Congressional Concerns about the Accuracy and Completeness of
the National Firearms Registration and Transfer Record (NFRTR)
Have Not Been Fully Addressed by
the Treasury Department Inspector General
or the Bureau of Alcohol, Tobacco, Firearms and Explosives

by Eric M. Larson, P.O. Box 5497, Takoma Park, MD 20913 larsone@starpower.net
January 19, 2005

In September 1997, Congressional concerns about the accuracy, completeness and reliability of the firearms registration database maintained by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) led Rep. Dan Burton, Chairman, House Committee on Government Reform and Oversight, to request the Treasury Department Inspector General (IG) to conduct an audit. This database, the National Firearms Registration and Transfer Record (NFRTR), is used to register and track certain firearms regulated under the National Firearms Act (NFA).

In 1999, referring to its report OIG-99-018, the IG reported to the Congress that it could not confirm that NFA permits had not inadvertently been destroyed, inappropriately added, or did not reflect that the person holding a registration was deceased. In 2000, in a section of H.R. Report No. 106-756 entitled “FIREARMS DATABASE ACCURACY,” the House Committee on Appropriations stated: “Such uncertainty could reduce confidence in ATF’s ability to determine the validity of NFA registration; therefore the Committee strongly urges ATF to take whatever steps necessary to ensure that its records are accurate and complete.” [TAB 1].

ATF’s failure to fully implement the IG’s recommendations1 for improvements identified in its report OIG-99-018 led to further Congressional testimony in 2001 [TAB 3], and debate by the House Subcommittee on Treasury, Postal Service, and General Government Appropriations in 2001 and 2002 [TAB 4]. The Congress appropriated $500,000 for each of Fiscal Years 2002 and 2003, and requested ATF to use those funds to ensure that the NFRTR is accurate and complete [TAB 5].

In 2002, the IG initiated a new audit of the NFRTR to answer the question: “Has ATF taken appropriate steps to improve the completeness, accuracy, and processing times of the NFRTR?” [TAB 6]. In subsequent IG reports to or ATF testimony before the Congress, however, neither agency has provided information about (1) what actions ATF may have taken to address three open recommendations the IG previously made, (2) the status of the new 2002 audit of the NFRTR; (3) how the $1 million was actually spent, and (4) whether the NFRTR data base is accurate and complete.

During 2004, I tried to determine the status of the open recommendations and the new 2002 audit of the NFRTR from ATF and the IG, but neither entity answered my inquiries. On December 10, 2004, I interviewed by telephone a former IG staff member who worked on the original 1997-98 audits of the NFRTR, and also been assigned to work on the new 2002 audit. The staff member told me that the audit team was told to terminate this audit before it was completed, box up the materials, and ship them to the IG; and that none of the audit materials were turned over to the Department of Justice Inspector General when ATF was transferred to the Department of Justice on January 24, 2003. Consequently, it appears that the Department of Justice Inspector General may not be aware of the current problems with and Congressional concerns about the accuracy and completeness of the NFRTR data base.

1These three recommendations are described in several IG reports to the Congress [TAB 2].
Tab 1
TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 2001

JULY 18, 2000.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. KOLBE, from the Committee on Appropriations, submitted the following

REPORT

together with

ADDITIONAL VIEWS

[To accompany H.R. 4871]

The Committee on Appropriations submits the following report in explanation of the accompanying bill making appropriations for the Treasury Department, the Postal Service, the Executive Office of the President, and certain Independent Agencies for the fiscal year ending September 30, 2001, and for other purposes.

INDEX TO BILL AND REPORT
The Committee encourages aggressive enforcement of the nation's firearms laws, and understands that this funding requires no additional statutory authority. Although ATF did not detail how much of the IVRS funding would be applied to different elements of that strategy, it did indicate that approximately one third would be used to prevent unlicensed dealing and investigations of those who supply guns to prohibited individuals. The Committee directs that, beginning with the fiscal year 2002 budget request, and on a quarterly basis thereafter, ATF should provide the Committee a detailed correlation between the substantial increase in funding for this initiative over the past two years and the impact such funding has had on the number and effectiveness of investigations and interdiction efforts, including the disposition of cases, prosecutions accepted and declined, and other case resolution at the state and federal level. This report should also describe specific activities, and the level of obligations and FTE devoted to each major IVRS component.

YOUTH CRIME GUN INTERDICTION INITIATIVE

The Committee is concerned about the performance and accountability of this program, and has withheld its request for a Government Accounting Office review pending completion of a current study by the Treasury Inspector General. The Committee will review this study and adjust its recommendation for the program accordingly.

GREAT PROGRAM

The Committee recommends $13,000,000 to continue the Gang Resistance Education and Training (GREAT) program, equal to the President's request and to the amount available in fiscal year 2000 through the Violent Crime Reduction Trust Fund. This includes $10,000,000 for grants to local law enforcement organizations and $3,000,000 for ATF administrative support. The Committee expects to receive the longitudinal impact study of the GREAT program that is to be completed this summer.

FIREARMS DATABASE ACCURACY

The Treasury Inspector General, referring to its report OIG–99–018, recommended to Congress in a December 13, 1999, letter that ATF should (1) complete action to eliminate discrepancies in the National Firearms Registration and Transfer Record (NFRTR) database, (2) perform regular reviews to ensure accuracy and completeness, and (3) determine the extent to which it can legally obtain data to ensure that the registry correctly reflects all persons currently in possession of National Firearms Act (NFA) weapons. The Committee understands that some progress is being made in imaging and indexing NFA documents for the over 1.1 million weapons in the NFRTR. The Committee is aware that the Inspector General noted that it could not confirm that permits had been inadvertently destroyed, inappropriately added, or did not reflect that the person holding a registration was deceased. Such uncertainty could reduce confidence in ATF’s ability to determine the validity of NFA registration; therefore the Committee strongly urges ATF to take whatever steps necessary to ensure that its records
are accurate and complete, and requests that ATF report by September 30, 2000, on actions it has taken on the recommendations made by the Inspector General.

FACE-TO-FACE EXCHANGE OF FIREARMS

The Committee understands that there does not appear to be a specific statutory prohibition against direct, “face-to-face” exchanges of firearms between licensed importers, manufacturers, dealers or collectors that reside in different states. The Gun Control Act of 1968 (GCA), 18 USC Sections 922(a)(2) and (3), allows licensed dealers to ship or transport firearms in interstate commerce only to such licensees. However, ATF has a long-standing interpretation that the GCA prohibits federal firearms licensees from personally transferring firearms away from their licensed premises, with the result that licensees have been obliged to use common carriers for such exchanges. While lawful, such transport does not seem the best or safest way to lawfully exchange firearms between dealers. The Committee directs ATF to report by September 30, 2000, on the legal basis for this interpretation, and whether it would permit the face-to-face exchange of rifles and shotguns.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>Appropriation, fiscal year 2000 to date</td>
<td>$1,698,227,000</td>
</tr>
<tr>
<td>Budget estimate, fiscal year 2001</td>
<td>1,887,866,000</td>
</tr>
<tr>
<td>Recommended in the bill</td>
<td>1,821,415,000</td>
</tr>
<tr>
<td>Bill compared with:</td>
<td></td>
</tr>
<tr>
<td>Appropriation, fiscal year 2000</td>
<td>+123,188,000</td>
</tr>
<tr>
<td>Budget Estimate, fiscal year 2001</td>
<td>-66,451,000</td>
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</tbody>
</table>

MISSION

The United States Customs Service is the nation’s principal border agency with responsibility to enforce the law, safeguard revenue, and support lawful international trade and travel. Its mission is to ensure that all goods that enter and exit the United States do so in accordance with all United States laws and regulations. This includes enforcing U.S. laws intended to stop trafficking in drugs and other contraband; protecting the American public and environment from the introduction of prohibited hazardous and noxious products; assessing and collecting revenue in the form of duties, taxes, and fees on imported merchandise; regulating the movement of persons, carriers, merchandise, and commodities between the United States and other nations, while facilitating the movement of all legitimate cargo, carriers, travelers, and mail; interdicting narcotics and other contraband; and enforcing certain provisions of the export control laws of the United States.

RECOMMENDATION

The Committee recommends an appropriation of $1,821,415,000, $123,188,000 above the amount appropriated in fiscal year 2000, and $66,451,000 below the level requested by the President. Of the amount provided, $92,741,000 covers activities previously funded either in the VCRTF or the Treasury Forfeiture Fund. The Committee recommendation will fund the Administration’s request,
Tab 2
Office of Inspector General
Department of the Treasury

Semiannual Report to the Congress

October 1, 1999 - March 31, 2000
reduce the cost of transfer services, thereby improving the revenue to cost outlook without raising fees.

The OIG recommended that BPD develop a break-even analysis that estimates when BPD will recover the difference between the revenue and costs. Following this analysis, the OIG recommended that BPD implement a strategy to ensure that its costs are recovered. The OIG further recommended that BPD work with the Federal Reserve to reduce program costs for providing on-line and off-line transfer services and to reassess the funds movement fee to ensure it adequately represents the cost of providing this service. BPD agreed with the OIG and has planned actions to address the recommendations. (Report #OIG-99-025)

ATF’s National Firearms Act Registration and Recordkeeping

The National Firearms Act (NFA), which was enacted in 1934, requires that the Secretary of the Treasury maintain a central registry of all NFA firearms in the United States that are not in the possession of or under the control of the United States. Examples of the types of weapons that must be registered include machine guns, silencers, and short barrel shotguns. ATF maintains the registry, which contains data on these weapons and provides record searches and certifications of a firearm’s registration status for use in Federal court. Additionally, ATF responds to inquiries submitted by the general public and industry about the classification of firearms.

The OIG performed two reviews of these ATF activities. First, at the request of the Chairman of the Committee on Government Reform and Oversight, the OIG reviewed allegations of ATF mismanagement, misconduct, and improper record-keeping of the registry. The allegations specifically claimed that ATF deliberately destroyed firearm registration documents; improperly registered firearms; committed felony perjury about registration activity; registered firearms contrary to law; and listed deceased people in the registry as being in possession of NFA firearms. The review showed that ATF contract employees likely had destroyed certain registry documents in 1988. However, an accurate estimate as to the types and number of records destroyed could not be obtained. The OIG also determined that there probably were deceased persons listed in the registry as gun owners. The review did not substantiate any of the other allegations.

In the second review, the OIG focused on the effectiveness of controls over NFA records and activities. The review found that overall, ATF could strengthen its administration of the registry by: (1) determining the extent to which the registry lists weapons in possession of persons who are likely deceased; (2) improving its processing of checks, forms, and other correspondence; and (3) improving reference to examination or research reports which support ATF’s decisions on weapon classifications.

