

PAUL S. SARBANES  
MARYLAND

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WASHINGTON, DC 20510  
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**United States Senate**  
WASHINGTON, DC 20510-2002

March 18, 2005

Mr. Eric M. Larson  
P. O. Box 5497  
Takoma Park, Maryland 20913

Dear Mr. Larson:

Thank you for getting in touch with me to express your concerns about your concerns about the completeness and accuracy of the National Firearms Registration and Transfer Record. In order to be of assistance to you, I have forwarded your correspondence to the Department of Justice urging a careful review of this matter. I hope that this is helpful in addressing your concerns.

I appreciate hearing from you on this issue. Please do not hesitate to contact me in the future about matters of importance to you.

With best regards,

Sincerely,



Paul Sarbanes  
United States Senator

PSS/dpm

**Eric M. Larson**  
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February 14, 2005

The Honorable Paul S. Sarbanes  
United States Senate  
309 Hart Senate Office Building  
Washington, D.C. 20510

Dear Senator Sarbanes:

My name is Eric M. Larson, and I am writing to you in my capacity as a concerned citizen and one of your constituents who is concerned about good government. Specifically, I am writing to ask if you would be kind enough to request the Department of Justice Inspector General (DOJ-IG) to audit the National Firearms Registration and Transfer Record (NFRTR), a data base maintained by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). The NFRTR is used to register and track certain firearms regulated under the National Firearms Act (NFA).

The specific reasons behind my concerns about the accuracy and completeness of the NFRTR are stated below, and in the enclosures identified within and accompanying this letter. I hope that in addition to my request that you ask the DOJ-IG to audit the NFRTR, you will share my concerns with other professional colleagues and appropriate Members of the House of Representatives and the United States Senate so the problems created by this inaccurate and incomplete firearms registration data base can be expeditiously resolved, and the NFRTR is finally rendered accurate and complete.

I believe that the DOJ-IG may not have been given important audit files regarding errors in the NFRTR, and it seems likely that the Congress will be interested in following up on those problems and correcting them in 2005.

In 2000, the Treasury Department Inspector General (Treasury-IG) reported to the Committee on Appropriations 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, based on two 1998 audits it conducted of the NFRTR. The Committee stated that "[s]uch uncertainty could reduce confidence in ATF's ability to determine the validity of NFA registration."

ATF's failure to implement the Treasury-IG's three major recommendations for improvements in the NFRTR led to further Congressional testimony in 2001, and debate by the House Committee on Appropriations in 2001 and 2002. The Congress appropriated \$500,000 for each of Fiscal

The Honorable Paul S. Sarbanes (2)

Years 2002 and 2003, and requested ATF to use those funds to ensure that the NFRTR is accurate and complete. Apparently because of concerns that ATF may not have fully implemented the three major recommendations the Treasury-IG made in 1998, the Treasury-IG initiated a new audit in 2002 to determine whether ATF had "taken appropriate steps to improve the completeness, accuracy, and processing times of the NFRTR."

During most of 2004, I tried to find out from ATF and the Treasury-IG the status of the three open recommendations, and the new 2002 audit of the NFRTR, but neither agency answered my inquiries. On December 10, 2004, I interviewed by telephone a former Treasury-IG staff member who worked on the original NFRTR audits of 1998 as well as the new 2002 audit (these audit staff were transferred to the Department of Homeland Security Office of Inspector General, and no longer work for the Treasury Department). The staff member told me the audit team was directed to terminate the audit, box up the audit materials and ship them to the Treasury-IG, and that none of the audit materials were turned over to the DOJ-IG when ATF was officially transferred to the Department of Justice on January 24, 2003.

It is troubling that open recommendations to ATF to correct serious problems in the NFRTR database were apparently dropped without explanation; that a new audit of the NFRTR initiated in 2002 to determine if these problems were corrected was terminated before it could be completed; and that, apparently, none of the audit files created during these audits were turned over to the DOJ-IG. It is also troubling that ATF may not have used \$1 million in publicly appropriated funds to correct errors in the NFRTR as directed by the Congress.

