

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: ~~3/7/2005~~ 3/7/2005

BILL NO. AB 664

SUBJECT \_\_\_\_\_

Senator Gary Dreweicki  
(NAME)  
419 Washington Street  
(Street Address or Route Number)  
Polaski WI 54162  
(City and Zip Code)

(Representing) \_\_\_\_\_

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O. Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 7-7-00

BILL NO. AB 664

SUBJECT \_\_\_\_\_

REP SCOTT GUNDERSON  
(NAME)  
(Street Address or Route Number)  
(City and Zip Code)

(Representing) \_\_\_\_\_

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O. Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: March 7, 2000

BILL NO. AB 664

SUBJECT \_\_\_\_\_

Rep. Mark Gundrum  
(NAME)  
(Street Address or Route Number)  
(City and Zip Code)  
84th A.D.

(Representing) \_\_\_\_\_

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O. Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 3/7/2000

BILL NO. AB 664

OR

SUBJECT \_\_\_\_\_

Scott Manley

(NAME)

303 Maple Valley Dr. #302

(Street Address or Route Number)

Madison, WI 53719

(City and Zip Code)

Sen. Gary Drezwicki

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O.Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 3/7/00

BILL NO. AB 664

OR

SUBJECT \_\_\_\_\_

Roy Korte

(NAME)

123 W. Washington

(Street Address or Route Number)

Madison, WI

(City and Zip Code)

DOJ

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O.Box 7882  
Madison, WI 53707-7882

**SENATE HEARING SLIP**

(Please Print Plainly)

DATE: 3/5/00

BILL NO. AB 664

OR

SUBJECT \_\_\_\_\_

John P. Engel

(NAME)

4230 N. Oakland Avenue

(Street Address or Route Number)

Milwaukee, WI 53211

(City and Zip Code)

WAVE Educational Fund

(Representing)

Speaking in Favor:

Speaking Against:

Registering in Favor:

but not speaking:

Registering Against:

but not speaking:

Speaking for information only; Neither for nor against:

Please return this slip to a messenger PROMPTLY.

Senate Sergeant-At-Arms  
State Capitol - B35 South  
P.O.Box 7882  
Madison, WI 53707-7882

# Wisconsin State Senate

PLEASE REPLY TO:  
State Capitol  
P.O. Box 7882  
Madison, WI 53707-7882  
(608) 266-5670

E-MAIL:  
Sen.Drzewiecki@legis.state.wi.us  
TOLL-FREE LEGISLATIVE HOTLINE:  
1-800-362-9472



**GARY DRZEWIECKI**  
**Senator**

Representing Brown, Marinette and Oconto Counties

March 7, 2000

Senator Gary George, Chairman  
Senate Committee on Judiciary & Consumer Affairs  
State Capitol – Room 118 South

Dear Chairman George and Members of the Committee:

I am writing to urge your support for passage Assembly Bill 664, a bill that would make it a felony to engage in illegal straw firearm purchases. I would greatly appreciate your support for this much-needed legislation.


There are a number of reasons why persons are prohibited from possessing a firearm under Wisconsin law, including being a convicted felon. One tactic that convicted felons use to illegally obtain a gun involves a straw purchaser. A straw purchaser is someone who is not currently prohibited from possessing a firearm. As such, they have no trouble passing the DOJ criminal background check when attempting to buy a gun from a licensed dealer. After successfully purchasing the gun, the straw buyer sells or otherwise transfers ownership of the firearm to the convicted felon.

Assembly Bill 664 addresses this specific concern by adding a question to the DOJ criminal background check form asking prospective buyers "Are you purchasing this firearm with the purpose or intent of transferring it to a person who is presently prohibited from possessing a firearm under state or federal law?" Under the bill, any person convicted of straw buying by intentionally providing false information in response to this question would be guilty of a felony, punishable by up to 5 years imprisonment. As amended, AB 664 would also give the attorney general the same authority as district attorneys to prosecute instances of straw buying.

By asking a crystal clear question on the criminal background form, AB 664 will make it easier to prosecute straw buyers and keep guns out of the hands of criminals. The bill correctly attaches a felony conviction to those found guilty of straw buying. As convicted felons, straw buyers will never pass a criminal background check again, and will therefore be prevented from repeating their crime.

I hope I can count on your support for this bipartisan legislation, which passed the State Assembly in January on a unanimous vote of 97 to 0. Thank you for your consideration.

Sincerely,

  
**GARY F. DRZEWIECKI**  
State Senator  
30<sup>th</sup> Senate District

**Date:** March 10, 2000

**To:** Senate Committee on Judiciary and Consumer Affairs

**From:** WAVE  
A non-profit organization committed to reducing gun violence in Wisconsin while respecting the lawful and responsible use of firearms for hunting and recreation.

**Re:** **AB 664:** A bill relating to providing information to a firearms dealer when purchasing a handgun and providing a penalty.

### **Position**

WAVE opposes AB 664, in its current form, as a means to more effectively keep guns out of the hands of criminals and children.

### **Problem**

Under current law individuals that seek to purchase a handgun through a licensed dealer must clear a federal background check. Individuals that are attempting to purchase a handgun are asked to provide key information so that a background check can be completed. Knowing of this process, some individuals who are prohibited from purchasing a handgun rely on a surrogate or straw buyer to purchase the handgun thus circumventing the background check process. Furthermore, as evidenced by undercover investigations, some unscrupulous licensed gun sellers literally coach prospective purchasers through the process of straw purchasing in a manner that allows both the seller to commission a legal sale and a prohibited person to possess a handgun. The practice of straw purchasing is a serious problem, involving both a purchaser and a seller, which needs to be corrected by tightening the existing law regarding gun sales.

A more fundamental problem with the existing practice of gun sales, however, is the virtually unregulated secondary gun sales market. According to a recent report by the Department of Treasury, Department of Justice, and BATF it is estimated that unlicensed gun sellers comprise 25% to 50% of the vendors at gun shows. These unlicensed gun sellers are actually prohibited by law from conducting background checks on prospective buyers. Hence, increasing penalties for prospective purchasers of handguns that misrepresent themselves on background check forms would address less than half of the gun sales conducted at gun shows.