ATF officials concurred with the OIG’s findings about the allegations and the OIG’s recommendations regarding its administration of the registry, and initiated steps to implement the recommendations. These actions included establishing a study group to examine options for handling data on older registrations. (Reports #OIG-99-009 and #OIG-99-018)

Treasury’s Year 2000 Compliance Effort

For the past 12 months, the OIG has been conducting on-going evaluations of the Year 2000 (Y2K) conversion effort in many of Treasury’s bureaus and offices. The current evaluations focus on the entities’ project management, conversion and certification processes, and contingency plans for the new millennium. The OIG plans to perform additional reviews of selected bureaus’
SEMIANNUAL REPORT TO THE CONGRESS

APRIL 1, 2000 – SEPTEMBER 30, 2000
<table>
<thead>
<tr>
<th>Report Number</th>
<th>Issue Date</th>
<th>Report Title/Potential Monetary Benefits and Recommendation Summary</th>
</tr>
</thead>
<tbody>
<tr>
<td>OIG-98-068</td>
<td>3/98</td>
<td>Custom's Reorganization to Streamline Operations</td>
</tr>
<tr>
<td></td>
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<td>Establish definitive performance measures for CMC Mission Support Teams, to facilitate assessment of their efforts and the overall effectiveness of CMC operations. (Two recommendations)</td>
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<td>Correct shortfalls associated with SEACATS, the seized assets and case tracking system, to allow for “cradle to grave” tracking of all property and currency seizures from case initiation to final resolution.</td>
</tr>
<tr>
<td>OIG-99-015</td>
<td>11/98</td>
<td>Use of HIDTA Funds by the United States Secret Service</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ensure that training is provided on the proper use of HIDTA funds based on Secret Service guidance.</td>
</tr>
<tr>
<td>OIG-99-018</td>
<td>12/98</td>
<td>ATF’s Administration of the National Firearms Registration and Transfer</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Ensure that report to monitor pending workloads and identify registration activity is fully developed. (Three recommendations)</td>
</tr>
<tr>
<td>OIG-99-025</td>
<td>12/98</td>
<td>Transfer Fee Revenue Has Been Insufficient to Recover the Cost of Trading Treasury Securities</td>
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<td></td>
<td>Coordinate with the Wholesale Payments Product Office of the FRB of New York a reassessment of the FRBs funds movement fee to ensure it accurately represents cost to provide service.</td>
</tr>
<tr>
<td>OIG-99-039</td>
<td>2/99</td>
<td>Audit of the Treasury Communications System Automated Information Automated System</td>
</tr>
<tr>
<td></td>
<td></td>
<td>DO should prepare and test continuity of operations plans that meet the requirements of TCS user agencies. (Six recommendations)</td>
</tr>
<tr>
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<td></td>
<td>Improve financial management and reporting policies and procedures to address documentation problems and the need to periodically analyze particular accounts. Ensure that accountability over property and equipment is adequately maintained, and amounts reported in the financial statements are materially correct and adequately supported. (Two recommendations)</td>
</tr>
<tr>
<td>OIG-99-123</td>
<td>9/99</td>
<td>Bureau of Alcohol, Tobacco and Firearms Controls Over Tax Free Exports</td>
</tr>
<tr>
<td></td>
<td></td>
<td>ATF should amend 27 CFR to include 1) specific timeframes for DSPs and 2) additional guidance defining export evidence. (One recommendation)</td>
</tr>
</tbody>
</table>
April 30, 2001

The Honorable Paul H. O'Neill
Secretary of the Treasury
Washington, D.C. 20220

Dear Mr. Secretary:

Enclosed is my Semiannual Report to the Congress. This report summarizes the activities of the Office of Inspector General for the 6-month period ending March 31, 2001, and highlights both the important accomplishments and some serious deficiencies in the Department's programs and operations.

We are looking forward to fiscal year 2002 and developing a work plan to address the financial management and information technology challenges facing the Department. We also plan to undertake work that will contribute to the Department's efforts to link resource allocations to results.

Welcome to the Department.

Sincerely,

Jeffrey Rush, Jr.
Inspector General
# Our Work – The Numbers

<table>
<thead>
<tr>
<th>Report Number</th>
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<th>Report Title/Potential Monetary Benefits and Recommendation Summary</th>
</tr>
</thead>
<tbody>
<tr>
<td>OIG-94-048</td>
<td>1/94</td>
<td>Department of the Treasury Forfeiture Fund Annual Financial Statements for the Year Ended September 30, 1993. Ensure that accounting records are maintained on an accrual basis of accounting as required and an integrated financial system is implemented that will capture all transactions related to activities in the general ledger. (Two recommendations)</td>
</tr>
<tr>
<td>OIG-95-130</td>
<td>9/95</td>
<td>Audit of U.S. Customs Service's FY 1994 Financial Statements. Improve and integrate core financial systems by including a &quot;customer-based&quot; accounts receivable subsidiary ledger, identifying the modifications necessary to the general ledger systems to capture all financial transactions as they occur, and implementing supervisory controls over critical Automated Commercial System warning messages and other edit checks that can be overridden.</td>
</tr>
<tr>
<td>OIG-95-034</td>
<td>9/96</td>
<td>Audit of U.S. Customs Service's FY 1995 Consolidated Financial Statements. Analyze options to ensure capacity to fully recover high priority applications, expeditiously implement an approach, and fully test the disaster recovery plan.</td>
</tr>
<tr>
<td>OIG-97-133</td>
<td>9/97</td>
<td>Audit of the U.S. Secret Service FY 1996 Statement of Financial Position. Ensure that the seized property system captures all seized property data necessary to generate a complete analysis of changes in seized and forfeited property.</td>
</tr>
<tr>
<td>OIG-98-026</td>
<td>9/98</td>
<td>Supplement to Report on the Department of the Treasury's FY 1997 Custodial Schedules and Administrative Statements. Ensure that IRS develops and implements an appropriate corrective action plan that will fully address the material weaknesses and reportable conditions identified in the audits of its financial statements. Provide effective oversight to ensure that the specific recommendations related to EDP general control weaknesses, detailed in the component entity reports (particularly IRS, Customs and FMS), and the related plans for corrective actions are implemented completely and timely by the various bureaus. (Two recommendations)</td>
</tr>
<tr>
<td>OIG-99-018</td>
<td>12/98</td>
<td>Allegations Concerning the Bureau of Alcohol, Tobacco and Firearms Administration of the National Firearms Registration and Transfer Record. Ensure that report to monitor pending workloads and identify registration activity is fully developed. (Three recommendations)</td>
</tr>
<tr>
<td>OIG-99-039</td>
<td>2/99</td>
<td>Treasury Communications System (TCS) Automated Information Security Program. Departmental offices should prepare and test continuity of operations plans that meet the requirements of TCS user agencies. (Six recommendations)</td>
</tr>
<tr>
<td>OIG-96-123</td>
<td>9/96</td>
<td>Bureau of Alcohol, Tobacco and Firearms Controls Over Tax Free Spirit Exports. ATF should amend 27 CFR to include specific timeframes for Distilled Spirits Plants to submit documents that support claimed exports and additional guidance defining export evidences.</td>
</tr>
<tr>
<td>OIG-00-036</td>
<td>2/00</td>
<td>Customs' Performance Data for Commercial Activity. Customs should direct the correction of the use of inappropriate confidence levels in the Results Act information provided in the FY 2000 budget justification. (Three recommendations)</td>
</tr>
<tr>
<td>OIG-00-047</td>
<td>2/00</td>
<td>Opportunities for the Bureau of Engraving and Printing to Improve the Processing of Multiplied Currency. BEP should install an automated system to track multiplied currency cases, analyze data and assess the efficiency and effectiveness of the program.</td>
</tr>
<tr>
<td>OIG-00-066</td>
<td>3/00</td>
<td>U.S. Customs Service Automated Commercial System Cargo Selectivity. The Assistant Commissioner, Office of Field Operations, should instruct Port Directors to establish procedures ensuring that reasons for overtime-intensive cargo examinations are properly documented.</td>
</tr>
<tr>
<td>OIG-00-072</td>
<td>3/00</td>
<td>Department of the Treasury Efforts to Prevent Illicit Transfers of U.S. Military Technologies. The Chairperson of the Committee on Foreign Investments in the United States should coordinate efforts with other Committee members to identify and evaluate all sources of available data to assist in identifying Exon-Florio non-filers.</td>
</tr>
<tr>
<td>OIG-00-077</td>
<td>3/00</td>
<td>Information Technology Management Reform Act (ITMRA) Audit. Treasury should issue formal directives to further progress in implementing ITMRA.</td>
</tr>
</tbody>
</table>

This list of unimplemented recommendations in OIG audit reports is based on information in Treasury's automated tracking system, which is maintained by Treasury management officials.

* Treasury Forfeiture Fund findings and recommendations were subsequently consolidated in the Treasury tracking system with an assigned number of 99-2005. This assigned number is not an OIG report number.
TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 2002

HEARINGS
BEFORE A
SUBCOMMITTEE OF THE
COMMITTEE ON APPROPRIATIONS
HOUSE OF REPRESENTATIVES
ONE HUNDRED SEVENTH CONGRESS
FIRST SESSION

SUBCOMMITTEE ON THE TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS

ERNEST J. ISTOOK, Jr., Oklahoma, Chairman

FRANK R. WOLF, Virginia
ANNE M. NORTHUP, Kentucky
JOHN E. SUNUNU, New Hampshire
JOHN E. PETERSON, Pennsylvania
TODD TIAHRT, Kansas
JOHN E. SWEENEY, New York
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STENY H. HOYER, Maryland
CARRIE P. MEEK, Florida
DAVID E. PRICE, North Carolina
STEVEN R. ROTHMAN, New Jersey
PETER J. VISCOSKY, Indiana

NOTE: Under Committee Rules, Mr. Young, as Chairman of the Full Committee, and Mr. Obey, as Ranking Minority Member of the Full Committee, are authorized to sit as Members of all Subcommittees.

MICHELLE MIRELZA, JEFF ASHFORD, KURT DODD, and TAMMY HUGHES, Staff Assistants

PART 3

STATEMENTS OF MEMBERS OF CONGRESS AND OTHER INTERESTED INDIVIDUALS AND ORGANIZATIONS

Printed for the use of the Committee on Appropriations

U.S. GOVERNMENT PRINTING OFFICE

73-469

WASHINGTON : 2001
A New Amnesty Period is the Only Viable Solution to Correct Errors in ATF's National Firearms Registration and Transfer Record

by

Eric M. Larson
Associate Member
Collector Arms Dealers Association

STATEMENT prepared for presentation before the Subcommittee on Treasury, Postal Service and General Government of the Committee on Appropriations House of Representatives

B-307 Rayburn House Office Building
Washington, D.C.

May 1, 2001

Eric M. Larson is a contributing editor to the Standard Catalog of Firearms, Blue Book of Gun Values, the Official Price Guide to Antique and Modern Firearms, and R.L. Wilson's Price Guide to Gun Collecting. A Life Member of the American Rifle Association of America since 1968, he became an Associate Member of the Collector Arms Dealers Association in 1998. His research has been published in The Gun Report, CADA Gun Journal, Small Arms Review, Gun News Digest, Guns Illustrated, Machine Gun News, and The Gun Journal. He is author of Variations of the Smooth Bore H&R Handy-Gun: A Pocket Guide to Their Identification. A journalist and demographer by training, he graduated with honors from the University of Texas at Austin, where he also earned a Ph.D. and three master's degrees.
CHAIRMAN ISTOOK, REP. HOVER, AND MEMBERS OF THE SUBCOMMITTEE:

I am submitting this testimony as a concerned private citizen, as an Associate Member of the Collector Arms Dealers Association, and as a scholar and collector of historic firearms. The Bureau of Alcohol, Tobacco and Firearms (ATF) is mismanaging the National Firearms Registration and Transfer Record (NFRTR), which is used to track firearms such as machine guns regulated by the National Firearms Act (NFA). In two 1998 audit reports, the Treasury Department Inspector General (IG) determined the NFRTR data are incomplete, inaccurate, and unreliable. ¹ In July 2000, Congress requested ATF "to take whatever steps necessary to ensure that its records are accurate and complete,"² but the situation is no different now than in May 2000 (see Appendix 7). The result:

Innocent citizens are in jeopardy of being unjustly convicted of serious felonies because of ATF's inaccurate records. I respectfully request this Subcommittee consider:

1. Directing the Secretary of the Treasury to establish an amnesty period.

2. Recommending legislation to guarantee that NFA documents ATF issues are legally valid.

3. Prohibiting the use of NFRTR data in any civil or criminal proceedings until ATF's records are accurate.

4. Requiring ATF to have the NFRTR independently audited to ensure accuracy is continued after an amnesty.

Today, many NFA firearms are used in legitimate activities unconnected to criminal use. As my previous testimonies have discussed, and the letters of M. Alan Breese (April 2, 2001) and Loye Don Williams II (April 7, 2001) state, many people collect, study, and write about NFA firearms the Government classifies as "Curios or Relics" as unique, often valuable, historical artifacts. They also know that violating the NFA is a serious felony—up to a $10,000 fine and 10 years in prison for each violation. Lonnie Pridgen knew he possibly faced serious charges when he discovered that a domestic assistant he hired to clean his home threw away all his NFA paperwork. As recounted in a February 22, 2001, letter, by the attorney he hired, Alan L. Smith, Esq., of Jackson, Mississippi, ATF still had its copies. Under § 207(d) of the Gun Control Act of 1968:

The Secretary of the Treasury, after publication in the Federal Register of his intention to do so, is authorized to establish such periods of amnesty, not to exceed ninety days in the case of any single period, and immunity from liability during any such period, as the Secretary determines will contribute to the purposes of this title.

