

January 12, 2004

Dear Senator:

I am writing on behalf of the American Bar Association to urge you to strike a controversial "legislative rider" related to records of gun sales attached to the pending omnibus appropriations conference report, before proceeding on the underlying bill. We urge you to support an amendment to strike the provision that would require that Brady background records on gun sales be destroyed within 24 hours and to strike related provisions before acting on the underlying spending legislation.

Since its enactment in 1993, the Brady Act has prevented more than one million prohibited purchasers from obtaining guns. Currently, the Department of Justice (DOJ) maintains Brady background check records on allowed sales for up to 90 days to ensure proper auditing of the National Instant Check System (NICS) and to ensure that if any criminals, terrorists or other prohibited purchasers were incorrectly allowed to purchase guns, the mistakes can be corrected. Requiring that these records be destroyed within 24 hours, as mandated in the legislative rider attached to the omnibus appropriations bill, would prevent DOJ scrutiny of NICS errors and allow more criminals and other prohibited purchasers to obtain guns.

If enacted into law, the provision would block the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATFE) from requiring gun dealers to take regular inventories of their firearms and would work to shield corrupt gun dealers from public scrutiny by preventing release of crime gun traces and multiple sale data.

A 2002 study by the General Accounting Office (GAO) concluded that 97 percent (228 out of 235) of studied firearms-retrievals initiated for wrongly approved sales under the 90-day retention policy could not have been initiated under the proposed next-day destruction policy. The GAO study further reached the obvious conclusion that next-day record destruction policy does not serve public safety interests. We strongly agree.

The bill includes related controversial and unwarranted provisions that would hamstring law enforcement ability to investigate many types of gun crimes: it contains provisions to prohibit ATFE from releasing critical information garnered from crime gun traces and multiple sale records to the public and other law enforcement officials; it would prohibit ATFE from finalizing a proposed rule to require licensed gun dealers to conduct regular inventories of their firearms; and it would prevent ATFE from computerizing records of gun dealers that go out of business.

These provisions were originally adopted by a House appropriations subcommittee by a single vote and were included in the House-passed Fiscal Year 2004 appropriations bill for the Commerce, Justice, and State Departments, H.R.2799. They were not included in the comparable Senate-approved measure. They are now contained in the proposed final FY 2004 omnibus spending bill. No hearing has been held by any Congressional

committee at any point on these proposed changes in law. We urge you to support an amendment to strike these controversial and unwarranted legislative riders before acting on the final omnibus appropriations measure.

Sincerely,

Robert D. Evans