### **Solution**

In its current form, AB 664 seeks to remedy the problem of straw gun sales by increasing the penalty for purchasers that misrepresent themselves in the process of purchasing a handgun. This proposed solution only addresses half of the purchaser-seller equation. The problem needs to be treated as an illegal sales transaction, between two responsible parties, not simply an illegal purchase by one individual. Hence, both the

would-be-purchaser and the would-be-seller share responsibility in ensuring that an illegal sales transaction does not occur. Failure on the part of the seller and buyer to follow a clearly scripted application and approval process should result in strict penalties for both the buyer and seller, not solely the buyer. Furthermore, increasing the penalties for sellers and buyers in straw purchase transactions needs to be combined with the type of measures outlined in SB 301, a bill that would require all handgun sales in the state of Wisconsin to be conducted by a licensed gun seller, thus requiring all purchasers of handguns to be subjected to a thorough background check.

**Contact information**

John P. Engel, Project Director  
Jeri Bonavia, Board President  
414/964-6228

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STATE OF WISCONSIN  
DEPARTMENT OF JUSTICE

AB 664

JAMES E. DOYLE  
ATTORNEY GENERAL

Burneatta L. Bridge  
Deputy Attorney General

123 West Washington Avenue  
P.O. Box 7857  
Madison, WI 53707-7857

Roy R. Korte  
Assistant Attorney General  
korterr@doj.state.wi.us  
608/267-1339  
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TTY 608/267-8902

March 7, 2000

Senate Judiciary Committee Members  
Wisconsin State Senate

Re: 2000 Assembly Bill 664 and 2000 Senate Bill 425

Dear Committee Members:

This letter constitutes the written comments of the Wisconsin Department of Justice (DOJ) regarding 2000 Assembly Bill 664 and 2000 Senate Bill 425.

I. 2000 A.B. 664.

A. Mandatory Hotline form questions.

2000 A.B. 664 would mandate the precise form of the questions which may be asked on the handgun hotline form. This proposal is unnecessary and would not make it easier to prosecute straw purchase cases.

In December of 1999, prior to the introduction of 2000 A.B. 664, DOJ changed the wording of the handgun purchase form. The purpose of the changes was to make the form more consistent with the federal firearms purchase form. The federal form must also be executed at the same time as the state form. A copy of the new state form is attached as Appendix A. A copy of the federal form is attached as Appendix B. No other state statutorily mandates the questions to be asked on firearm purchase background check forms.

A comparison of the questions on the current DOJ form with the questions proposed under 2000 A.B. 664 discloses that they are identical or virtually identical. Therefore, that provision of 2000 A.B. 664 is unnecessary. The Legislature originally entrusted the power to create the questions to DOJ. DOJ has responded to comments regarding the form since that time. To fix, by statute, the questions which may be asked on the handgun purchase form is simply unnecessary.

Mandating the form of the questions which can be asked also imposes an unnecessary degree of inflexibility and rigidity. First, the questions used on the current form, while substantially similar to those proposed under 2000 A.B. 664, do contain wording differences. These differences are in some ways superior to those in 2000 A.B. 664. For example, the question on the current DOJ form regarding prior felony convictions provides a clearer and more precise definition of felony than 2000 A.B. 664. However, 2000 A.B. 664 would make it extremely difficult to make even minor wording changes to the questions. Second, under 2000 A.B. 664 any changes to the questions, whether based on style or a change in the law, would require legislative action to amend the questions. This is neither reasonable or an efficient use of legislative resources.

DOJ opposes the portion of 2000 A.B. 664 which would statutorily mandate the form of the questions on the handgun purchase form.

B. Actual purchaser question.

The current form (Appendix A), asks the following question: "Are you the actual purchaser of the firearm? You are the actual purchaser if you are not purchasing the firearm at the request of, or on behalf of, any other person or are not purchasing the firearm with the purpose or intent of reselling the firearm to any other person."

The proposed bill would specifically prohibit this question or any question which is substantially similar. This proposal is unwarranted and will actually make it harder to prosecute straw purchasers.

2000 A.B. 664 would require the following question instead of the actual purchaser question: "Are you purchasing this firearm with the purpose or intent of transferring it to a person who is presently prohibited from possessing a firearm under state or federal law?"

First, the proposed language would greatly limit its applicability and conflict with the very purpose of the background check. The purpose of Wis. Stat. § 175.35 is to determine whether a person who is actually going to be possessing a firearm is prohibited from possessing a firearm. In order to accomplish that simple purpose we need to know who is the actual purchaser/possessor. That is why we ask the question and explain that you are not an actual purchaser if you are buying at the request of or on behalf of any other person or are buying with the purpose or intent to resell. This is intended to prevent people from acting as a straw purchaser even though they do not know if the person they are buying for is prohibited from possessing a firearm. It is also intended to prevent people from buying guns and then reselling them to others who may be prohibited from possessing. In either case we want to ensure that the person who is actually going to possess the gun has a record check done on them.

Second, the federal gun purchase form, which must also be filled out, also asks whether a person is the actual buyer. Thus the state and federal forms are consistent which results in less confusion by dealers and purchasers. The form does not prohibit the purchase of a firearm for a gift or under similar circumstances. The federal form (Appendix B at 3), which is executed at the same time as the state form, provides some clarification of that issue.

Third, the proposed question under 2000 A.B. 664 would allow persons to buy a gun for another person without criminal liability if they do not know the other person is prohibited from possessing a firearm. In other words, it would allow people to defeat the background check and act as straw purchasers.

Fourth, under 2000 A.B. 664 a person could falsely state they are the actual purchaser, as they are buying at the request of another person, and be subject to federal prosecution but might not be prosecuted under state law because they did not know the actual purchaser was a prohibited person. Certainly an absurd result.

Lastly, the language set forth in 2000 A.B. 664 would almost certainly be interpreted by a court as requiring an element that the straw purchaser know that the person the firearm was being transferred to was a convicted felon or other prohibited person. Under the current DOJ form the state need only prove that the person was not the actual purchaser. While this is not always easy to prove it is certainly much easier to prove than the knowledge of the straw purchaser. As is reflected in public news accounts, prosecuting straw purchase cases is very difficult (Appendix C). 2000 A.B. 664 makes it even more difficult. Again, the proposal makes it harder, not easier, to prosecute straw purchasers.

DOJ opposes this portion of 2000 A.B. 664.

#### C. Penalty changes.

2000 A.B. 664, as originally drafted, proposed to increase the penalty for false statements on the Hotline form to a (5) five-year felony. Federal law also makes a false statement on the federal firearms purchase form a felony. However, under an amendment to the bill, the increased penalty would only apply to a false statement regarding whether the purchaser intends to transfer the firearm to a prohibited person. As noted above, DOJ opposes that proposed question.