¹Special Report on Allegations Concerning the Bureau of Alcohol, Tobacco and Firearms' Registration and Recordkeeping of the National Firearms Registration and Transfer Records. OIG-99-099, October 26, 1998; and Audit Report on Allegations Concerning the Bureau of Alcohol, Tobacco and Firearms' Administration of the National Firearms Registration and Transfer Record. OIG-99-018, December 18, 1998. I hereafter refer to them as the "October report" and the "December report," respectively.

WHY IS AN AMNESTY NEEDED?

1. Records have been improperly altered by ATF

ATF employees have made many legally owned NFA firearms illegal to own by inappropriately registering and/or transferring them, and only an amnesty period will correct that problem. The IG determined “ATF did not always control or process checks, forms, and other documents in accordance with procedures because employees did not always adhere to the procedures” (December report, page ii), and “ATF may have failed to follow procedures by failing to publish [notice of ATF’s years-long extension of the 1968 amnesty] in the Federal Register, as required by the Gun Control Act of 1968” (October report, page 13). As Denver, Colorado, attorney James O. Bardwell stated in his April 3, 2001, letter, “any firearm that is registered or transferred in violation of the NFA automatically becomes contraband that is subject to seizure and forfeiture.” This is “premised upon the interplay of 26 U.S.C. § 5861(e) and § 5872(a); § 5861(e) states that: ‘[i]t shall be unlawful for any person —...(e) to transfer a firearm in violation of the provisions of this chapter,’ and § 5872(a) states that: ‘[a]ny firearm involved in any violation of the provisions of this chapter shall be subject to seizure and forfeiture.]’” Once contraband, under the law it is forever contraband, unless ATF establishes an amnesty period to allow the firearm to be re-registered. “This is an issue because it is clear that ATF personnel have probably illegally registered and/or transferred some NFA firearms, and the persons who own them today have no idea that the firearms are contraband,” he said.3

By registering thousands of firearms for years after the amnesty expired, ATF violated the law and its own regulations. Under Title II of the Gun Control Act of 1968, Congress established a 30-day amnesty period. The legislative history states Congress intended “every firearm in the United States should be registered to the person possessing the firearm” by December 2, 1968, the day after the amnesty expired.4 ATF published regulations in 26 C.F.R. § 179.20, in January 1969, as follows:

Any person possessing a firearm which is not registered to him in the National Firearms Registration and Transfer Record shall register such firearm during the period November 2, 1968, through December 1, 1968 . . . . No firearm may be registered by a person unlawfully in possession of the firearm after December 1, 1968, except that the Director, after publication in the Federal Register of his intention to do so, may establish periods of amnesty, not to exceed ninety (90) days in the case of any single period with such immunity from liability as the Director determines will contribute to the purposes of this part.5

ATF told the IG it granted amnesty based on a section of the IRS manual entitled “Amnesty Guidelines” (signed by Director Harold A. Serr), that ATF created without public notice. The most

3Because NFA documents are considered "tax return" information under 26 U.S.C. § 6103, and also protected from disclosure under 26 U.S.C., § 5848 (the NFA), it is virtually impossible for anybody to learn from ATF the registration and/or transfer history of an NFA firearm. The reason is that ATF would violate the law by disclosing the foregoing information.


complete documentation of the actual policy ATF followed may be in a March 4, 1975, Memorandum by Thurman W. Darr, then Chief of ATF's Technical Services Division (see Appendices 4 and 5).

ATF registered some firearms after the amnesty expired without apparent regard to any criteria. The IG selected 98 Forms 4467 "from the total of 2,496 registrations shown in the [NFRTR] for years 1969 through 1986," and determined "that 65 of the 98 Form 4467s had application dates after December 1, 1968." The IG further determined that 36 of those 65 registrations (55 percent) "did not have sufficient documentation to clearly show if the registrant met the criteria for amnesty." ATF told the IG the late registration policy "was adopted on the theory that absence from the country tolled the statutory grace period," and was "an inherent corollary of the statute" (October report, page 12). So what justified extending "the statutory grace period" (30 days) through 1986? I think that ATF wanted to be able to pick and choose who got to register guns. The only documents ATF has produced indicate there were no formal guidelines—just the 1975 memo after the fact.

ATF misled the Congress about these post-amnesty registrations. At a 1983 Congressional hearing, then-ATF Deputy Assistant Secretary for Enforcement Robert E. Powis testified:

Having provided a 30-day period within which possessors of unregistered weapons could register them with impunity, the 1968 amnesty served its purpose. Therefore, unregistered weapons could no longer be legitimately registered and possessors' retention of them violated the law [emphasis added].

ATF's registration policy was unjust. While ATF was accepting some post-amnesty registrations (see Appendix 2), ATF took a contrary action against Jack D. McKeehan of Knoxville, Tennessee, who acquired three machine guns while a paratrooper in combat during World War II, and shipped them home "as authorized by the U.S. Military authorities." When he voluntarily brought the guns to ATF to register them in March 1969, after learning too late of the amnesty period, ATF seized them and began a criminal prosecution as well as a forfeiture case. Later, "on its own motion, the United States dismissed with full prejudice its criminal indictment." The Court decided Mr. McKeehan's lack of any use of the guns in any way (they sat at a friend's house from 1945 until the attempted registration), and dismissal of the criminal case precluded the government from forfeiting them. "The weapons were not contraband," the Court concluded. "They were war trophies brought into this country by a soldier, with the permission of the Government. The weapons committed no offense." ATF did not appeal, which means that some other War Veterans can keep their War Trophy firearms.

The accuracy of ATF's current Form 4467 data is fatally compromised because original documents are missing. In a 20-page letter dated November 24, 1998, reproduced in the December report, ATF refuted each of 37 "discrepancies" the IG found in the NFRTR records after analyzing three "Discovery" samples. The IG reported these discrepancies in Table 2 (page 12). ATF concluded (on page 28) that "none of the alleged discrepancies would adversely affect the accuracy of certifications provided for use in criminal cases." But the IG stated it "could not fully determine" if the additional records ATF provided "sufficiently resolved the discrepancies" (December report, page 12). The corresponding audit Work Paper (F-52, prepared November 30, 1998, by IG auditor Gary Wilk),

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7See McKeehan vs. United States, 438 F.2d 739 (6th Cir. 1971)
states that additional evidentiary materials ATF provided to resolve “discrepancies observed during this audit”

...did not clearly demonstrate that the computer system, typically in use, provides reliable and valid data when a search is performed. ATF did demonstrate that they have the capacity to generate various information from various sources but the original documentation remains missing and the accuracy of the documentation provided cannot be assured.

ATF said for one Form 4467, that “the database entry for the serial number does not reflect the serial number as described on the document...[and]...this would adversely affect a search because we would not be able to identify the record by serial number” (December report, pages 34-35). ATF claims that in this instance a name check, with the original document, would not adversely affect a search. But what if “the original of this form,” which Instruction 3 on Form 4467 states “will be retained in the National Firearms Registration and Transfer Record, Alcohol and Tobacco Tax Division,” isn’t in the NFRTR? David T. Hardy, Esq., of Tucson, Arizona cites in his April 9, 2001, letter, page 2 of Work Paper C-18, prepared by IG auditor Carol Burgan on October 29, 1997, ATF Special Agent (name deleted) stated: “much of the [Form 4467] documentation prior to 1972 may have been destroyed.” Mr. Hardy said “the most serious problem with the Form 4467 registration data revolves around the fact that there may be only one single piece of paper in the NFRTR to document the fact that an NFA firearm is lawfully registered to its owner”(original italics, my boldface).

ATF’s current Form 4467 data are potentially even more inaccurate than the IG formally reported. Mr. Hardy identifies audit findings that the IG did not report, citing page 1 of Work Paper “H-1 + Attachments H1-H143” dated April 6, 1998, where IG auditor Gary Wilk wrote: “Our Discovery sample indicated a 18.4 percent error rate, one error per error Form 4467 in a ‘Critical’ field,” (Table 2), with 95 percent confidence, +/- 7 percent. Based on our Discovery sample results we could not be confident that less than the specified maximum error rate of 5 percent exists within the entire database.” Former ATF Director John W. Magaw told me in a letter dated November 19, 1999, that “the NFRTR continues to be an accurate and reliable database of firearms transactions” which then-NFA Branch Chief Kent M. Cousins repeated in a letter to me dated March 15, 2000. But in a letter to me dated May 18, 1999, bearing numbers 112000 99-1420, ATF stated that the NFRTR data it gave the IG was submitted “with the understanding” that the data “was not accurate, because some of the report functions associated with the database are not working properly” (italics in original). The IG told me in a March 25, 1999, letter, that it “determined there were errors in the registry based on statistically valid sampling methodologies.” Moreover, the IG stated:

Our [audit] scope did not include a review of the accuracy of ATF’s certifications in criminal prosecutions that no record of registration of a particular weapon could be found in the registry. We also did not evaluate the procedures that ATF personnel use to search the registry to enable them to provide an assurance to the court that no such registration exists in specific cases. Accordingly, this report does not provide an opinion as to the accuracy of the registry searches conducted by ATF. (December report, page 4)

While the statements of Messrs. Cousins and Magaw are not worthy of belief, the foregoing issues are not the only serious problems ATF has failed to confront. Consider the IG’s finding that the

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On page 1 of Work Paper F-25, dated February 19, 1998, IG auditor Carol Burgan states “error definitions for critical data fields during sampling” include weapon serial number and registrant’s last name (each must “be 100% correct”), and “weapon description.”
NFRTR "lists thousands of weapons owned by persons who may be deceased" (specifically, 104,357 weapons, December report, page 19). As Mr. Hardy's April 9, 2001, letter states, having valid addresses for NFA firearms owners came up while the IG was sampling records of registrants who are alive, according to page 1 of Work Paper F-22, prepared January 26, 1998, by IG auditor Carol Burgan, who interviewed (name deleted) ATF Chief, Firearms and Explosives Division. The ATF Chief indicated there is nothing to prevent ATF from sending out confirmations to owners, because of the IG's concern about inaccurate addresses for owners of NFA firearms. According to Burgan, "the only problem [name deleted] saw was that it may be politically sensitive. Gun owners would be complaining to their Congressional Representatives." Mr. Hardy observes that "ATF would regard sending out inquiries about NFA firearms owned by deceased persons, to be even more sensitive." Under the NFA, it is illegal for any person other than the lawful registrant to possess an NFA firearm, even though the firearm is registered—and a major ATF mission is to "Protect the Public." Mr. Hardy concludes: "A question which might never answer (perhaps for reasons of contributory negligence, as well as political embarrassment), is 'How many crimes have been committed with NFA firearms registered to persons who are deceased?' It is a legitimate public safety question."

