

Talkin' to America

Interview with Len Savage March 27th 2009

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INTRODUCTION

Aaron Zelman: This is **Talkin' to America**, I am your host **Aaron Zelman**. Our special guest today and old returning friend is **Len Savage** and Len is going to be giving us an update on the Olofson case and some other peculiar things that are going on because of our friends the BATFE and Len, welcome back.

Len Savage: It's good to be back.

Aaron Zelman: Well, where do we start?

Len Savage: Let's start with the Olofson case - as of January 22nd The Appeals Court has heard oral arguments and we're awaiting a decision as to whether or not Mr. Olofson got a fair trial.

Aaron Zelman: Any speculation about how that is going to go with the Appeals Court?

Len Savage: It's a little unknown - there's been some promising questions by the court - there certainly has been some interesting things going on with respect to some of the players in the Olofson case and my company. About four months after the original trial happened one of the people at the trial from the ATF, a firearms enforcement officer from our old friends the firearms and technology branch at the ATF, was assigned into a position of authority over my company. I had submitted a product, a firearm to them for evaluation and the ATF took it by force.

Aaron Zelman: They just took it by force?

Len Savage: Yeah - they'd taken it by force, they refused to give it back and they have charged the gun with a crime. As a matter of fact, they issued an arrest warrant for the inanimate object and served it on the firearm, and now it looks like in the Northern District of Georgia my firearm is going to get a jury trial.

Aaron Zelman: Is this technically a firearm or is it just an accessory?

Len Savage: Well - it is an accessory and it's just technically a firearm - it has to do with the definition of a frame and a receiver. In order to try and be cooperative with the ATF, my company, we'd outlined to the ATF for how it technically had fallen under the definition of a firearm and had taken some steps, and since it had a barrel length of less than fifteen inches the firearm was actually registered with the ATF as a short barreled rifle, and at their request I sent it in to them so they could take a look at it and verify everything was legal, and they refused to give it back. So what ended up happening is they issued an arrest warrant - the gun has been in Federal custody ever since last April (2008)

Aaron Zelman: So - your gun has been arrested. The people need to understand the lunacy of this situation. An inanimate object has been arrested, it's been in custody - we certainly hope they are feeding it and keeping it warm.

Len Savage: Well - I haven't been allowed to visit it so I don't know what treatment it has been getting.

Aaron Zelman: Well, if it comes back all banged up and rusted you'll know for sure.

Len Savage: Well that's a fact, but we did get the gun from top notch top shelf representation - our old friend Munroe Whiteside and a real go-getter here from Georgia, John Munroe, are representing the firearm. The case has entered what they call the discovery phase, and so for the next three or four months not much is going to happen other than we are asking the government for information and documents, and after that period they'll schedule a trial. And, because if they dispute a fact the gun gets a jury trial.

Aaron Zelman: Would it be safe to assume that the arrested gun has now taken the fifth amendment and is waiting for trial?

Len Savage: (laughs) Gee let's hope so - you see just how ridiculous this is. The government calls it legal fiction but there's nothing fictional about the fact that the government uses its power and force to take my company's property and doesn't want to give it back. They are officially seeking its condemnation.

Aaron Zelman: Would you mind speculating as to why you think the government is being so nice to you?

Len Savage: Well, let's just say that there's a recurring pattern - if I find myself in federal court justifying the facts, typically the ATF shows a bias afterwards, and if you remember this is not the first time the ATF has either changed its mind or pulled a stunt after a court case. After US v Wren, less than four months after that, the ATF reclassified a product that they had already classified as neither a firearm, nor a machine gun, and wrote me a letter - "you didn't build any of those did you?" - because that would be a felony if you did. It appears that they don't want the facts to come out.

Aaron Zelman: Well, which facts do you think they really want to cover up?

Len Savage: Well - the fact that they don't have a testing standard over at FTB . There's no way to establish any standard of how they tested the firearm in Olofson's case, and uh, the standard seemed to shift from manufacturer to manufacturer, from person to person, and because of that - I mean - how can anybody judge they are making a reasonable decision.

Aaron Zelman: For people who are a little bit late in coming in to this debate - it's been going on for quite some time - perhaps you could just take a moment and describe the Olofson case.

Len Savage: In a nutshell - David Olofson owned an AR-15 made by SGW, Olympic Arms, that was made in the, uh, mid 1980's. Olympic had burned down, there's actually no way to know precisely when that rifle was built by them to a date, and their records were destroyed in the fire. But what we do know is that the government had wrote a letter in 1986 to SGW Olympic Arms, and brought to their attention that the use of certain parts, uh, were to be stopped - "don't use these parts because we've discovered that you can have an accidental discharge" and that it was unsafe, and so they did and Mr Olofson's rifle was built before that time.

