant ivory. This was the first time we have experienced an auction which was solely online. With limited funding for such bidding and needing to win a bid in order to determine the actual item is part of a protected species, investigating future online only auctions maybe very limited because of funding. The outcome of this case will be captured in the 2023 report.

Other Notable Unlawful Trafficking Investigations

As noted in the 2021 report, unlawful trafficking of fish and wildlife does not appear to be decreasing, rather it is getting more complex as the traffickers respond to our previous investigations by taking more aggressive steps to conceal their actions. WDFW detectives and officers are engaged in several large, on-going investigations concerning the unlawful intra and interstate trafficking of a wide range of Washington native species. I only note this as we are having to address a variety of duties and we are attempting to prioritize our time to be as effective as possible with our limited resources.

Notable Outcomes

In 2022 Joseph R. Ortaliza, who was previously convicted of selling a necklace of a “covered animal part” filed a RALJ appeal in King County Superior Court. The court found in favor of the plaintiff (State of Washington) stating that the identification process completed by the WDFW detectives and forensic experts met and satisfied the courts when they accurately identified the species from which the item had been made. The court further found that RCW 77.15.136 (I-1401) is a strict liability offense, meaning we do not need to prove actual knowledge they were committing a crime, rather we just need to prove the act was committed. This ruling occurred post the BLAKE decision



concerning simple possession of illegal drugs when the courts ruled one must have knowledge, they possess an illegal drug to be charged. In the Ortaliza matter the court ruled that it is a well-established when ruling on wildlife matters that strict liability is the common approach and this approach “also parallels wildlife protection statutes federally and in other states, including the Endangered Species Act, the Migratory Bird Treaty Act, and wildlife trafficking statutes in New York, New Jersey, and Oregon.” (State of Washington vs Ortaliza, Joseph Roy -Appellant/KCD 8-16-22).

Inspections

As part of their normal duties, WDFW commissioned staff are required to complete routine inspections of businesses associated with the industries WDFW regulates. These businesses include fish processors, wholesale dealers, secondary fish dealers (retail outlets), pet stores, as well as other similar businesses. As part of our ongoing training related to all aspects of illegal trafficking of wildlife, officers are now focusing time on such web sites as Craigslist’s and Offer Up. In addition to these regulated inspections, WDFW detectives have been tasked with conducting monthly online searches for posts concerning the illegal sale of protected wildlife.



Partnerships

United States Fish and Wildlife Service (USFWS)

WDFW continues to maintain a healthy investigative relationship with both Pacific Region uniformed inspectors and Special Agents. A change in USFWS leadership in early 2022 has strengthened the partnership between WDFW and USFWS. As of this writing the USFWS forensic lab in Ashland has become for accessible to detectives for testing purposes. The two agencies are also involved in several joint, long-term investigations involving the trafficking of a variety of fish and wildlife. As part of our ongoing working relationship, USFWS has requested WDFW assign a designated detective to be part of a large federal task force to focus on large investigations occurring in the Pacific Northwest. The assigned detective will continue to focus on Washington related crimes but lend their expertise and knowledge of Washington regulations. USFWS remains an active, productive partner to WDFW in WATA and other investigative activities.

Food and Drug Administration (FDA)

While joint WDFW-FDA investigative collaborations were minimal in 2022, the relationship is vital to effective, proactive activities involving import/export and inspections/investigations associated with in-bond areas.

United States Department of Agriculture (USDA)

There was no significant activity to report concerning the ongoing cooperation between WDFW and the USDA. Our relationship remains strong, and they continue to support us as they can.

National Oceanic and Atmospheric Administration (NOAA)

WDFW's strongest partner based on the large fishing industry in Washington. This past year two new Special Agents joined the Washington based office of NOAA and are actively involved in several inter-state and international trafficking cases with WDFW detectives.

Woodland Park Zoo

Woodland Park Zoo representatives continue to be a great asset for WDFW WATA enforcement efforts. Whether hosting/sponsoring WATA-related events, or routinely sharing their Subject Matter Experts as part of WDFW investigations, the Zoo has proven to be a reliable, active ally in WDFW WATA activities.