DOJ believes that the original proposal, making it a felony to provide any false information on the handgun purchase form, to be the better alternative. Certainly any false information on the form should be treated similarly.



D. DOJ prosecution.

Under Amendment 3 to 2000 A.B. 664, DOJ would be given authority to prosecute false statements regarding whether the purchaser intends to transfer the firearm to a person prohibited from possessing a firearm. Again, for the reasons noted above, DOJ opposes the use of that question.

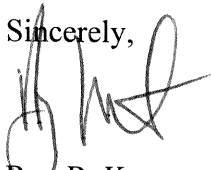
The amended version of 2000 A.B. 664 is meaningless and of extremely limited use. It provides unduly restrictive prosecutorial authority to DOJ and no real assistance to district attorneys in combating firearms offenses.

II. 2000 S.B. 425.

2000 S.B. 425 would give DOJ prosecutorial power, concurrent with district attorneys, over violations of §§ 175.35 and 941.29. This bill is a common sense proposal which would allow the department to directly prosecute all false statements and all gun dealer violations under § 175.35, as well as violations of § 941.29. This bill is needed for several reasons. First, the department operates and supervises the Handgun Hotline but currently lacks any authority to prosecute violations by purchasers and gun dealers. Second, the enumerated offenses are a matter of statewide concern which will benefit from a statewide perspective. Third, district attorneys would benefit from increased assistance in the prosecution of firearms offenses.

For these reasons, the Department of Justice supports 2000 S.B. 425.

Sincerely,



Roy R. Korte  
Assistant Attorney General

## FIREARMS DEALER NOTIFICATION (HANDGUN TRANSFERS)

**Handgun Hotline 1-800-262-4867**

Dealer Identification Number (DIN)
------------------------------------

PLEASE USE INK - General Information and instructions on reverse side.

### SECTION 1 TRANSFEREE (Buyer)

1. Transferee (Buyer's) Legal Name (Last, First, MI)			2. Other Name(s) used now or at any time in the past (e.g., maiden/alias)			
3. Sex	4. Race	5. Date of Birth (Month/Day/Year)	6. Height	7. Weight	8. Hair	9. Eyes
10. Residence Address			11. City		12. State	13. Zip

**14. Transferee (Buyer) Certification - Buyer must answer each question with a "YES" or a "NO" in the box at the right of the question.**

a) Are you the actual purchaser of the firearm? You are the actual purchaser if you are not purchasing the firearm at the request of, or on behalf of, any other person or are not purchasing the firearm with the purpose or intent of reselling the firearm to any other person.	
b) Have you ever been convicted of a felony in this state or a crime elsewhere that would be a felony if committed in Wisconsin? (A felony is any crime for which you could have been imprisoned for more than one year even if you were not imprisoned or served less than one year)	
c) Have you ever been found not guilty of a felony in Wisconsin by reason of mental disease or defect?	
d) Have you ever been found not guilty of or not responsible for a crime elsewhere that would be a felony in this state by reason of insanity or mental disease, defect or illness?	
e) Are you subject to a court order under the Wisconsin Mental Health Act (Ch. 51) prohibiting you from possessing a handgun?	
f) Have you ever been adjudicated delinquent as a juvenile for an act committed on or after April 21, 1994, that if committed by an adult in Wisconsin would be a felony <u>and</u> have not been exempted from the firearm prohibition by order of a court pursuant to s. 941.29(8)?	
g) Are you subject to a court order under the harassment injunction law (sec. 813.125) prohibiting you from possessing a firearm?	
h) Are you subject to a domestic abuse injunction or domestic abuse tribal injunction (sec. 813.12) or a child abuse injunction (sec. 813.122)? [Note: This question applies to proceedings, which were commenced on or after April 1, 1996.]	

*If question 14(a) cannot truthfully answered "YES", and questions 14 (b)-(h) cannot be truthfully answered "NO", the dealer may not transfer the firearm. A dealer may not transfer firearms to persons convicted of felonies, or crimes elsewhere that would be a felony if committed in Wisconsin, unless the buyer has received a pardon for the crime or felon, which does not expressly deny the right to possess a firearm or has obtained relief from disabilities under 18 USC 925(c). If that is the case, the buyer must provide positive proof prior to obtaining the firearm.*

15. I certify under and in accordance with s. 175.35(2e) of the WI Statutes that all statements on this form are true. I understand that if I knowingly make a false statement, I am subject to penalties of up to a \$10,000 fine and up to 9 months imprisonment under s. 175.35(3) of the WI Statutes. **WARNING: TRANSFER TO MINORS, FELONS AND PROHIBITED PERSONS.** It is illegal for anyone to provide or assist in providing any firearm to a minor, except under certain conditions as set forth in the Wisconsin statutes, and under any circumstances to provide or assist in providing any firearm to a convicted felon or any other person prohibited by law from possessing a firearm under s. 941.29. Criminal prosecution may result in imprisonment for up to 5 years and a \$10,000 fine.

Buyer's Signature & Telephone Number	Date
--------------------------------------	------

### SECTION 2 FIREARMS DEALER (Seller)

16. Type of Photo Identification (Required) Driver's License # _____ Wisconsin Identification Card # _____ Other (Please Specify) _____	17. Firearms Dealer Business Name and Address
18. Dealer Clerk's Signature	
	Date

**PLEASE CALL THE HANDGUN HOTLINE (1-800-262-4867) AND RECORD THE FOLLOWING INFORMATION**

19. Name of Caller	20. Date	21. Time of Call AM      PM	22. Hotline Operator Number
23. Call Confirmation Number	24. Transfer Approval Number	25. Nonapproval Number	

**DO NOT TRANSFER FIREARM UNTIL A TRANSFER APPROVAL NUMBER IS RECEIVED AND RECORD THE FOLLOWING INFORMATION**

26. Date of Transfer	27. Time of Transfer AM      PM	28. Transferred by
----------------------	------------------------------------	--------------------

## GENERAL INFORMATION

- 1) Dealer and buyers must conform to federal requirements in addition to completion of this form.
- 2) Completion of this form is required in accordance with s. 175.35(2g) of the Wisconsin Statutes and with Chapter Jus. 10, Wisconsin Administrative Code. If the buyer cannot read or write, the form must be completed by a person other than the dealer after a careful consultation with the buyer. After the form is completed, the dealer shall question the buyer to ensure that the form is truthfully and fully completed. The buyer's mark shall be obtained in the "Buyer's Signature" block and be witnessed by the individual that helped to complete the form.
- 3) The Wisconsin Department of Justice (DOJ) must accomplish a mandatory firearms restrictions record search to ensure that a person may lawfully possess a handgun under s. 941.29 of the Wisconsin Statutes.