Finally, ATF's current system doesn't work. In an October 10, 2000, letter, ATF Director Bradley A. Buckles told this Subcommittee that a new "document control" section, created in April 2000 to track all incoming NFA documents, would ensure accuracy. But Prokopios A. Ziros, a Las Vegas, Nevada, police officer and federally licensed NFA dealer, stated under oath in an April 7, 2001, letter (with documented evidence), that ATF mismanaged paperwork he initiated after April 2000, by sending it to the wrong persons, and failing to update the NFRTR with many of his approved transactions. In his April 8, 2001, letter, Keith Barlow, a Class II NFA manufacturer in Vidor, Texas, told of a Maxim machine gun ATF transferred to him, noting serial number 1480 was on the approved Form 3 "and on 99% of the parts of the gun." When Mr. Barlow called ATF to ask for the original date of registration, ATF said "they had no record of me having this firearm." After FAXing a copy of his approved Form 3, ATF called back and said the serial number was 1875C, "which appeared nowhere on the firearm or the Form 3." Mr. Barlow later transferred the firearm out on a Form 4 using serial number 1480. ATF called him because it had no record of him having that serial number, and "they approved the Form 4, again without putting anything on it concerning the other number."

ATF's current project to "image and index" all NFA documents, started in 1997 to create a registration and transfer history for each firearm in the NFRTR, will not be completed for two more years. ATF employees have repeatedly stated they will use these data to "correct discrepancies." But ATF has not answered repeated requests by me and other concerned citizens whether ATF will "correct" the NFRTR by seizing and forfeiting "contraband" firearms that ATF employees created.

2. NFA documents cannot be relied upon to show ownership

When Scott D. Unice, M.D., asked ATF to confirm several NFA firearms he owns are not contraband, because ATF employees may have illegally registered or transferred them without his knowledge, ATF stated in an April 10, 2001, letter: "We will not provide you with such a guarantee."

Noel Napolilii's sworn testimony before this Subcommittee in 1999 recounts how ATF seized and destroyed his valuable German MP-40 World War II machine gun, because ATF could find no record

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of the gun in the NFRTR. The fact ATF had approved and issued Mr. Napolilli a Form 3 entitling him to lawfully possess the MP-40 made no difference, nor did the fact that ATF’s forensic laboratory examined the Form 3 and determined it was a valid document that ATF issued. There was no legal foundation, or rational basis, for ATF’s actions and no evidence of any misconduct or illegal activities by Mr. Napolilli. On November 19, 1999, ATF executives Walfrid Nelson, Kent M. Cousins, Gary N. Schaible, and representatives from ATF’s offices of Legislative Affairs and Chief Counsel, told the staff of this Subcommittee and of the House Committee on Government Reform, that ATF lost all of their documentary and computer files for Mr. Napolilli’s firearm. That loss is critical, and may explain ATF’s destruction of the MP-40, because it addresses the amnesty issue. During an investigation of allegedly inaccurate NFRTR records in 1979, the Department of Justice told the Congress that if ATF determines that “a particular individual or weapon is registered” and ATF finds that its “files are missing,” then “the only solution would be to declare another amnesty period.”

ATF told the IG that in 1988, contract employees had destroyed NFA documents rather than work on them, and the IG “could not obtain an accurate estimate as to the types and number of records destroyed” (October report, page 1). Determining if ATF has added documents to the NFRTR after losing its records, to avoid establishing an amnesty period, is critically important.

In 1997-99, ATF refused to return a stolen NFA firearm to its lawful owner. The Congress already expressed concerns about such problems in 1998, by requesting ATF “to cooperate with local law enforcement to ensure the prompt return of recovered firearms to their legal owners.” The firearm, a rare Model 1904 Maxim machine gun worth $20,000, was stolen from its owner, Edward T. Jabaut, in 1976. The gun was seized by a police department as evidence when a thief tried to sell it. The police “donated” the Maxim to the West Point Museum in 1986, where it was recognized by an alert collector. Mr. Jabaut sold his interest in the firearm to Frank H. Wheaton III, a federally licensed dealer, who also paid a “finder’s fee” to the collector who located the Maxim. Despite ATF’s written acknowledgment that Mr. Jabaut’s original registration was valid, and ATF’s approval of the Maxim’s lawful transfer to Mr. Wheaton (see Appendix 3), ATF declined Mr. Wheaton’s request to retrieve the Maxim from the West Point Museum when officials there refused to give it up.

Because he accidentally lost wartime papers the Treasury Department issued acknowledging its lawful importation, George Berry, a World War II combat veteran, had to give up his War Trophy firearm on January 12, 1998. After Mr. Berry expressed dismay that ATF would destroy it, ATF determined the National Park Service wanted the firearm—a German assault rifle M1942 (H) 7.92mm, serial number 5614, which Mr. Berry captured in 1944—for the Springfield Armory Museum. In February

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12FAX Transmission from Gary Schaible, ATF, NFA Branch, Washington, D.C., dated August 5, 1997, to Frank Wheaton, stating that Mr. Jabaut’s Form 4467 “is a valid registration document.” A copy of Mr. Jabaut’s Form 4467 is shown in Appendix 2.

13A U.S. District Court did not intervene, citing lack of jurisdiction (Wheaton vs. Caldera, No. 99-1398 (D.C.C. 1999)).
2001, a person who said he was familiar with the case told me that Mr. Berry told the Springfield Armory Museum if ATF or the Treasury Department ever located its copy of the paperwork for his firearm, that he wants the firearm returned. When I asked the Director of the Museum to tell me the Museum's version of the foregoing events, no one at the Museum would respond.

3. Innocent citizens may be unjustly prosecuted

Stephen P. Halbrook, Esq., of Fairfax, Virginia, perhaps the foremost expert on U.S. firearms law, stated in his February 14, 2001, letter to this Subcommittee that ATF may unjustly prosecute some persons "for alleged unregistered firearms when in fact the firearms were registered as required." He further cautioned there is a "strong possibility that innocent citizens may have to defend themselves against unfounded charges and even be convicted" (see Appendix 1).

In conclusion, a new amnesty period is the only viable solution to correct errors in ATF's National Firearms Registration and Transfer Record. An amnesty will strengthen all future prosecutions ATF initiates by ensuring that the NFRTR data are accurate, and provide citizens an opportunity to properly register their firearms. For now, the NFRTR should be kept open for legitimate business as usual—but not used for any prosecutions. Thank you.

The Numbered Documentary Appendices, Below, Follow This Page


Persons Who Sent Testimonial Letters to the Subcommittee Regarding the NFRTR

Keith Barlow, Vidor, Texas, April 8, 2001.
Scott D. Unice, M.D., Santaquin, Utah, February 11, 2001; and various letters to Bradley A. Buckles, Director, Bureau of Alcohol, Tobacco and Firearms.
Prokopios A. Ziros, Las Vegas, Nevada, Feb. 16 and April 7, 2001, Notarized Letter and Exhibits.
February 14, 2001

The Honorable Ernest J. Istook, Jr., Chairman
Subcommittee on Treasury, Postal Service and General Government
House of Representatives
B-307 Rayburn House Office Building
Washington, D.C. 20515

Re: Inaccuracy of National Firearms Registration and Transfer Record

Dear Chairman Istook:

I am writing as a concerned citizen and attorney who has litigated numerous cases against the Bureau of Alcohol, Tobacco and Firearms (BATF), including in the U.S. Supreme Court. BATF maintains the National Firearms Registration and Transfer Record (NFRTR), which is a registration system for machineguns and other narrow class of "firearms" as defined in the National Firearms Act, 26 U.S.C. § 5801 et seq.

Possession of an unregistered firearm is a serious felony punishable by ten years imprisonment, a $10,000 fine, and forfeiture of the firearm. Unfortunately, serious inaccuracies exist in the registration records, with the potential that BATF may cause the prosecution of persons for alleged unregistered firearms when in fact the firearms were registered as required. The strong possibility that innocent citizens may have to defend themselves against unfounded charges and even be convicted (e.g., if they have lost their original registration certificate) warrants the serious attention of your committee.

In 1998, the Treasury Department Inspector General determined that an unknown number of registration documents had been inadvertently destroyed; that BATF employees did not always follow proper procedures in registering or transferring ownership of firearms; and that many firearms are registered to persons who probably are deceased. Noting that BATF routinely does certifications in federal criminal prosecutions that firearms are not registered, the Inspector General pointedly declined to express an opinion regarding the accuracy or completeness of BATF's searches of the NFRTR.

As a result of the errors in the registration system, the House Committee on Appropriations "strongly ur[ged] ATF to take whatever steps necessary to ensure that its records are accurate and complete," noting that "such uncertainty could reduce confidence in ATF's ability to determine the
Appendix 1, Larson Testimony, page 2 of 2 pages.


The problem of a fundamentally flawed registration system has existed for decades. As long ago as 1980 Judge Oliver Gasch decided: "Considerable evidence was received that the Bureau's officials have for many years recognized the inadequacy and incompleteness of the Bureau's records." United States v. Seven Miscellaneous Firearms, 503 F. Supp. 565, 578 (D. D.C. 1980). (He also ruled that the items in question - which BATF seized from the NRA Firearms Museum - were display models and were not "firearms" at all.)

Enclosed are pertinent pages from my treatise Firearms Law Deskbook: Federal and State Criminal Practice (New York: Clark Boardman Callaghan/West Group 1995, supplemented through 2000). I would like to direct your attention to the discussion on pages 7-4 through 7-10.4, which traces the incessant problems in the registration system over a long period of time.

I urge your Subcommittee to investigate this matter further. The NFRTR should be audited by an independent panel of experts. Unless and until BATF can conform its records to acceptable standards of accuracy, the Subcommittee should consider legislation to prohibit use of the NFRTR database in civil and criminal proceedings.

Please contact me if I can provide any assistance.

Sincerely,

[Signature]

Stephen P. Halbrook
Appendix 2, Larson Testimony, page 1 of 1 page.

REGISTRATION OF CERTAIN FIREARMS DURING NOVEMBER 1968

(Chapter 53, Internal Revenue Code)

Important: This form cannot be accepted for registration of firearm except when received by Director during the time period

November 2, 1968, through December 1, 1968.

Tax Director, Alcohol and Tobacco Tax Division
Internal Revenue Service
Washington, D.C. 20224

I request registration of the firearm described below:

1. DATE: March 26, 1969

2. PLACE OF BUSINESS OR EMPLOYMENT: Gen. Geo. S. Greene Post No. 7651, V.F.W.

3. PLACE WHERE FIREARM IS USUALLY KEPT: (See Item 8 of Instructions)

4. NAME AND RETURN ADDRESS (Number and Street, City, State, ZIP Code):

Gen. Geo. S. Greene Post No. 7651, V.F.W.
(No Post Home)

Guns in members' private homes

5. EXPANSE:

154 Devine Ave., Dumont, N.J.

6. SOCIAL SECURITY NUMBER:

720-16-5174

7. DATE FIREARM ACQUIRED: Passed down

8. KIND OF FIREARM: Machine gun

9. SERIAL NUMBER (See Form 7 of Instructions):

490-1998

10. LENGTH OF BARREL (Inches):

11. OVERALL LENGTH (If a weapon made from a change or a rifle or if in "any Other Weapon" category):

12. CALIBER OR GAUGE:

8MM

13. MODEL:

14. NAME AND ADDRESS OF MANUFACTURER OF FIREARM:


15. OTHER MARKS OF IDENTIFICATION:

16. IF FIREARM IS UNSERVICEABLE EXPLAIN HOW IT WAS MADE UNSERVICEABLE (See Item 8 of Instructions):

Guns unserviceable - firing pin missing, bolt missing, etc.

Under the penalties of perjury I declare that this registration of firearm has been examined by me and to the best of my knowledge and belief, is true, correct, and complete.

