



Statement of President LaBahn on Gun Trafficking Crime

March 12, 2012

The Association of Prosecuting Attorneys (APA) is a national non-profit whose mission is to support and enhance the effectiveness of prosecutors in their efforts to create safer communities. We are the only national organization to include both appointed and elected prosecutors, as well as their deputies and assistants, whether they work as city attorneys, city prosecutors, district attorneys, state's attorneys, attorneys general or US attorneys. Through our Board of Directors and President's Advisory Council, we have representation from many of the major jurisdictions including: Atlanta, Philadelphia, Los Angeles, New York, Chicago, Portland and Milwaukee.

On behalf of APA, I am pleased to have the opportunity to offer our assistance in efforts underway here in Congress to address the serious problem of gun violence. This includes the trafficking of weapons intrastate, interstate and internationally. Many of these weapons are obtained through what has been identified as "straw purchasing." Under current federal law, we could find no specific provision addressing the high volume of firearms being trafficked. This is in addition to the difficulties experienced by both law enforcement and prosecutors in enforcing current statutes and regulations. Due to the lack of a dedicated federal statute prohibiting illegal gun trafficking, large numbers of guns are diverted from legitimate commerce into the criminal marketplace every year. As prosecutors, we are well aware of how specific legislation can help or hinder our ability to do our jobs. We agree with policy contained in the proposed legislation prohibiting the purchasing, attempting to purchase, or transferring a firearm with the intent to deliver the firearm to another person who the transferor knows or has reasonable cause to believe is prohibited by federal or state law from possessing a firearm.

APA supports efforts to end the dangerous practice of purchasing firearms for someone who is legally precluded from purchasing the gun themselves, commonly known as straw purchasing. According to the Bureau of Justice Statistics, 40 percent of criminals obtain firearms from friends or family members. Another 40 percent obtain firearms from illegal sources on the street. This practice leaves no record of the owner of a firearm and more importantly, allows for firearms to end up in the possession of dangerous individuals who are not legally allowed to purchase the weapons for reasons of sound public policy.

Currently, straw purchases may be unlawful if the purchase was made at a federally licensed firearm dealership. However, the crime is not that of being a firearm trafficker or straw purchaser, rather the potential offense is making a false statement on a federal Firearms Transaction Record. Straw purchases of used guns are not illegal, unless the gun is used in a crime and the straw purchaser has knowledge of the intended use. For example, the guns used during the shooting at Columbine High School in 1999 were purchased at a gun show by an 18 year-old friend for the two killers who were both under the legal age to buy firearms. Because the gun show was not considered a licensed dealer and the purchaser had no knowledge of the two killer's intentions, there was no legal manner to hold her accountable and prosecute her for the actions that set into motion the mass killings.

Several states have adopted their own prohibitions on straw purchasing, including California, Colorado, Delaware, Illinois, Maryland, Nebraska, Ohio and Oregon. Most recently, Pennsylvania amended there statute after Officer Fox was killed by a convicted felon who was also the prime suspect in an unsolved murder. This ambush killing has been included as an example for this panel and the killer was able to purchase nine (9) guns through straw purchases.

Although more states are beginning to address the issue of gun trafficking and straw purchases, without a dedicated federal statute, offenders will continue to find loopholes and firearms will end up in the hands of dangerous individuals without anyone being held accountable. The federal statute being considered will complement the legislative efforts of the states and lead to uniform enforcement on appropriate cases.

I am available to answer any questions you may have, and thank you for your attention to this real and pressing public safety issue. Federal legislation is a needed to address the high volume of firearms being trafficked and purchased illegally resulting in killings which may have been preventable, including U.S. law enforcement officers. My staff and I can be reached at our Washington, DC Office at 202-861-2480, email of David.LaBahn@apainc.org or our website at www.APAInc.org.