Section 941.29 prohibits possession of a firearm if a person has been:

- Convicted of a felony in Wisconsin
- Convicted of a crime elsewhere that would be a felony if committed in Wisconsin
- Found not guilty of a felony in Wisconsin by reason of mental disease or defect
- Found not guilty of or not responsible for a crime elsewhere that would be a felony in Wisconsin by reason of insanity or mental disease, defect or illness
- Adjudicated delinquent for an act committed on or after April 21, 1994, that if committed by an adult in Wisconsin would be a felony
- Committed for treatment under s. 51.20(13)(a) and ordered not to possess a firearm under s. 51.20(13)(cv)
- Subject to a court order under the harassment injunction law (sec. 813.125) prohibiting the possession of a firearm
- Subject to a domestic abuse injunction or domestic abuse tribal injunction (sec. 813.12) or a child abuse injunction (sec. 813.122) prohibiting the possession of a firearm. [Note: This statement applies to proceedings which were commenced on or after April 1, 1996.]

## INSTRUCTIONS

### SECTION 1 Transferee (Buyer's Section)

- 4) Complete blocks I through 15 by legibly printing the required information in ink.
- 5) Use M (Male) or F (Female). Height should be entered as feet and inches (e.g., 6'4"). Authorized abbreviations for the remaining categories are:

<u>RACE</u>		<u>HAIR COLOR</u>				<u>EYE COLOR</u>			
W	White	BRO	Brown	RED	Red	BLU	Blue	HAZ	Hazel
B	Black	BLK	Black	SDY	Sandy	BRO	Brown	PNK	Pink
I	American Indian or Alaskan Native	BLN	Blond	WI	White	GRY	Gray	XXX	Other
		GRY	Gray	XXX	Other	GRN	Green		

- 6) Give the form to the dealer.
- 7) Furnish reliable identification that includes a photograph. A motor vehicle operator's license or state issued identification card are examples of reliable identification.

### SECTION 2 Firearms Dealer (Seller's Section)

- 8) Complete all required information in ink.
- 9) The Dealer Identification Number (DIN) block in upper right hand corner of the form *is mandatory*.
- 10) Check transferee's photo identification and complete block 16.
- 11) A stamp may be used for block 17.
- 12) Dealer Clerk's Signature and Date of block 18.
- 13) Call the Handgun Hotline (1-800-262-4867) and provide the hotline operator with the form number printed in red and your Dealer Identification Number (DIN), both located in the upper right hand corner of the form and the information concerning the buyer.
- 14) Complete blocks 19 through 23. (The 48 hour waiting period begins when the Call Confirmation Number is issued.)
- 15) When the felony check is completed, record the Transfer Approval Number in block 24 or Nonapproval Number in block 25.
- 16) If a Nonapproval Number is issued, provide the buyer with his or her copy of the form and mail the "CIB" copy to the address provided below *within 24 hours*.
- 17) If a Transfer Approval Number is issued, complete blocks 26 through 28 at the time of the firearm transfer, provide the buyer with his or her copy of the form and mail the "CIB" copy to the address below *within 24 hours after transfer of the firearm*.

Crime Information Bureau  
Attn: Handgun Hotline  
Post Office Box 2718  
Madison, Wisconsin 53701-2718

*Failure to request a firearms restrictions record search prior to a transfer of a handgun, failure to provide truthful and accurate information to CIB, failure to maintain the original records regarding the transfer, and failure to provide CIB with a copy of the form within 24 hours of a denial or a transfer are violations of s. 175.35 (2), (2j), and (3) and may result in a fine of \$10,000 and 9 months in jail.*

DEPARTMENT OF THE TREASURY  
BUREAU OF ALCOHOL, TOBACCO AND FIREARMS  
FIREARMS TRANSACTION RECORD PART I - OVER-THE-COUNTER

TRANSFEROR'S TRANSACTION  
SERIAL NUMBER

NOTE: Prepare in original only. All entries on this form must be in ink. See Important Notices, Definitions and Instructions

SECTION A - MUST BE COMPLETED PERSONALLY BY TRANSFEREE (BUYER)

1. TRANSFEREE'S (Buyer's) NAME (Last, First, Middle)	<input type="checkbox"/> MALE	2. HEIGHT	3. WEIGHT	4. RACE
	<input type="checkbox"/> FEMALE			

5. RESIDENCE ADDRESS (No., Street, City, County, State, ZIP Code)	6. BIRTH DATE			7. PLACE OF BIRTH (City)
	MONTH	DAY	YEAR	

8. OPTIONAL INFORMATION - The information requested in this item (8) is strictly optional but will help to ensure the lawfulness of the sale and avoid the possibility of being misidentified as a felon or other prohibited person.

SOCIAL SECURITY NUMBER	ALIEN REGISTRATION NUMBER	MISCELLANEOUS NUMBER (Military ID etc.)
A _____		

9. CERTIFICATION OF TRANSFEREE (Buyer) - Questions a. through l. must be answered with a "yes" or a "no" in the box at the right of the question.

a. Are you the actual buyer of the firearm indicated on this form? If you answer "no" to this question the dealer cannot transfer the firearm to you. (See Important Notice 1.)	g. Have you been discharged from the Armed Forces under dishonorable conditions?
b. Are you under indictment or information in any court for a crime for which the judge could imprison you for more than one year? An information is a formal accusation of a crime made by a prosecuting attorney.	h. Are you an alien illegally in the United States?
c. Have you been convicted in any court of a crime for which the judge could have imprisoned you for more than one year, even if the judge actually gave you a shorter sentence? (See Important Notice 5 and EXCEPTION.)	i. Have you ever renounced your United States citizenship?
d. Are you a fugitive from justice?	j. Are you subject to a court order restraining you from harassing, stalking, or threatening an intimate partner or child of such partner? (See Important Notice 6 and Definition 4.)
e. Are you an unlawful user of, or addicted to, marijuana, or any depressant, stimulant, or narcotic drug, or any other controlled substance?	k. Have you been convicted in any court of a misdemeanor crime of domestic violence? This includes any misdemeanor conviction involving the use or attempted use of physical force committed by a current or former spouse, parent, or guardian of the victim or by a person with a similar relationship with the victim. (See Definition 5.)
f. Have you ever been adjudicated mentally defective or have you been committed to a mental institution?	l. Are you a citizen of the United States?

m. What is your State of residence? \_\_\_\_\_ (State)  
If you are not a citizen of the United States, you have a State of residence only if you have resided in the State for at least 90 days prior to the date of this sale. (See Definition 6.)