17. SIGNATURE:

18. TITLE OR STATUS (State whether individual owner, member of firm, or if officer of corporation, give title. If registrant is other than a natural person, give name and home address of an executive officer thereof):

Past Commander Edward B. Jabant, Sergeant of Arms for V.F.W. Post 761 - No, Post Home
305 Grant Avenue, Dumont, New Jersey 07628

FOR USE OF INTERNAL REVENUE SERVICE - APPLICANT WILL MAKE NO ENTRY IN THIS PART

19. RECEIVED for registration. This form when checked and signed below constitutes evidence of registration under the National Firearms Act of 1968 (Chapter 53 of Title 26, United States Code). Such registration does not permit the registrant to possess the firearm in violation of state or local law; however, see item 8 of instructions on limitation on use of any information submitted hereinafter.

20. DATE: APR 10, 1969

21. SIGNATURE: Internal Revenue Service

See reverse
Appendix 3, Larson Testimony, page 1 of 1 page.

DEPARTMENT OF THE TREASURY —
APPLICATION FOR TAX PAID TRANSFER AND REGISTRATION OF FIREARM

2a. TRANSFEREE’S NAME AND ADDRESS (If transfer is a Special (Occupational) Taxpayer who is acquiring firearm for personal use, rather than as part of his business inventory, show personal name below and check here.)

Frank H. Wheaton III
Wheaton Automatic Arms
1236 Front St.
Mauricetown N.J. 08207

2b. TRADE NAME (See instruction 3d)
Wheaton Automatic Arms

2c. COUNTY
Cumberland

3a. TRANSFEROR’S NAME AND MAILING ADDRESS (if the firearm is registered under your name, enter your trade name. EXECUTORS: See Instruction 2f.)
Edward T. Joubert
Past Commander VFW Post No. 761
No Post Home
305 Grand Ave.
Dumont N.J. 07628

3b. NUMBER, STREET, CITY, STATE
X 8200

3c. IF APPLICABLE: DECEDENT’S NAME, ADDRESS, AND DATE OF DEATH

The above-named and undersigned transferee hereby makes application as required by Section 5812 of the National Firearms Act to transfer and register the firearm described below to the transferee.

4. DESCRIPTION OF FIREARM (Complete items a through N)

| a. NAME AND ADDRESS OF MANUFACTURER AND/OR IMPORTER OF FIREARM |
| Deutsche Waffen und Munitionslager Berlin Germany |
| Machine Gun |
| Machine Gun |
| 8mm |
| g. SERIAL NUMBER |
| 490 |
| b. TYPE OF FIREARM (Short-barreled rifle, machine gun, destructive device, any other weapon, etc.) |
| 1904 |
| c. CALIBER |
| 7.62 |
| d. MODEL |
| Length of barrel: 28 inches |
| Overall: 44 |

5. TRANSFEREE’S FEDERAL FIREARMS LICENSE (if any)

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<th>First 8 digits</th>
<th>2 digits</th>
<th>2 digits</th>
<th>5 digits</th>
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<tr>
<td>22 2326491</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

6. TRANSFEREE’S SPECIAL (OCCUPATIONAL) TAX STATUS

| a. ATF IDENTIFICATION NUMBER |
| 22 2326491 |
| b. CLASS |
| DF 3 |

7. TRANSFEROR’S FEDERAL FIREARMS LICENSE (if any)

<table>
<thead>
<tr>
<th>First 8 digits</th>
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<td>22 2326491</td>
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</tbody>
</table>

8. TRANSFEROR’S SPECIAL (OCCUPATIONAL) TAX STATUS

| a. ATF IDENTIFICATION NUMBER |
| 22 2326491 |
| b. CLASS |

UNDER PENALTIES OF PERJURY, I DECLARE that I have examined this application, and to the best of my knowledge and belief it is true, correct and complete, and that the transfer of the described firearm to the transferee and receipt and possession of it by the transferee are not prohibited by the provisions of Chapter 44, Title 18, United States Code; Chapter 53, Title 26, United States Code; or Title VII of the Omnibus Crime Control and Safe Streets Act, as amended; or any provision of State or local law.

9. SIGNATURE OF TRANSFEREE (Or authorized official)

Edward T. Joubert

10. NAME AND TITLE OF AUTHORIZED OFFICIAL (Point or type)

Edward T. Joubert

11. DATE
8/10/97

THE SPACE BELOW IS FOR THE USE OF THE BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

BY AUTHORITY OF THE DIRECTOR, THIS APPLICATION HAS BEEN EXAMINED, AND THE TRANSFER AND REGISTRATION OF THE FIREARM DESCRIBED HEREIN AND THE INTERSTATE MOVEMENT OF THAT FIREARM, WHEN APPLICABLE, TO THE TRANSFEREE ARE:

APPROVED (With the following conditions, if any)

DISAPPROVED (For the following reasons)

SIGNATURE OF DIRECTOR, BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

EXHIBIT 7
Appendix 4, Larson Testimony, page 1 of 2 pages

April 16, 1969

Amnesty Guidelines

Section 1. Purpose

The purpose of this Manual Supplement is to provide guidelines to Alcohol, Tobacco and Firearms investigative personnel setting forth the action to be taken with respect to requests for the delinquent "amnesty" registration of National Firearms Act firearms. This Manual Supplement formalizes the understanding of post-amnesty procedures agreed upon at the January 13-15, 1969, conference of Assistant Regional Commissioners, Alcohol, Tobacco and Firearms in Washington, D.C.

Section 2. Background

Title II of the Gun Control Act of 1968 provides that any person possessing an unregistered firearm as defined in Section 5845(a), Internal Revenue Code of 1954, as amended by Title II of the Gun Control Act of 1968, must register each such firearm with the Secretary of the Treasury or his delegate during the period November 2 through December 1, 1968; that no information or evidence so acquired could be used as evidence against the registrant in any criminal proceeding with respect to a prior or concurrent violation of law.

Section 3. Instruction

.01 An unregistered N.F.A. firearm in the possession of any person after the amnesty period or subsequently acquired or made by him in violation of the National Firearms Act can no longer be registered.

.02 Alcohol, Tobacco and Firearms has received numerous inquiries from persons seeking to register N.F.A. firearms which for various stated reasons were not registered during the amnesty period. Such registration will not be made. In such instances, investigative personnel should endeavor to secure the voluntary abandonment of the firearm or firearms in question and formally document such abandonment through the use of Form 3807, Notice of Abandonment of Property, and related procedures. Where it is shown that the owner of the firearm was precluded from registration, such as military personnel assigned to overseas duty during the amnesty period, Form 4467, Registration of Certain Firearms During November 1968, together with a statement of the facts, may be forwarded to the National Office.

.03 In the unlikely event the request to register a firearm is made in person by the owner who at that time has the firearm in his possession and who refuses to voluntarily abandon the firearm, the Special Investigator has no recourse but to seize the firearm and to retain it pending formal forfeiture proceedings.

.04 In the event a request to register a firearm is made in person or otherwise and, if in person, the firearm is not in the owner's possession at that time, the Special Investigator should endeavor to secure the abandonment of the firearm as outlined in .02 above. In the event the owner declines to abandon the firearm voluntarily, he should be warned that continued retention of the firearm is in violation of law and that he is exposing himself to criminal prosecution. The refusal by the owner to voluntarily abandon an unregistered firearm should not signal the initiation of an investigation.

#497-[hand written]

Official Use Only
Section 4-Cont.

unless the type of firearm or firearms he allegedly possesses plus other pertinent facts known to the Special Investigator dictate that an investigation is warranted. Under no circumstances, however, should a Federal Search warrant be secured during such investigation without the prior knowledge and consent of the appropriate United States Attorney.

.05 Individuals recently possessing unregistered National Firearms Act firearms are in violation of law. If the owner of an unregistered firearm declines to voluntarily abandon the firearm, the only legal means available to him to avoid possible legal prosecution at some future time is to destroy the firearm. The law makes no distinction in the treatment of National Firearms Act weapons. However, investigative diligence and concern with the abandonment of unregistered weapons coming to a Special Investigator's attention through one of the foregoing situations should be influenced by whether the weapon is of the type that would require a $200 transfer tax rather than a $5 transfer tax unless the character and reputation of the owner dictates otherwise.

.06 Unregistered seized firearms should be stored and, if forfeited, disposed of in accordance with General Services Administration Regulations. Unregistered firearms which are abandoned should be disposed of similarly.

Section 4. Effect on Other Documents

IRM 7830 is supplemented.

Harold A. Serr

Harold A. Serr, Director
Alcohol, Tobacco and Firearms Division
MEMORANDUM TO: Regional Director  
Southeast Region  

FROM: Chief, Technical Services Division  

SUBJECT: Proposed delinquent registration of firearms  
By [deleted], Decatur, Alabama  

This refers to your memorandum of January 6, 1975, considering the above matter. [deleted] wishes to register in the National Firearms Registration and Transfer Record a Harrington and Richardson Arms Company shotgun of an overall length of 17 1/2 inches and a barrel length of 11 9/16 inches, and an Halipan Gun Company shotgun with an overall length of 29 3/4 inches and a barrel length of 13 9/16 inches.

[deleted] acquired these weapons in 1963 and 1964, respectively. He was overseas, in Europe, as a member of the Armed Forces, from September 13, 1968 until March 1969, and was unaware of the amnesty period for the registration of these firearms from November 2 through December 1, 1968.

It is true that between 15 and 20 individuals who were outside the United States during the amnesty period were permitted to register firearms after the expiration of the amnesty period. It was our practice to register such firearms when:

1. The applicant could produce documentation (military orders, etc.) that he was out of the country during the entire amnesty period;

2. The applicant could establish that the firearms to be registered were in the United States during the amnesty period; and

3. The applicant contacted the Bureau within a reasonable time after first returning to the United States.
Regional Director
Southeast Region

However, our practice of registering firearms when these criteria were met has been discontinued. In any event, [deleted] could not meet the criteria set forth in (3) above.

To permit [deleted] to register his firearms years after the expiration of the amnesty period, and years after he returned to the United States, would be unfair to those who have been prosecuted and whose firearms have been forfeited as a result of the firearms not being registered during the amnesty period. Indeed, the effective enforcement of the Act could be jeopardized.

Accordingly, we must reaffirm our prior determination that these firearms cannot be registered in the National Firearms Registration and Transfer Record.

(Signed) Thurman W. Darr
Thurman W. Darr

CBLewis:eyg
2/24/75
Questions by the Subcommittee on Treasury, Postal Service, and General Government Regarding Errors in the National Firearms Registration and Transfer Record, a National Firearms Act (NFA) program, and responses by the Bureau of Alcohol, Tobacco and Firearms (ATF)

May 2000

Question: How much is ATF spending to improve technology, staffing and training to address its regulatory function?

Answer: ATF no longer categorizes its activities by regulatory and enforcement since the development of its strategic plan. The activity structure is now Reduce Violent Crime, Collect the Revenue, and Protect the Public.

Reviews by the Treasury Department Office of Inspector General (OIG) indicated some weaknesses in records kept in the National Firearms Registration and Transfer Record, and could not confirm that no NFA permits were inadvertently destroyed, inappropriately added, or do not reflect that licensees were deceased. While ATF found nothing in the OIG report to justify a statutory or administrative change in the NFA or its administration, it is making efforts to automate and clarify its records. ATF has also placed guidance on its website regarding NFA administration, including information on its policy for transfers for heirs and estates.

Question: What is the timetable for completing a searchable database of NFA license information? How much will this project cost? Would completion of this make it possible to confirm the completeness and accuracy of the NFRTR? What is the percentage of NFA licenses currently outstanding? How many transfers were made from deceased licensees in 1997-99?

Answer: ATF installed an improved NFA database in 1997 and does have the ability to perform NFA record searches. Also ATF is imaging and indexing all NFA documents going back to 1934, thereby further enhancing our retrieval capabilities. At the end of 1999 there were 1,148,984 NFA firearms currently registered in the National Firearms Registration and Transfer Record. ATF approves transfers of lawfully registered NFA firearms to lawful heirs on a regular basis, however, we do not specifically track those transfers.

