

SAN FRANCISCO POLICE DEPARTMENT
Gregory P. Suhr
Chief of Police

The Federal Government has tried to stem the occurrence of straw firearms sales by making the first question on the Federal Firearms questionnaire form about whether the firearm is being purchased by the actual final receiver. Answering falsely and signing this document under penalty of perjury is a violation of falsifying a federal document.

A petite form of straw sales is seen in single firearms transaction between a non-prohibited person and the truly intended receiver being a prohibited person. San Francisco currently has such as case involving a prohibited male who was denied the delivery of a firearm due to a 2006 felony conviction for possession of dangerous drugs.

The firearm in this transfer was a private-party transfer. When the buyer was denied, although the firearm should have gone back to the seller or to a law enforcement agency, a new clerk in the store sold this rifle to the wife of the prohibited person. When the woman came in to pick up the rifle, the prohibited husband was with her. The United States Attorney is reviewing this case for prosecution.

Placing the responsibility on the store to stop straw sales is helpful; however, as was witnessed in this latest case, the manager was not aware that his new clerk had sold the rifle to the wife of the prohibited person. Furthermore, the wife has Second Amendment rights, but the Department of Justice requires that the non-prohibited party prove the firearm can be stored so that the prohibited person cannot gain control of the firearm. This normally requires a home visit by the DOJ as well as the purchase of a firearms safe which the prohibited person cannot access.

To this end, the DOJ emphasizes to its licensed firearms dealers that they are the guardian of their licenses, and they have to be ever vigilant against straw violations occurring in their store.

On a larger scale, local law enforcement agencies in the Bay Area have seen an increase in the past few years of larger, more organized operations of straw sales. These involve suspects who will illegally buy guns in another state and bring them back into California for future customers; also referred to as gunrunning cases.

During 2004 to 2008, the California Department of Justice identified and arrested numerous suspects going to gun shows in Reno, Nevada, to purchase firearms from residents of Nevada. The weapons were then transported across state lines into California.

The gunrunners who were arrested by the DOJ commonly have Nevada identification and easily purchase firearms at any of the Reno or Las Vegas guns show or firearms dealers. Nevada gun laws do not require their residents to go through a licensed firearms dealer when transferring a firearm as California residence are required to do.

Coupled with the fact that it is easy to acquire a driver's license makes Nevada an easy venue in which prohibited persons can acquire firearms.

Another large scale straw operation was identified in a 2009 investigation by the Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATFE). The focus was on a prohibited person in Vallejo, California, who was using his girlfriend's relatives in Georgia to straw purchase over 125 firearms, which were ship to California and sold to prohibited customers.

To date, local law enforcement has recovered over 65 of the 125 straw-purchased firearms in this case. The San Francisco Police Department has recovered nine of the 65 recovered firearms, many during probation searches and the investigation of gang cases. One gun was recovered in a car which was parked next to a homicide scene. Sadly, one firearm illegally purchased by this group is linked to the 2011 killing of a Vallejo Police Officer James Capoot. Officer Capoot leaves a wife and three daughters, was well regarded in his community, and was a foster parent and coach of the high school girls' basketball team.

A BATFE source advised that Hi Point pistols were the ones most commonly straw purchased in the aforementioned case. These handguns commonly retail for \$300 to \$400. The BATFE source advised that the suspects in the aforementioned case commonly charged their prohibited customer \$900 for each pistol.

The consequence of straw sales of firearms in San Francisco can be seen in the constant recovery of firearms in criminal and non-criminal cases where the record of ownership is not to the person found with the firearm. The genesis of the firearms illicit travel could have occurred in a theft; however, the subsequent transfer into illegal hands ultimately constitutes a knowing transfer of a firearm to a person who cannot lawfully possess the firearm.