I CERTIFY THAT THE ABOVE ANSWERS ARE TRUE AND CORRECT. I UNDERSTAND THAT A PERSON WHO ANSWERS "YES" TO QUESTION 9b IS PROHIBITED FROM PURCHASING A FIREARM. I UNDERSTAND THAT A PERSON WHO ANSWERS "YES" TO ANY OF THE QUESTIONS 9c THROUGH 9k IS PROHIBITED FROM PURCHASING OR POSSESSING A FIREARM. I ALSO UNDERSTAND THAT THE MAKING OF A FALSE ORAL OR WRITTEN STATEMENT OR THE EXHIBITING OF ANY FALSE OR MISREPRESENTED IDENTIFICATION WITH RESPECT TO THIS TRANSACTION IS A CRIME PUNISHABLE AS A FELONY. I FURTHER UNDERSTAND THAT MY REPETITIVE PURCHASE OF FIREARMS FOR THE PURPOSE OF RESALE FOR LIVELIHOOD AND PROFIT WITHOUT A FEDERAL FIREARMS LICENSE IS A VIOLATION OF LAW. (SEE IMPORTANT NOTICE 7.)

TRANSFEREE'S (Buyer's) SIGNATURE	DATE
----------------------------------	------

**SECTION B - TO BE COMPLETED BY TRANSFEROR (SELLER)**

10. TYPE OF FIREARM(S) TO BE TRANSFERRED:

HANDGUN       LONG GUN       BOTH

11a. TYPE OF AND NUMBER ON IDENTIFICATION (Driver's license or other valid government-issued photo identification. See Instruction to Transferor 1.)

11b. TYPES AND DATES OF ADDITIONAL IDENTIFICATION REQUIRED FOR ALIENS (e.g., utility bills or lease agreements. See Instruction to Transferor 2.)

**ITEM 12, 13, OR 14 MUST BE COMPLETED PRIOR TO TRANSFER OF FIREARM(S) (See Instructions to Transferor 4-7.)**

12a. THE TRANSFEREE'S IDENTIFYING INFORMATION IN SECTION A OF THIS FORM WAS TRANSMITTED TO NICS OR THE APPROPRIATE STATE AGENCY ON \_\_\_\_\_ (Date)

12b. THE NICS OR STATE TRANSACTION NUMBER (if provided) WAS: \_\_\_\_\_

12c. THE RESPONSE INITIALLY PROVIDED BY NICS OR THE APPROPRIATE STATE AGENCY WAS AS FOLLOWS:  
 PROCEED       DENIED       DELAYED

12d. IF INITIAL NICS OR STATE RESPONSE WAS "DELAYED," THE FOLLOWING RESPONSE WAS RECEIVED FROM NICS OR THE APPROPRIATE STATE AGENCY ON \_\_\_\_\_ (Date)

PROCEED       DENIED       NO RESPONSE PROVIDED WITHIN 3 BUSINESS DAYS

13. STATE PERMIT TYPE (no NICS check required because transferee has a valid permit which qualifies as an exemption to NICS)

DATE OF ISSUANCE

EXPIRATION DATE (if any)

PERMIT NUMBER

14.  NO NICS CHECK WAS REQUIRED BECAUSE THE TRANSFER INVOLVED ONLY NFA FIREARM(S)

**SECTION C - IF THE TRANSFER OF THE FIREARM(S) TAKES PLACE ON A DIFFERENT DAY FROM THE DATE THAT THE TRANSFEREE SIGNED SECTION A, THEN THE TRANSFEREE MUST COMPLETE SECTION C IMMEDIATELY PRIOR TO THE TRANSFER OF THE FIREARM(S) (SEE INSTRUCTION TO TRANSFEREE 3 AND INSTRUCTION TO TRANSFEROR 9)**

I CERTIFY THAT THE ANSWERS I PROVIDED TO THE QUESTIONS IN ITEM 9 OF SECTION A OF THIS FORM ARE STILL TRUE AND CORRECT.

TRANSFEREE'S (BUYER'S) SIGNATURE

DATE

**SECTION D**

On the basis of (1) the statements in Section A; (2) the verification of identity noted in item 11 and my verification again at the time of transfer (if the transfer does not occur on the same day as the verification noted in item 11); and (3) the information in the current list of Published Ordinances, it is my belief that it is not unlawful for me to sell, deliver, transport, or otherwise dispose of the firearm(s) described below to the person identified in Section A.

15. MANUFACTURER AND/OR IMPORTER	16. MODEL	17. SERIAL NO.	18. TYPE (Pistol, Revolver, Rifle, Shotgun, etc.)	19. CALIBER OF GAUGE

**COMPLETE ATF F 3310.4 FOR MULTIPLE PURCHASES OF HANDGUNS (See Instruction to Transferor 11.)**

20. TRADE/CORPORATE NAME AND ADDRESS OF TRANSFEROR (Seller) (Hand stamp may be used.)

21. FEDERAL FIREARMS LICENSE NO. (Hand stamp may be used.)

**THE PERSON ACTUALLY TRANSFERRING THE FIREARM(S) MUST COMPLETE ITEMS 22 THROUGH 24.**

22. TRANSFEROR'S (Seller's) SIGNATURE

23. TRANSFEROR'S TITLE

24. TRANSACTION DATE

## IMPORTANT NOTICES

- WARNING - The Federal firearms laws require that the individual filling out this form must be buying the firearm for himself or herself or as a gift. Any individual who is not buying the firearm for himself or herself or as a gift, but who completes this form, violates the law. Example: Mr. Smith asks Mr. Jones to purchase a firearm for Mr. Smith. Mr. Smith gives Mr. Jones the money for the firearm. If Mr. Jones fills out this form, he will violate the law. However, if Mr. Jones buys a firearm with his own money to give to Mr. Smith as a birthday present, Mr. Jones may lawfully complete this form. A licensee who knowingly delivers a firearm to an individual who is not buying the firearm for himself or herself or as a gift violates the law by maintaining a false ATF 4473.**

Question 9a is not applicable to returns of firearms, e.g., holders of pawn tickets or consignors of firearms. Accordingly, such transferees should answer Question 9a as "N/A."