Question: For the years 1997-99, how many NFA-governed items for which transfers from decedent were sought by an heir did ATF confiscate because there was no NFRTR record of a valid license?

Answer: We have no knowledge of any instance where ATF confiscated a lawfully registered firearm from a legal heir.
May 23, 2000

The Honorable Jim Kolbe, Chairman
Subcommittee on Treasury, Postal Service
and General Government
House of Representatives
B-307 Rayburn House Office Building
Washington, D.C. 20515

Attention: Mr. Jeffrey Ashford

Dear Chairman Kolbe:

This letter provides my qualified opinion on the Bureau of Alcohol, Tobacco and Firearms’ responses to three questions asked of them by your Committee. These questions were on the underlying backbone technology of the firearms record system, the efforts to measure and upgrade its “searchability” and finally, the way decedents are handled. I take these up very briefly below and then offer some concluding comments. A statement of my qualifications is also enclosed.

Technology question. My reading of the OIG reports suggests that very serious problems were uncovered in ATF’s recordkeeping systems. In fact, in my long experience, I cannot think of any instance where poorer results were obtained. I was greatly troubled, therefore, by ATF’s comment that it “…found nothing in the OIG report to justify a statutory or administrative change….” The automation remedies offered are too vague and general to assess their thoroughness. The fact that no timetable was offered is a concern, nonetheless. Moreover, there is no mention of any benchmarking with other federal agencies, like the IRS, SSA or SBA which all have excellent record keeping systems.

Searchability question. I found the ATF answer to be unresponsive and too general to be useful. For example, again, no timetable is offered. There are no details on how the indexes will be built by ATF and how index quality will be assured, measured and maintained. The handling of decedent records is likely to be a serious weakness and not to have a system to deal with it seems a failure of due diligence.

Heirs question. It is not surprising that ATF has no knowledge of confiscating “a lawfully registered firearm from a legal heir.” In responding to the previous question, ATF indicated that it has no system to identify or track the firearm transfers to heirs. The Social Security Administration regularly provides fact of death information which could be used to do systematic checking, certainly for the years 1997-99. This is public information available on the Internet. There is no evidence that ATF examined this source in its response to the Committee.
Conclusions. I can only offer a qualified opinion on the ATF’s answers but if their responses are to be taken at face value, two conclusions arise: (1) ATF has serious material weaknesses in its firearm registration system which it has yet to acknowledge and (2) the ATF steps taken to improve its recordkeeping clearly lack thoroughness and probably lack timeliness as well.

Recommendations. Let me offer three recommendations to the Committee for its consideration: (1) ATF should be asked to engage an outside audit organization to give a more complete assessment of the weaknesses in their existing firearms system. The scope of the OIG audit was too narrow. These audits should be annual, including a full test of the system from registration to retrieval. The Post Office has such audit practices and offers a model of the completeness needed. (2) ATF should be asked to conduct a thorough benchmarking effort looking at recordkeeping practices and how they are changing both within government and in organizations like insurance companies that have to keep files for long periods. This benchmarking will require another (separate) outside contractor experienced in conducting such studies. (3) The use of record linkage technologies to test and update the ATF firearms system to reduce its isolation are worth study. A match with the SSA decedent file is an example, but there are other government systems that might be looked at too. Possibly legislation would be needed but before seeking legislation ATF should engage one or more experts in record linkage techniques as consultants on the present “matchability” of the system and needs for its future “matchability.”

Please feel free to call me (202-261-5886) for any additional assistance on this matter. In the interests of brevity, some of my answers may have been cryptic. For this I apologize.

Sincerely,

Fritz J. Scheuren, Ph.D.
Senior Fellow
The Urban Institute
EMPLOYMENT

Senior Fellow, The Urban Institute, 1999 to present.
National Technical Director, Statistical Sampling Economics Group, Ernst and Young, LLP, 1996 to 1999.

RECENT PROFESSIONAL SERVICE ACTIVITIES

Vice-president American Statistical Association, 1999 to present.
Scientific Secretary, International Association of Survey Statisticians, 1997.
Adjudict Professor of Statistics, The George Washington University, 1997 to present.
Advisory Board Member, George Mason University Statistics Department, 1999 to present; USDA Graduate School Statistics Advisory Board, 1989 to present.

EDUCATION

Ph.D. (Statistics) The George Washington University
B.A. (English Literature) Tufts University

HONORS

ASA Founders Award (1998); Shiskin Award for contributions to U.S. economic statistics (1995); Finalist, Senior Executive Association Executive Excellence Award (1992); Elected Member, the International Statistical Institute (1988); Elected Fellow, the American Association for the Advancement of Science (1984); Elected Fellow, the American Statistical Association (1981).

PUBLICATIONS

Over one hundred and fifty applied and theoretical papers, monographs, and books focused on administrative record research, record linkage, survey sample design, and estimation.
Tab 4
HEARINGS
BEFORE A
SUBCOMMITTEE OF THE
COMMITTEE ON APPROPRIATIONS
HOUSE OF REPRESENTATIVES
ONE HUNDRED SEVENTH CONGRESS
FIRST SESSION

SUBCOMMITTEE ON THE TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS

ERNEST J. ISTOOK, Jr., Oklahoma, Chairman
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JOHN E. PETERSON, Pennsylvania
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JOHN E. SWEENEY, New York
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STENY H. HOYER, Maryland
CARRIE P. MEEK, Florida
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PETER J. VISCLOSKY, Indiana

NOTE: Under Committee Rules, Mr. Young, as Chairman of the Full Committee, and Mr. Obey, as Ranking Minority Member of the Full Committee, are authorized to sit as Members of all Subcommittees.

MICHELLE MIRDEZA, JEFF ASHFORD, KURT DOOD, and TAMMY HUGHES,
Staff Assistants

PART 1

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U.S. GOVERNMENT PRINTING OFFICE
73-553 WASHINGTON : 2001
cigarette trafficking problems. State and local agencies participating in joint investigations with ATF share assets seized in contraband cigarette investigations through Treasury Forfeiture Fund procedures.

REGULATORY PROCESSES AND RESOURCES

**Question:** Last year you indicated that Form 6 import permit applications may take 45-60 days to process. However, you cited a number of potential developments to shorten this, including hiring new examiners, using scanning devices, and possibly testing e-filing. What is the status of such developments, and how long do such permit applications take?

**Answer:** When we receive complete and accurate Forms 6, with all supporting documentation, processing currently takes approximately 45-60 days. Forms 6 that are received and need additional documentation or analysis may take longer to process. Several steps are being taken to improve processing time. We are in the process of finalizing a contract to hire additional data entry employees. Also, a portion of the earmarked $2 million dollars is being used to configure an electronic Submission Prototype, that will permit e-filing.

**Question:** ATF received $2 million in FY 2001 for management and technical enhancements for the Imports Branch, the National Firearms Act Branch, and the Licensing Center. How is ATF using these resources? Is any of it going to support personnel increases? If not, what technology or other productivity improvements are being put in place, and what information do you have to show improvements in service? How would you propose to use additional funding for this purpose if it were to be made available?

**Answer:** The $2 million has been appropriated to three distinct functions, each of which will provide management and technical enhancements for NFA, Imports and the National Licensing Center, thus significantly improving service to our customers. The three initiatives are:

- Combining Applications and Standardizing elements - $1,242,000
- Standardizing Existing Data - $446,000
- Configuring Electronic Imports Submission Prototype - $345,000

What these initiatives will accomplish is combining separate existing data systems into one integrated system, with standardized terminology in all related fields. This will mean that for the first time the Licensing Center, NFA and Imports data systems will be integrated. Further, through development of a Meta Layer System, we will be able to develop a tracking system and create management reports. All data in the existing systems will be standardized to ensure compatibility. Upon completion of these two initiatives, the prototype for e-filing of Import permits will be developed. When fully developed, this will enable importers to submit the application to import items, and the form verifying the release of articles from Customs custody, electronically. The $2 million has been obligated and statements of work have been signed.

In addition to the three technical initiatives, several management initiatives are also being pursued. Customer service standards and performance measures for all three branches are being developed. A spreadsheet has been developed in the Imports Branch to enable branch employees
to determine the importability of certain items, thus eliminating the need to forward permits to the Firearms Technology Branch. In addition, "interim response" letters have been developed, and will be forwarded to all applicants when processing will exceed the normal processing time, thus keeping applicants apprised of the status of their pending applications and registrations. Further, we have looked at our "web pages" for the three branches and will be expanding the information available on those pages, ensuring all changes in policy/procedure are frequently updated and expanding our list of frequently asked questions (FAQ's).

We are also researching the possibility of obtaining the equipment necessary to allow individuals to submit fingerprint cards electronically. We anticipate this will provide a significant decrease in the processing time of NFA registrations and Federal Firearms Licenses. Additional funding would enable us to hire more contract employees, and create prototypes for other types of electronic filing.

Question: Last October you wrote former Chairman Kolbe on actions taken by ATF to address the recommendations of the Treasury Inspector General with regard to the accuracy of ATF’s National Firearms Act database and the National Firearms Registration and Transfer Record (NFRTR). You indicated that you expected to image every original record back to 1934, and complete that within two years. What is the status of that project? Was any of the $2 million applied to that effort? What is the timetable for completing a searchable database of NFA license information? How much will this project cost? Would completion of this make it possible to confirm the completeness and accuracy of the NFRTR?

Answer: Progress on the project to image and index all original records continues. We now anticipate that this project will be completed within nine months. None of the $2 million was applied to this effort.

At the present time, there is no timetable to link the images with the retrieval system; however, the technology to achieve linkage does exist with an estimated cost of $200,000. We can proceed with the linkage once funding becomes available. The linkage alone would not make it possible to confirm the completeness and accuracy of the NFRTR. Both the imaged documents and the NFRTR are searched whenever ATF agents request an investigation and when court certifications are made.

We have recently implemented a project to compare the imaged and indexed information to the retrieval system for the NFRTR. This involves the comparison of the original registration document to the retrieval system record and will result in the retrieval system being more complete and accurate. The current retrieval system was implemented in 1997 and has more information fields, such as street address, zip code, license number, etc., than the system it replaced. Thus, the current system is lacking this information for "pre-1997" records. Once the record has been completed and the data verified, it is "frozen" so that the data may not be changed. We anticipate this project will take at least six to eight years to complete.

The combination of the imaging and indexing, linkage to the NFA retrieval system, and the database verification will provide strong internal controls to the NFA system and ensure the completeness and accuracy of the NFRTR.

Question: In that same letter you described the NFA Branch creation of a document control section as meeting the IG’s recommendation for regular NFRTR reviews, and also your view that it would be impractical to link the NFRTR and NFA databases with other records to
verify that registrants were not deceased, for example, and that NFA weapons were in fact in the custody of living owners. Given concerns expressed about the accuracy of NFA data, and fears that inaccurate bureau records might jeopardize legitimate claims to ownership of NFA items, has ATF considered the following as offering some ways to satisfy the recommendations of the IG, and ensure public confidence in the NFA regulatory system (short of another amnesty)? If not, what problems would they pose -- legal issues, for example, or high cost?