Point Defiance Zoo & Northwest Trek

Like the Woodland Park Zoo, both Point Defiance Zoo and Northwest Trek maintain an active dialogue with WDFW officers and readily assist as needed.

Natural Resource Defense Council

While this east coast-based non-governmental organization (NGO) addresses a wide variety of environmental concerns, one of its divisions deals almost exclusively with shark conservation. That division's Director (Pacific Ocean Initiative), Elizabeth Murdock, routinely communicates with



WDFW's Statewide Investigative Unit's detectives and provides updates on bigger-picture trafficking trends and serves as a great conduit for gathering from/disseminating information to places outside of state borders.

Animal Welfare Institute (AWI)

Like the Natural Resources Defense Council, this Washington D.C.-based NGO conducts an annual assessment of potential entities across the country suspected of selling shark fin product. Since 2019, AWI has provided WDFW Enforcement with its assessment reports and works with WDFW officers and detectives to vet its information. AWI has committed to continue providing updated information to WDFW each year.

Center for Conservation Biology Laboratory

Contacts between WDFW and the University of Washington's (UW) genetic lab were greatly increased from previous years. Dr. Wasser and his assistants provided several hands-on training events for WDFW detectives. They also assisted with attempting to properly identify suspected ivory items. This was beneficial to the detectives as well as providing a glimpse into the difficulties of enforcing trafficking laws in the field and not in a lab environment.

Conferences

One of the best to partnership in wildlife trafficking trends is to attend such conferences Association of Fish and Wildlife Agencies (AFWA) Enforcement group and the Western Wildlife Investigator Conference (WWIC) or their regional counterparts. These conferences allow for wildlife investigator to come together and discuss national trends in the trafficking of wildlife as well as identify techniques used to counter this activity. Once this networking occurs investigators can learn from one another and get steps ahead of a situation based on another's experience.



Trends

Online sales of all goods and services seem to be on an increase for many reasons to include the ease of sales to a larger number of individuals in multiple states and countries, being discrete or anonymous, as well as the ability to hide the actual product by using unique terms or phrases. There has also been an increase in web-based platforms where one needs to be invited in before access is allowed. Also complicating investigations associated with these dark web sites is how these businesses are unwilling to cooperate with law enforcement.

These platforms utilize: 1) foreign language; 2) transitory chat maintained/stored on servers in foreign countries; 3) third-party financing entities which sever direct linkages between supplier and buyer; and 4) unique item/services access to users based on race/ethnic origin. Fully covert trading sites, as those found on the dark web, are largely unassessed and on the rise by sellers.

WDFW Enforcement is also seeing an increased level of trafficking activity associated with State Protected Species, Deleterious Exotic Species, and Aquatic Invasive Species. Finding a balance between working WATA specific cases versus native species trafficking cases is a delicate balancing act.

Important to any successful investigation regarding unlawful trafficking of wildlife is having an aggressive prosecutor who is willing to step up and dedicate staff and resources. In areas where WDFW has demonstrated the importance of prosecuting such cases, the results are positive. In counties like Lewis and Grays Harbor where the prosecutors have demonstrated a strong willingness to prosecute those whose actions demonstrate intent or knowledge versus being simply unaware, the message is well received by those playing or working with the state's natural resource. All too often it is a lack of prosecution which causes the greatest threat to the State's wildlife. In recent years, especially with the onset of COVID-19, wildlife cases have taken an even further backseat with many county prosecutors. In response to the declining number of wildlife violators being prosecuted, Washington legislators enacted Engrossed Substitute Senate Bill 5693. This bill provides for pass through funding to the AGO to ensure proper and sufficient prosecution of the most egregious violations. We are currently in the dawn of this legislation, however the partnership that is building is very promising. This year's report, [Environmental Protection Division of the Attorney General Office](#), was submitted on December 1, 2022.