- Under 18 U.S.C. 922 firearms may not be sold to or received by certain persons. The information and certification on this form are designed so that a person licensed under 18 U.S.C. 923 may determine if he may lawfully sell or deliver a firearm to the person identified in Section A, and to alert the transferee (*buyer*) of certain restrictions on the receipt and possession of firearms. This form should not be used for sales or transfers where neither person is licensed under 18 U.S.C. 923.
  - The permanent provisions of the Brady law, 18 U.S.C. 922(t), became effective on November 30, 1998. The law requires that prior to transferring any firearm to an unlicensed person, a licensed importer, manufacturer or dealer must first contact the National Instant Criminal Background Check System (NICS). NICS will advise the licensee whether the system contains any information that the prospective purchaser is prohibited by law from possessing or receiving a firearm. For purposes of this form, contacts to NICS include contacts to State agencies that have been designated to do NICS checks for the Federal Government.
  - WARNING - Any seller who knowingly transfers a firearm(s) to any person prohibited from receiving or possessing any firearm violates the law even though the seller has complied with the background check requirements of the Brady law.**
  - The transferee (*buyer*) of a firearm should be familiar with the provisions of law. Generally, 18 U.S.C. 922 prohibits the shipment, transportation, receipt, or possession in or affecting interstate commerce of a firearm by one who has been convicted of a crime punishable by imprisonment for a term exceeding one year; by one who is a fugitive from justice; by one who is an unlawful user of, or addicted to, marijuana, or any depressant, stimulant, or narcotic drug, or any other controlled substance; by one who has been adjudicated mentally defective or has been committed to a mental institution; by one who has been discharged from the Armed Forces under dishonorable conditions; by one who has renounced his or her U.S. citizenship; by one who is an alien illegally in the United States; by one who is subject to certain restraining orders; or by one who has been convicted of a misdemeanor crime of domestic violence. Furthermore, section 922 prohibits the shipment, transportation, or receipt in or affecting interstate commerce of a firearm by one who is under indictment or information for a crime punishable by imprisonment for a term exceeding one year.
- EXCEPTION:** For one who has been convicted of a crime for which the judge could have imprisoned the individual for more than one year, or has been convicted of a misdemeanor crime of domestic violence, the prohibition does not apply if, under the law where the conviction occurred, the individual has been pardoned for the crime, or the conviction has been expunged or set aside, or the person has had civil rights restored, AND the person is not prohibited by the law of the jurisdiction where the conviction occurred from receiving or possessing any firearms. Persons subject to one of these exceptions should answer "NO" to questions 9c or 9k, as applicable.
- Under 18 U.S.C. 922, firearms may not be sold to or received by persons subject to a court order that: (A) was issued after a hearing of which the person received actual notice and had an opportunity to participate; (B) restrains such person from harassing, stalking or threatening an intimate partner or child of such intimate partner or person, or engaging in other conduct that would place an intimate partner in reasonable fear of bodily injury to the partner or child; and (C) (i) includes a finding that such person represents a credible threat to the physical safety of such intimate partner or child, or (ii) by its terms explicitly prohibits the use, attempted use, or threatened use of physical force against such intimate partner or child that would reasonably be expected to cause bodily injury.

- DO YOU NEED A FIREARMS LICENSE? - Under 18 U.S.C. 922 and 923 it is unlawful for a person to engage in the business of dealing in firearms without a license: A person is engaged in the business of dealing in firearms if he devotes time, attention, and labor to dealing in firearms as a regular course of trade or business with the principal objective of livelihood and profit through the repetitive purchase and resale of firearms. A license is not required of a person who only makes occasional sales, exchanges, or purchases of firearms for the enhancement of a personal collection or for a hobby; or who sells all or part of his or her personal collection of firearms.**

- Persons acquiring firearms for the purpose of exportation should be aware that the State Department or Commerce Department may require a license to be obtained prior to exportation.

## INSTRUCTIONS TO TRANSFEREE (BUYER)

- The transferee (*buyer*) of a firearm must personally complete Section A of this form and certify (*sign*) that the answers are true and correct. However, if the buyer is unable to read and/or write, the answers may be written by other persons, excluding the dealer. Two persons (*other than the dealer*) must then appear as witnesses to the buyer's answers and signature.
- When the transferee (*buyer*) of a firearm(s) is a corporation, company, association, partnership or other such business entity, an officer authorized to act on behalf of the business must complete and sign Section A of the form and attach a written statement, executed under penalties of perjury, stating (A) that the firearm(s) is being acquired for the use of and will be the property of that business entity, and (B) the name and address of that business entity.
- If the transfer of the firearm(s) takes place on a different day from the date that the purchaser signed Section A, then the licensee must again check the photo identification of the purchaser prior to the transfer, and the purchaser must complete the certification in Section C at the time of transfer.

## INSTRUCTIONS TO TRANSFEROR (SELLER)

- KNOW YOUR CUSTOMER - Before a licensee may sell or deliver a firearm to a nonlicensee, the licensee must establish the identity, place of residence, and age of the buyer. The buyer must provide a valid government-issued photo identification to the seller that contains the buyer's name, date of birth, and residence address. A driver's license or identification card issued by a State in place of a license is particularly appropriate. Social security cards are not acceptable because no address, date of birth, or photograph is shown on the cards.**
- SALE OF FIREARMS TO ALIENS - A transferee (*buyer*) who is not a citizen of the United States must provide additional identification in order to establish that he or she is a resident of a State. (See Definition 6.) Such a transferee must provide a valid government-issued photo identification to the seller that contains the buyer's name, date of birth, and residence address. In addition, such a transferee must provide documentation such as utility bills or lease agreements that would establish that he or she has resided in a State for at least 90 days prior to the date of this sale.**
- If the buyer's name is illegible, the seller must print the buyer's name above the name printed by the buyer in Item 1.
- NICS CHECK - Prior to transferring a firearm to a nonlicensee, the licensee must contact the National Instant Criminal Background Check System (NICS) for a criminal background check on the transferee (*buyer*). After the purchaser has completed Section A of the form, and the licensee has completed Items 10 and 11, the licensee should contact NICS in accordance with the instructions received from ATF. At the time that NICS is contacted, the licensee should record in Item 12 the date of contact, the NICS (*or State*) transaction number, and any response provided by NICS. If the licensee receives a "delayed" response, the licensee must also record any subsequent response provided by NICS. **NOTE:** In some instances, States acting as points of contact for NICS checks may use terms other than "proceed," "delayed," or "denied." For example, a State may provide an "approve" response that is equivalent to a "proceed" response; a "pending" response that is equivalent to a "delayed" response; or a "non-approval" response that is equivalent to a "denied" response. In such cases, the licensee should check the box on the form that corresponds to the State's response. Licensees should also note that some States may not provide a transaction number for denials. However, in any case where a firearm is transferred within the three business day period, a transaction number is required.**