**Answer:** We believe the actions we are taking and have taken satisfy the recommendations of the Inspector General regarding ATF's administration of the National Firearms Act. You noted specifically the issue regarding deceased registrants as they relate to the accuracy of the National Firearms Registration and Transfer Record (NFRTR). As we have previously stated, we do not believe that the fact that an individual registrant is deceased affects the accuracy of the Record or that it makes the registry unreliable or ineffective as a law enforcement tool. To the contrary, the registry is reliable and effective for law enforcement purposes if it accurately reflects the identity of the person legally entitled to possess a particular firearm. Thus, for example, a query of the registry for a particular machinegun may disclose that the firearm was registered in 1938 to an individual who was then 60 years old. If the firearm is in the possession of any person other than the registrant, a certification issued by the NFA Branch would correctly state that the firearm is not registered to that person. The fact that the registrant is deceased would not affect the accuracy of the certification or the validity of the registration to the decedent. This is because the registry would correctly indicate that the decedent, and only the decedent, is legally entitled to possession of the registered weapon.

Because of the Inspector General's concern about this matter, we have taken steps to disseminate information regarding registered firearms in estates by, for example, including the information on the ATF Internet website and by revising the registration forms.

We are addressing the accuracy of the Record by comparing the imaged and indexed information, thus, the original document, to the existing retrieval system for the NFRTR. This comparison will allow us to have more information in the system and to ensure the accuracy of the information entered. Ultimately, we intend to merge the retrieval system and the images by linking the systems.

**Question:** An independent, annual audit of the database covering registration to retrieval?

**Answer:** We do not believe an independent audit of the database is needed. The ongoing efforts we are making to ensure the completeness and accuracy of the NFRTR by imaging and indexing the documents, performing database verification, and linking the retrieval system with the imaging system will result in strong internal controls for the NFRTR.

**Question:** A benchmarking effort aimed at its record keeping practices in comparison with similar record keeping efforts in government and industry?

**Answer:** We are constantly endeavoring to improve our record keeping practices. In fact, during the imaging and indexing project, we switched to newer and more efficient imaging and retrieval technology. When we started imaging the documents, the images were placed on CDs. We switched to the storage of the images on an optical disc, which has the storage capacity
of 15 CDs. At the same time, the retrieval software was switched to an Oracle-based system that allows more flexibility in record searches and is compatible with our other systems. We will continue to evaluate other technologies.

**Question:** Record linking technology – if not with the Social Security Administration files, then with other sources?

**Answer:** In response to the Inspector General’s recommendation regarding deceased registrants, we evaluated the use of the Social Security records and found it to be impractical for our purposes. We are unaware of any other record system that would contain the information sought.

**Question:** Last year you indicated that the number of firearms registered on the National Firearms Registration and Transfer Record (NFRTR) was 1,148,984. Has that changed, and if so, what is it?

**Answer:** As of the end of Calendar Year 2000, the number of firearms registered in the NFRTR is 1,271,568; an increase of 122,584 firearms.

**FIRE RESEARCH LABORATORY**

In the hearing you indicated that you will provide details on reasons for cost overruns, and current status of planning, design and construction for the site.

**Question:** What funding sources are being considered to make up the shortfall? If these entail reductions in existing bureau funding, what impact will those reductions have on ATF programs?

**Answer:** ATF is currently working with Treasury to identify funding sources to make up for the Fire Research Lab shortfall. Currently, the Treasury Asset Forfeiture Fund, the Treasury Counterterrorism Fund, as well as decreases to ATF programs are being considered as potential sources of funding. Once these funding sources are identified, we will fully brief the committee.

**Question:** What is the status of the headquarters construction project? Is site acquisition complete, under the terms of the National Environmental Policy Act (NEPA)? Is ATF still on schedule for a June 2004 move?

**Answer:** During FY 2000 to present, GSA has successfully negotiated the contract with the District of Columbia Government and conducted a full NEPA Environmental Impact Study of the site. A Record of Decision (ROD) recommending a Finding of No Significant Impact is scheduled to be released by the end of June 2001, concurrent with DC government site actions, including: the City Council and Financial Control Board approvals of the final site disposition and the accompanying street closure application. The unexpected delay in moving the DC Department of Public Works off of the site and working through local street closure approval have pushed the occupancy schedule to January 2005. We have been told that design by the
TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS FOR FISCAL YEAR 2003

HEARINGS BEFORE A SUBCOMMITTEE OF THE COMMITTEE ON APPROPRIATIONS HOUSE OF REPRESENTATIVES ONE HUNDRED SEVENTH CONGRESS SECOND SESSION

SUBCOMMITTEE ON THE TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS

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NOTE: Under Committee Rules, Mr. Young, as Chairman of the Full Committee, and Mr. Obey, as Ranking Minority Member of the Full Committee, are authorised to sit as Members of all Subcommittees.

MICHELLE MEDEZA, JEFF ASHFORD, KURT DODD, WALTER HEARNE, and TAMMY HUGHES, Staff Assistants

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80-097

WASHINGTON: 2002
years ago OMB directed us to work together to come up with a universal system which we did. FBI remained part of the board, we call it the NIBIN, the National Integrated Ballistic Information Network. Their role was to be two things. One was to continue to support the systems they had out there until they could be replaced with the new system; and secondly was to provide the telecommunications networking of the equipment as it was going out.

The FBI is still involved, actively engaged in making sure DrugFire equipment is maintained until such time as it gets replaced. But we did run into issues about the telecommunication and the connectivity between these machines and the ability of the FBI's system, I think it was the CJIS (Criminal Justice Information System) system to provide the kind of connectivity that we needed. They had a lot of demands on those systems as well.

What we have agreed to do is that we will also provide the connectivity through networks. We have identified ways in which we could reduce the cost of equipment being rolled out by using in some cases some less expensive equipment that will still do what the police departments need while coming up with the funding for the connectivity of the network so that we can still do it within our budget.

NATIONAL FIREARMS REGISTRATION ACT

Mr. SHERWOOD. Mr. Buckles, in 2002 we earmarked about $500,000 to correct errors in the National Firearms Registration Act and Transfer Registry. Can you update us on your progress that is being made on that project?

Mr. BUCKLES. Yes, we have made a lot of progress and we have used that money to do a couple of things to improve the computer databases that are used to track that information, to go back through all of the information and correct any errors that were in the database, create a system where it is going to be harder to make errors by having certain types of like drop-down menus and that sort of thing that will help correct errors at the time they are going on. Also we have added staff with that money to those offices to make sure that we can have enough staff to properly process the applications as they come through.

Mr. SHERWOOD. Thank you.

One other little issue. There are lots of firearms in this country that are antique or collector's type that have been in people's possession long before there were any registration. Suppose you inherit something like that. What is the process to be legal and not be on the wrong side of things?

Mr. BUCKLES. The problem is right now that if you inherit a weapon that is covered by the National Firearms Act and it is not registered, there is currently no way that it can be registered.

An amnesty was run at the time the law went into effect in 1968 but since then there has been no amnesty. So a firearm that is unregistered cannot be possessed by that person. When we run into a situation where there are family issues or it is a valuable weapon we have been able to work out ways in which they can sometimes be transferred to government museums because government agencies can register these weapons, but private individuals cannot.

Mr. SHERWOOD. Do you see that as a little unreasonable?
Mr. Buckles. I think you can look at it as unreasonable if you are somebody who ends up with a machine gun. But we have to stand back and look at what the consequences of having an amnesty period would be or allowing people to register the weapons. If we had an amnesty, anyone then who possessed any of those weapons, we would be unable to prosecute and do anything with the criminal misuse of those firearms. So it has all sorts of different implications that go far beyond the collectors that are involved or the individual that may end up having this weapon.

But if you are talking about it being—The kinds of weapons that are covered are machine guns, for example.

Mr. Sherwood. What about a World War II Lugar pistol?

Mr. Buckles. A World War Lugar pistol would not be covered by the National Firearms Act. Machine guns and those kinds of weapons are generally what are covered by the National Firearms Act.

Mr. Sherwood. Even if they are antiques?

Mr. Buckles. Yes, I believe so.

Mr. Sherwood. Thank you.

Mr. Istook. Thank you, Mr. Sherwood.

G.R.E.A.T. PROGRAM

Director Buckles, let me do a little follow-up with you. You have had several questions regarding the GREAT program. As you are aware, there was the evaluation report that was submitted in November and among its findings was that although it certain helped to move the attitudes of participants against gang activity, if the measure as the report states, if the measure of effectiveness is actually reducing gang activity, they did not find that there were, on a regular basis under the longitudinal study, there was not a reduction in gang activity itself. I think it begs the question of whether the program is preaching to the choir whether it targets the youth that are at risk of being involved in gang activity and is effective in motivating them not to be involved in gangs, successfully motivating them not to be involved in gangs, as opposed to working with young people who were unlikely candidates for gang activity to begin with.

I think that is a very significant issue that is raised by the report regarding whether the program is accomplishing its stated purpose of reducing gang activity as opposed to cementing anti-gang attitudes that may already exist.

Would you address whether the program is accomplishing the intended objective of reducing gang activity?

Mr. Buckles. It is my belief, Mr. Chairman, that it does. Let me comment on that in a couple of ways.

Obviously we have seen this study, but the study also made recommendations as to what we could do in terms of the curriculum and follow-up that they believed would achieve those kinds of results and we have made a number of changes in the curriculum based upon their findings of the study and the recommendations.

Mr. Istook. The last three months you are saying?

Mr. Buckles. No. Actually the report was completed by the University of Nebraska some time ago, and then it had to go to NIJ to be validated. I am not sure exactly what that process involves. We have seen the findings——
questions that are irrelevant to nonimmigrant aliens importing firearms. Instead it will focus on whether the individual is a prohibited person and whether the importation is legal. The new form will not be ready for a few months. However, upon its completion and approval, we will ensure it is widely distributed and all pertinent parties are notified of its availability.

It is my understanding that the Form 6, Part I was intended for permanent importation of the specified guns at any time within one year. It has been reported to my office that ATF has told several Canadians that they will allow multiple dates on the same permit, while other ATF personnel in the same office have advised that a separate form must be approved for each visit. ATF requires an application for interstate transportation of machineguns and other National Firearms Act firearms and in practice, will approve multiple dates on a single application.

**Question:** How will ATF handle individuals who enter the U.S. frequently for sporting purposes, such as competitive shooters who may attend weekly matches in the U.S.? Will they be able to get a permit that’s good for multiple dates, or for unlimited visits within a certain period of time?

**Answer:** ATF is aware that certain nonimmigrant aliens will be making multiple entries into the United States to participate in competitive shooting events. When the new Form 6 for nonimmigrant aliens is created, as discussed previously, the form will be designed to allow for multiple temporary importations on one approved permit, with certain restrictions. In the meantime, information available on ATF’s web page, recommends that a person making multiple entries could file several applications at once, get them approved, and then use them one at a time as they enter the United States.

**FIREARMS REGULATION**

**Question:** A minor change in a form (ATF 4473) for federal background checks blocked gun sales across the country in early February because the new paperwork didn’t reach dealers on time. Has this problem been rectified?

**Answer:** Yes. All Federal Firearms Licensees (FFLs) have been mailed an initial supply of new 4473s and ATF’s Distribution Center has filled thousands of orders for the new form.

The form was modified to ensure that firearms are not transferred to prohibited nonimmigrant aliens. In the aftermath of September 11, 2001, this change was imperative.

It was reported in the press last week, and we’ve heard from firearms dealers, that starting on February 19 they had to stop selling guns because they hadn’t gotten supplies of the new transfer form, Form 4473, that was published last October. This was a sudden event that caught gun dealers off guard when they went to call in their first transfer on the morning of February 19.
Question: While I applaud ATF's flexibility in trying to fix this sudden problem by allowing dealers to download the new form from the Web, or to use a faxed copy, can you please explain why this was necessary? Why wasn't ATF able to get dealers these required forms within the last 3 or 4 months? Wouldn't that have been easier than causing what was basically a sudden and unannounced ban on gun sales nationwide?