In closing this letter, I am submitting three recent examples of what I consider to be valid and reliable examples of ATF committing "abuse" as defined under Generally Accepted Government Auditing Standards (GAGAS). Specifically, that "the conduct of a government program falls short of societal expectations for prudent behavior." These examples are:

- A copy of a letter dated June 24, 2004, from ATF Director Carl J. Truscott to the Honorable Sam Johnson, a sitting Member of the House of Representatives (Third District, Texas) which contains misleading statements about the accuracy and completeness of the NFRTR. A copy of my letter pointing out why Director Truscott's statements are misleading, dated January 29, 2005, to Mr. Kevin Scott of Plano, Texas, who wrote to me about his concerns, is also attached.
- A copy of a letter dated February 7, 2005, from C. Scott Shields, Esq., of Media, Pennsylvania, to the Honorable Arlen Specter, Chairman, Senate Committee on the Judiciary, expressing concerns that ATF (1) declines to provide an explanation of the legal basis for ATF determining that an NFA firearm was illegal contraband and also that it is legally possessed (that is, not contraband) based on the same evidence, (2) is illegally seizing and forfeiting lawfully owned War Trophy firearms from the heirs of War

The Honorable Paul S. Sarbanes (3)

Veterans who legally brought or sent them back to the United States under applicable laws at the time, and (3) is declining to identify documents ATF regards as proof that a War Trophy firearm is legally possessed. I have enclosed a copy of the ATF letter to which attorney Shields refers, as well as an article published in the August 2, 2004, issue of *Shotgun News* which provides additional background information on the War Trophy firearm issue.

- A copy of an e-mail dated February 9, 2005, from Mr. Harry Porter of North Canton, Ohio, describing how ATF repeatedly lost applications to transfer an NFA-controlled device during an 8-month period, despite the fact that the transferor and the transferee each snail-mailed and FAXed the ATF nearly a dozen such applications. While this case was ultimately resolved by personal involvement of the ATF Director, it does point out that internal controls for the NFRTR database are clearly not reliable.

Finally, Messrs. Scott, Shields and Porter have given me permission to use the foregoing items in support of this letter, and each of them plans further followup through their Congressional representatives. I believe that each of them would appreciate some notification by you that you have requested the DOJ-IG to professionally investigate their concerns.

I have enclosed some background materials that identify the problems and issues discussed in this letter, as well as specific documentation of recent Congressional interest in ensuring that the NFRTR is accurate and complete. I have also enclosed a draft letter from your office to the DOJ-IG for your convenience of reference, and with the understanding that this draft letter is advisory only.

If you or your staff have further questions regarding this request, please contact me.

Sincerely,

[signed—Eric M. Larson]

Eric M. Larson

Enclosures: As noted

February 14, 2005

The Honorable Glenn Fine  
Inspector General  
Department of Justice  
Robert F. Kennedy Building  
950 Pennsylvania Avenue, N.W., Room 4706  
Washington, D.C. 20530

Dear Inspector General Fine:

As a Member of the United States Senate, I am concerned about the accuracy, completeness and reliability of the firearms registration data base maintained by the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). I am writing to ask the Department of Justice Office of Inspector General (DOJ-IG) to audit this data base to determine whether it is accurate and complete, and for other purposes related to the legal ownership of firearms.

This data base, the National Firearms Registration and Transfer Record (NFRTR), is used to register and track certain firearms regulated under the National Firearms Act (NFA). These firearms include deactivated War Trophy firearms that were lawfully brought or sent back to the United States. Over time various types of documentation were issued to owners that entitled them to legally keep these firearms as their personal property.

In 2000, the Treasury Department Inspector General (Treasury-IG) reported to the House Committee on Appropriations that it could not confirm that NFA permits had not been inadvertently destroyed, inappropriately added, or did not reflect that the person holding a registration was deceased. The Committee noted that "[s]uch uncertainty could reduce confidence in ATF's ability to determine the validity of NFA registration." The Congress appropriated \$500,000 for each of Fiscal Years 2002 and 2003, and requested that ATF use those funds to ensure that the NFRTR is accurate and complete. The Treasury-IG made three major recommendations to ATF regarding improvements to be made in the data base, and the Committee discussed these and other recommendations during ATF's appropriations hearing in 2001.

I am concerned that the ATF has failed to recognize legitimate registration documentation that establishes the firearms' lawful ownership and the lawful right of the owner to possess the firearm. This may be the result of not fully correcting the deficiencies in the NFRTR data base that were identified by the Treasury-IG. Therefore, I request that the DOJ-IG independently determine (1) if ATF has fully corrected each of the problems related to the NFRTR that were identified in the Treasury-IG's audits, (2) the overall accuracy and completeness of the NFRTR, (3) for the years 1998 to 2004, how many NFA-governed items for which transfers from a decedent were sought by an heir or executor, did ATF confiscate or seize and forfeit, as well as the number of NFA-governed items that were voluntarily abandoned to ATF, because ATF was unable to find a NFRTR record

of a valid license, and (4) whether ATF policies are clear and followed with regard to firearms registration establishing legal ownership and the concomitant right of possession.

I am requesting that the DOG-IG begin this audit as soon as possible and keep my staff advised of its progress. I would like a final report on the results of the DOJ-IG's review by December 1, 2005. If you have any questions, please contact Mr./Ms. \_\_\_\_\_ of my staff on [insert telephone number].

Sincerely,

Paul S. Sarbanes  
United States Senator