5. NICS RESPONSES - If NICS provides a "proceed" response, then the transaction may proceed. If the licensee receives a "denied" response, then the licensee is prohibited from transferring the firearm to the buyer. **If NICS provides a "delayed" response, the licensee must delay the transaction until he is contacted again by NICS or 3 business days have elapsed. See 27 CFR 178.102(a) for an example of how to calculate 3 business days.** If NICS does not provide a response after 3 business days have elapsed, the seller may transfer the firearm unless, prior to the transfer, NICS has advised the seller that the buyer's receipt or possession of the firearm would be in violation of law.
6. EXCEPTIONS TO NICS CHECK - A NICS check is not required if the transfer is subject to any of the alternatives in 27 CFR 178.102(d). Generally, these include transfers: (a) where the transferee has presented to the licensee a permit or license that allows the transferee to possess, acquire, or carry a firearm, and the permit has been recognized by ATF as a valid alternative to the NICS check requirement; (b) of National Firearms Act weapons approved by ATF; or (c) certified by ATF as exempt because compliance with the NICS check requirements is impracticable. See section 178.102(d) for a detailed explanation of these alternatives.
7. If the transfer is subject to one of the exceptions to the NICS check requirement outlined in paragraph 6 above, the transferor must obtain the supporting documentation required by 27 CFR 178.131. A firearm must not be transferred to any buyer who fails to provide such information.
8. If more than four firearms are involved, the identification required by Section D, items 15 through 19, must be provided for each firearm. The identification of the firearms transferred in a transaction which covers more than four weapons may be on a separate sheet of paper, which must be attached to the form covering the transaction.
9. Immediately prior to transferring the firearm, the transferor (seller) must complete and execute Section D of the form. If the transfer takes place on a different day from the date that the purchaser signed Section A, then the licensee must again check the photo identification of the purchaser prior to the transfer, and the purchaser must complete the certification in Section C at the time of transfer.
10. Additional firearms purchases made by the same buyer may not be added to this form after the seller has signed and dated it. A purchaser who wishes to buy additional firearms after the seller has signed and dated the ATF F 4473, must complete a new ATF F 4473, and a new NICS check must be conducted on this separate transaction.
11. In addition to completing this form, you must report any multiple sale or other disposition of pistols or revolvers on ATF F 3310.4 in accordance with 27 CFR 178.126a.
12. The transferor (*seller*) of a firearm is responsible for determining the lawfulness of the transaction and for keeping proper records of the transaction. Consequently, the transferor should be familiar with the provisions of 18 U.S.C. 921-929 and the regulations, 27 CFR Part 178. In determining the lawfulness of the sale or delivery of a rifle or shotgun to a nonresident, the transferor is presumed to know applicable State laws and published ordinances in both States.
13. After you have completed the firearm transaction, you must make the completed, original copy of the ATF F 4473, Part I, and any supporting documents part of your permanent firearms records. Forms 4473 must be retained for at least 20 years. Filing may be chronological (*by date*), alphabetical (*by name*), or numerical (*by transaction serial number*), so long as all of your completed Forms 4473, Part I, are filed in the same manner.
14. FORMS 4473 FOR DENIED TRANSFERS MUST BE RETAINED - If the transfer of a firearm is denied by NICS, or if for any other reason the transfer does not go through after a NICS check is conducted, the licensee must retain the ATF F 4473 in his or her records for at least 5 years. Forms 4473 with respect to which a sale, delivery or transfer did not take place shall be separately retained in alphabetical (*by name of transferee*) or chronological (*by date of transferee's certification*) order.
2. Published Ordinances--The publication (ATF P 5300.5) containing State firearm laws and local ordinances which is annually distributed to Federal firearms licensees by the Bureau of Alcohol, Tobacco and Firearms.
3. Under indictment/information or convicted in any court -- An indictment/information or conviction in any Federal, State or foreign court.
4. Intimate Partner -- With respect to a person, the spouse of the person, a former spouse of the person, an individual who is a parent of a child of the person, or an individual who cohabits or has cohabited with the person.
5. Misdemeanor Crime of Domestic Violence -- A crime that is a misdemeanor under Federal or State law and has, as an element, the use or attempted use of physical force, or the threatened use of a deadly weapon, committed by a current or former spouse, parent, or guardian of the victim, by a person with whom the victim shares a child in common, by a person who is cohabiting with or has cohabited with the victim as a spouse, parent, or guardian, or by a person similarly situated to a spouse, parent, or guardian of the victim. The term includes all misdemeanors and lesser offenses that involve the use or attempted use of physical force (*e.g., simple assault, assault and battery*), if the offense is committed by one of the defined parties. The person is NOT considered to have been convicted of such crime unless the person was represented by a lawyer gave up the right to a lawyer, and, if the person was entitled to a jury trial, was tried by a jury or gave up the right to a jury trial.
6. State of Residence - The State in which an individual resides. An individual resides in a State if he or she is present in a State with the intention of making a home in that State. If an individual is on active duty as a member of the Armed Forces, the individual's State of residence is the State in which his or her permanent duty station is located. An alien who is legally in the United States shall be considered to be a resident of a State only if the alien is residing in the State and has resided in the State for a period of at least 90 days prior to the date of sale or delivery of a firearm. See 27 CFR 178.11 for examples of this definition.

#### PRIVACY ACT INFORMATION

1. AUTHORITY. Solicitation of this information is authorized under 18 U.S.C. 923(g).
2. PURPOSE. To determine eligibility of the transferee (*buyer*) to receive firearms under Federal law.
3. DISCLOSURE OF SOCIAL SECURITY NUMBER. Disclosure of the individual's social security number is voluntary. The number may be used to verify the individual's identity.

#### PAPERWORK REDUCTION ACT NOTICE

The information required on this form is in accordance with the Paperwork Reduction Act of 1995. The purpose of the information is to determine the eligibility of the transferee (*buyer*) to receive firearms under Federal law. The information is subject to inspection by ATF officers. The information on this form is required by 18 U.S.C. 922.