Answer: On February 5, 2002, ATF published a Temporary Rule in the Federal Register amending the Gun Control Act regulations relating to nonimmigrant aliens. The new regulations enabled us to revise Form 4473 to ensure that firearms are not transferred to prohibited nonimmigrant aliens. In the aftermath of September 11, 2001, ATF felt it was important to institute these changes as quickly as possible. Therefore, we invoked an emergency procedure to make the rules effective shortly after publication. Accordingly, the February 5, 2002, publication stated that the new rules, and therefore the new form, would go into effect on February 19, 2002.

We could not print and distribute the form months before the effective date because the changes to the form could not be made until Departmental and Administration review was complete. However, ATF contracted to have the new forms in shipment to all licensees by February 8, 2002. We believed this would provide ample time for licensees to receive the forms prior to February 19, 2002. Unfortunately, the contractor did not fulfill its obligations and the forms were not shipped by February 8, 2002. In addition, ATF was not informed of the delay. Although we made every effort to get the revised forms to dealers once we learned about the problem, including the actions you cite in your question, we were not able to provide all dealers with the customer service they deserved. You should know that we are personally sending a letter of apology to all FFLs affected by this situation.

$500,000 was provided for this in last year's appropriation bill and I understand it was included in the base funding for supporting the National Licensing Center, and ATF's Import, and National Firearms Act (NFA) branches.

Question: Can you update us on what progress is being made on that project?

Answer: With funds appropriated in FY 2001 we developed a prototype version of an electronic filing system for import permit applications. This prototype was demonstrated to a group of importers in February, with highly favorable reactions. We hope to have a fully operational system in a year. We are also developing an "integrated metadata layer" which, when implemented, will allow ATF to respond to internal, law enforcement, congressional, and other department queries quickly. This will be achieved through a single approach to inputting, reporting, and analyzing data through the implementation of two integrated firearms databases: one optimized for transactions and one optimized for analysis. This initiative will significantly enhance ATF's contribution to protect America from crime, violence, and other threats to public safety by providing broader access to critical data from any location. This initiative will allow ATF to be more responsive to our customers' needs, which will greatly improve our performance establishing a production-level forms processing system to capture all forms of data from firearms and explosives applications, and automatically send it to the appropriate databases.
We also have developed improved management reporting capabilities for the licensing, imports and NFA databases, and hired some contract employees to assist with this effort.

In FY 2002, the $500,000 earmarked for supporting the National Licensing Center, the Imports Branch and the National Firearms Act Branch will be used for actual development, implementation and testing of the electronic filing of the import permit application; implementing the integrated metadata layer, enhancement of the management report system (Phase II); development of an Import and NFA Guide for use by industry members and other federal agencies, and hiring additional contract employees to assist the branches within FEAS with processing - to reduce processing time and improve quality.

**Question:** What steps would you be willing to take to allow some limited registration of antique or war trophy NFA firearms that may lack some record but where there’s no evidence of any criminal intention or intention to evade the law, for instance where a person may find himself in possession of a valuable NFA firearm as part of an inheritance?

**Answer:** The Secretary of the Treasury has the authority to declare an amnesty period that would allow persons who possess unregistered NFA weapons to register their firearms without penalty. Congress required the first amnesty period in 1968 after the NFA was found by the Supreme Court to be unconstitutional. Due to the constitutional defects, all pending investigations and prosecutions were terminated, so the amnesty period did no further damage to administration of the statute. We have consistently maintained that another such period would be disruptive to our efforts to enforce the NFA because — (1) all pending investigations of NFA violations and all pending prosecutions would have to be terminated; (2) any person, including those criminally inclined, could register their weapons; (3) the prospect of additional amnesty periods may encourage people to acquire unregistered firearms in expectation of other such periods; and (4) persons previous convicted of NFA violations could challenge their convictions on the basis that they were not given the opportunity to register their weapons during an amnesty period.

**DEMAND LETTERS**

I am aware that since early 2000 ATF has sent letters to licensed dealers demanding that they provide documentation of all used guns sold in certain time periods, or until further notice. Ostensibly, I am told, those letters were targeted at dealers to whom large numbers of "crime guns" were traced, but in reality the program affected well-established and reputable dealers who simply sell large numbers of guns. This has caused ongoing litigation by dealers and has provoked complaints from members of the House and Senate whose constituents were affected.

**Question:** Is ATF continuing the "demand letter" program in which some dealers are required to provide records of their used gun sales? Has ATF taken any steps to make sure this doesn’t fall just on the major established dealers who happen to sell large numbers of guns?
Tab 5
TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 2002

JULY 23, 2001.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ISTOOK, from the Committee on Appropriations, submitted the following

REPORT

together with

MINORITY VIEWS

[To accompany H.R. 2590]

The Committee on Appropriations submits the following report in explanation of the accompanying bill making appropriations for the Treasury Department, the Postal Service, the Executive Office of the President, and certain Independent Agencies for the fiscal year ending September 30, 2002, and for other purposes.

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IMPROVEMENTS IN FIREARMS LICENSING AND REGULATORY OPERATIONS

ATF received $2,000,000 in fiscal year 2001 for management and technical improvements at the National Firearms and Import Branches, as well as the National Licensing Center. This is being used to upgrade the level of service provided to both commercial and personal customers. ATF has applied this funding to three principal initiatives aimed at rationalizing separate systems, including consolidation and standardization, and is pursuing several management initiatives to streamline processes and improve information access and usefulness for both ATF and the public. ATF is also engaged in a project to image and index records of the National Firearms Registration and Transfer Record (NFRTR), and then to link such records to its retrieval system in order to meet recommendations by the Treasury Inspector General to ensure accuracy in the NFRTR database. The Committee includes an additional $500,000 to assist in such efforts as linkage technology, electronic filing, and the use of contract employees with the aim of reducing processing times and ensuring the completeness and accuracy of the NFRTR.

ATF REPORT ON STATUS OF NOTICE OF PROPOSED RULEMAKING NO. 872

The Committee is aware that the ATF issued a Notice of Proposed Rulemaking (No. 872 dated February 9, 1999, as amended by No. 873 dated April 12, 1999) to prohibit certain alcohol beverage containers that are likely to mislead consumers as to the identity or character of the distilled spirits, wine, or malt beverage products within the containers, or which are likely to be confused with other (non-alcohol) food products. The proposed rules also amend regulations to clarify the standards of fill for distilled spirits and wine.

The Committee directs the ATF to report to the Committee by October 1, 2001 concerning the status of these proposed rules. The report shall include the ATF’s analysis of how, if at all, the adoption of these rules will affect the marketing and distribution of so-called “Alcopops” products, the sweeter and fruit-flavored, 5%+ alcoholic beverages bearing names which equate them to or are confusingly similar to lemonade, tea, or other drinks that typically contain no alcohol. The ATF also shall include an analysis of whether it needs any additional regulatory or legal authority to address this issue effectively.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

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MISSION

The United States Customs Service is the nation’s principal border agency with responsibility to enforce the law, safeguard rev-
TREASURY, POSTAL SERVICE, AND GENERAL GOVERNMENT APPROPRIATIONS BILL, 2003

JULY 15, 2002.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. ISTOOK, from the Committee on Appropriations, submitted the following

REPORT

[To accompany H.R. 5120]

The Committee on Appropriations submits the following report in explanation of the accompanying bill making appropriations for the Treasury Department, the Postal Service, the Executive Office of the President, and certain Independent Agencies for the fiscal year ending September 30, 2003, and for other purposes.

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80-624
gang participation and activity, since there is no reliable database of gang membership, and that neither Uniform Crime Report data nor many local law enforcement information sources support mapping crimes and distinguishing juvenile from other crime. While to rectify this information deficit is beyond the mission of ATF, the Committee strongly urges ATF to take steps to increase the impact of this program on gang activity, including curriculum improvements aimed at shortening the time between attitude change and behavioral transformation. ATF is directed to include a status report on these efforts with the submission of its fiscal year 2004 budget request.

IMPROVEMENTS IN LICENSING AND REGULATORY OPERATIONS

In each of fiscal years 2001 and 2002 Congress provided $500,000 in funding for improving operations, electronic filing systems, and database accuracy for the National Licensing Center, Imports Branch, and National Firearms Act (NFA) Branch. Results of this funding have been the creation of integrated databases for transactions and for analysis, improved management reporting, and increasing staff support of processing functions. The Committee recommendation continues this level of funding, and it supports continued improvements in management of these activities, including making significant progress in correcting remaining inaccuracies within the NFA database.

TOBACCO DIVERSION

The Committee is aware that tobacco diversion and smuggling have become associated with supporting terrorist organizations and activities. ATF has reported that it initiated five related investigations in fiscal years 2000–2002 showing such relationships. The Committee directs ATF, in consultation with the U.S. Customs Service, to report by January 1, 2003 on the scope and nature of this activity, and recommendations for actions and resources needed to deter and investigate such trafficking.

INSPECTION RATES AND STAFFING

Following the September 11th, 2001, terrorist attacks ATF initiated a policy of fully investigating all incidents of theft or loss of explosive materials, and conducting full compliance inspections on all explosives licenses and permittees, and as a result recorded 1,763 instances of licensing, record keeping, or storage violations. Yet despite a stated goal of inspecting all explosive licensees and permittees each year, ATF has sufficient numbers of inspectors to complete half that. The Committee is aware that ATF is updating its 1999 report on the resources needed to complete 100 percent inspections, per optimal cycle determined by commodity type. The Committee strongly urges ATF to complete and transmit this report to the House Committee on Appropriations before transmission of the fiscal year 2004 budget request.

INTEGRATED VIOLENCE REDUCTION STRATEGY

The Committee is aware that ATF plans to expand its access to U.S. attorneys’ offices in outlying areas over the next two years. This would lead to the creation of 40 new satellite offices in se-
Tab 6
Annual Plan
Fiscal Year 2003

Office of
Inspector General
DEPARTMENT OF THE TREASURY
APPENDIXES

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ATF's National Firearms Registration and Transfer Record (In Progress)

Contact Person: Roberta Rickey (312) 886-6300

Background: The National Firearms Act (NFA) requires the Secretary of the Treasury to maintain a central registry of certain types of firearms in the United States, which are not in the possession or under the control of the United States. This registry is known as the National Firearms Registration and Transfer Record (NFRTR). The types of firearms that must be registered under the NFA include machine guns, destructive devices, and certain other weapons.

ATF's NFA Branch maintains the registry, which includes the identification of the firearm, the date of registration, and the identification and address of the person entitled to possess the firearm. The NFA Branch also receives and acts upon all applications to make, export, transfer, and register NFA firearms, and notices of NFA firearms manufactured or imported. The NFA Branch is responsible for making adjustments to the registry to reflect: (1) changes in address of registrants, (2) lost or stolen firearms, (3) modifications to the description of firearms, and (4) destruction of firearms.

ATF is engaged in a project to image and index records of the NFRTR, and then to link such records to its retrieval system in order to meet recommendations by our office in a FY 1999 audit report to ensure accuracy in the NFRTR database. ATF received an additional $500,000 in FY 2002 appropriations to assist in such efforts as linkage technology, electronic filing, and the use of contract employees with the aim of reducing processing times and ensuring the completeness and accuracy.

Audit Objective/Key Question(s): Has ATF taken appropriate steps to improve the completeness, accuracy, and processing times of the NFRTR? We estimate that 250 hours will be needed for this project.

ATF On-line LEAD

Contact Person: Roberta Rickey (312) 886-6300

Background: On-line LEAD is investigative software used by ATF special agents, inspectors, and ATF Firearms Trafficking Task Force police officers throughout the country. It is the result of a developmental process that began with Project LEAD, which became E-LEAD and ultimately On-line LEAD. The software can be used to access, sort, and analyze firearms trace information in a way that identifies trends and patterns that may indicate the illegal trafficking of firearms. Through ATF's National Tracing Center, On-line LEAD can access information on over 1 million traced firearms and more than 430,000 multiple gun sales. On-line LEAD updates crime gun trace