The estimated average burden associated with this collection is 19 minutes per respondent or recordkeeper, depending on individual circumstances. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to Reports Management Officer, Document Services Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

#### DEFINITIONS

1. Over-the-counter Transaction--The sale or other disposition of a firearm by the transferor (*seller*) to a transferee (*buyer*), occurring on the transferor's licensed premises. This includes the sale or other disposition of a rifle or a shotgun to a non-resident transferee (*buyer*) occurring on such premises.

# straw buyer crackdown nets just one conviction

**Prosecutor says gun cases  
are difficult to prove; 4  
of 10 have been dismissed**

BY JESSICA MCBRIDE  
of the Journal Sentinel staff

An unprecedented police roundup last spring of alleged straw buyers and the felons who allegedly received the guns won a splash of attention, but eight months later four of 10 cases have been dismissed and just one defendant served jail time for the offense.

The debate over gun control often revolves around law enforcement's apparent failure to enforce some of the gun laws already on the books, but the 10 cases that evolved from the May raids underscore the difficulties inherent in such prosecutions.

Police used the roundup to demonstrate their new focus on straw buyers after federal data showed that a local gun store, Badger Guns & Ammo, sold more guns recovered in criminal investigations than any other dealer nationwide in 1998. Straw buyers buy guns for those who can't, such as felons.

But one of the cases was tossed out partly because prosecutors didn't believe they could prove the alleged straw buyer knew the recipient of the gun was a felon. Another was tossed, the prosecutor said, because police illegally seized evidence against a man.

A third case was dismissed because the key witness didn't show up in court, and the fourth case was so weak it didn't even

*Please see GUN page 10*



# Gun/Only one convicted in straw buyer crackdown

From page 1

make it past the preliminary hearing stage.

A fifth case is on hold because the defendant, Sharon D. Lewis, is wanted on a warrant for not appearing in court.

"These are hard cases to prove, absent a confession," said Chief Deputy District Attorney Robert Donohoo. He said his office has taken an aggressive stance on such cases, and when that's done "you take a chance that something could go wrong, such as a witness not showing up." That's better than not taking the cases forward, he said.

Donohoo said "Operation Ceasefire," a major cooperative law enforcement effort launched this month, will mean more and better cases because more resources are available for investigations and prosecutions. The program will funnel some weapons cases to federal court as well as create a state gun court and a task force to investigate weapons offenses.

Changing the crime of lying on state handgun purchase forms from a misdemeanor to a felony would also aid prosecution of straw buyers. If a prosecutor wants a felony conviction now, the straw buyer must be charged with being party to the crime of a felon in possession of a firearm, a more difficult offense to prove, Donohoo said.

There's a bill aimed at making sure that change working its way through the Legislature in Madison.

It won the unanimous endorsement of the Assembly Judiciary and Personal Privacy Committee on Thursday.

Under the bill, buyers who lie about their role as a straw purchaser on the state's handgun purchase form would face five years in prison.

"Individuals who purchase handguns for felons should be treated like the criminals they are," said Rep. Scott Gunderson (R-Town of Norway), a co-sponsor of the bill. "This simple change will give law enforcement officials an additional tool to crack down on illegal handgun sales."

That's not welcome news for

one they've charged with being a liar," said Craig Mastantuono, a Milwaukee attorney who succeeded in getting the case of Tommy Smith tossed out of court.

Smith was charged with being a felon in possession of a firearm. But Lewis, his alleged straw buyer, didn't show up to testify against him, so the charge was dismissed. Mastantuono believes she would have made a poor witness anyway.

"The whole thing about being a straw buyer is that you're posing for something you're not really," he said.

Lewis' statement to police that she bought a 9mm pistol at Badger for Smith — lying on the purchase form that the gun was for herself — was the sole evidence against him, Mastantuono said.

Smith wound up getting one year and nine months in prison anyway for the possession accusation during a parole revocation hearing, where rules of evidence are much more lenient.

Another of the dismissed cases — charging Malcolm Norfleet with being a felon in possession of a firearm — didn't even make it past the preliminary hearing stage, which is uncommon.

Court Commissioner Audrey Brooks, before dismissing the case, called it "the most unusual felon in possession of a firearm charge I've ever heard." That's largely because police found no gun with the felon.

Norfleet was discovered sleeping in a car after police were dispatched to a shooting. Police found a gunshot hole and a severe powder burn on the seat of the car and gunpowder residue on the rear of Norfleet's pants. Norfleet told police he "doesn't know anything about this and wasn't there" and did not have a gun.

In four other cases, jury trials are scheduled, with the defendants' attorneys planning vigorous defenses.

Defense attorney Scott Anderson represents Robvester Carter, who is alleged to be a felon in possession of a firearm. A criminal complaint says Carter's girlfriend, Samantha Flowers, told police she bought a gun at Badger to "share" with Carter,

Flowers' case was dismissed on a motion from the state. Donohoo said the state didn't believe it could prove she knew Carter was a felon, and police reports were contradictory.

"There wasn't any case, and she's always denied it and so does Carter," Anderson said. "He was there, but she bought it and it was her gun and that was the end of it."

Attorney Philip Atinsky said his client, Rashawn Spivey, also denies being a straw buyer. Spivey, Ronald Hudson and Rodney Manns were charged with being part of a scheme to get guns from Badger for Manns, a felon.

Manns had been admitted to a hospital with gunshot wounds. When police began investigating the shooting and went to Manns' residence, they discovered a .357 handgun and a sales order from Badger. They also found a state Department of Justice slip notifying Manns that he couldn't buy the guns because he failed a background check. The department has acknowledged rarely seeking prosecution

of such cases.

The complaint says Spivey asked Spivey to get him. Spivey allegedly contacted Hudson, with Spivey's car, allegedly went to and purchased five handguns. Police stopped the car.

Donohoo said the case Manns was dismissed because the papers were illegally signed.

Demorra Rhodes, the defendant who has been sentenced in state court, even received 201 days in the House of Correction for a felon-in-possession conviction. He faced two years in prison. Manns was initially sentenced to years of probation.

It was only after Rhodes thumbed his nose repeatedly at the system — allegedly by his girlfriend, driving after probation, failing a drug screening, that he was brought back to court by probation officials in August and given jail time. Donohoo said the office now recommends prison for such cases.

Journal Sentinel staff writer D. Chaptman contributed from Madison.



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