Ah, the ATF was well aware that the firearm was prone to malfunction. Um, we don't know, I was never allowed to examine the firearm so I couldn't tell you if those were original SGW Olympic parts or if the ATF installed them. I do know that Mr Olofson made a request to the court that they fingerprint the inside of the gun so it could be established as to who installed the parts.

But the bottom line is that his gun, which fired as a semi automatic, he had loaned it out to an individual who went to a public range, and after approximately 800 rounds of ammunition, uh, the gun fired, or misfired if you will, shot two or three rounds and then jammed. The range reported this to the local police, they came and took the firearm and then they sent it to the ATF who sent it off to the folks at Firearms Technology Branch, the folks with no written testing standard. They tested the gun and said, look, it's just a rifle, not a machine gun, we note that these parts are installed but, you know - nothing here.

The agent in charge of the case in Wisconsin, I think it was agent Jody Keeku asked FTB to test it again and this time use soft primed ammunition, which is, you know, known to cause malfunctions in an AR-15 rifle. The reason is that an AR-15 does not have a spring on the firing pin, it relies on the military grade primer to reset the firing pin. If you use soft primed ammunition the gun will fire a few rounds, jam and uh, and that's precisely what happened during the second test. On the basis of the second test and the second test only they took David Olofson to court. The ATF testified about the firearm, although I was asked by the judge to leave the courtroom, so I couldn't hear what the ATF said, and what ended up happening is that Mr Olofson's attorney who doesn't understand the technical aspects of a firearm was helpless. He didn't have the aid of technical advice from me, and since I build guns I do understand how they work on the inside.

Mr Olofson was convicted and sent to prison, for owning an unregistered machine gun, or illegally transferring a machine gun I believe is what they accused him of. Nobody owned this or was charged with illegal ownership, just an unlawful transfer. And uh, from there Mr Olofson got some really good representation and sought an appeal on his conviction and is waiting in prison for the appeals court to make its determination.

Aaron Zelman: Well, I'm glad to see our tax dollars are being spent wisely by the government buying soft primed ammunition. But there's something else new afoot here, there's a rumor perhaps about an effort by ATF to use what they call a forward trace program which would end up helping the government to register firearms?

Len Savage: Talk about a waste of tax dollars - Mr Jame Zammillo, he's the Deputy Assistant Director of field operations for the Bureau of Alcohol Tobacco Firearms and Explosives, has sent out a letter explaining ATF's forward trace initiative. Now before we talk about forward traces you need to understand that already there is a mechanism in place coast to coast that if a gun is used in a crime, the National Tracing Center traces that gun backwards all the way back to the original manufacturer so they can find out "how did it get in the hands of a criminal?" After the crime occurs they trace the gun. The ATF has taken upon itself to do what they call a forward tracing initiative, um, and I've got the text of this letter he sent to the industry, let me - it's not - it's very short, let me just read this to you, what Mr Zammillo sent out -

[ATF Letter] - *"I would like to take this opportunity to describe the Bureau of Alcohol Tobacco Firearms and Explosive's nationwide forward tracing initiative. As you know, Federal law 18 USC Chapter 44 requires Federal Firearms Licensees to maintain and make available certain records for inspection by ATF. Among the required records are, acquisition (where'd you get the gun?, that's what that means) and disposition"* (who did you sell this gun to? - that's what A&D means, acquisi-

tion and disposition, ATF forms 4473 - this is the form you fill out when you purchase a firearm at retail level and, anyway) -

[ATF Letter cont) - *“Verifying this information is critical to our mission of protecting the public as it is the starting point for an FFL retailer accounting for firearms received. Through partnership and with continued cooperation of the firearms community, the forward trace initiative within implemented by the ATF to ensure firearms are properly accounted for by FFL retailers. The program focuses on types of firearms that are diverted by the criminal element from legal commerce. ATF Industry operations investigators will visit manufacturers and ask for their assistance by identifying specific firearms make, model, and ask for the name of the distributor to whom they were sold. We will then follow the gun to the eventual retailer. Any information requested by ATF as part of this program does not presume any wrong doing by those firearm industry member’s contacted. This simply will be used as a tool to ensure accountability for firearms received by FFL retailers. Cooperation by the industry without forward trace request is voluntary and is not considered an ATF inspection under Federal law and regulations. Industry members supplying any information are requested by ATF not to initiate any action as a result of our inquiry because it could potentially impact any ATF inspection or investigative effort. As always, if a manufacturer, importer or distributor has concerns regarding any retailer, they should contact an ATF office for assistance”*

What they are saying is, and they are barred by the Tiahrt amendment from tracing guns that aren't involved in a crime. In a way to, the only, I can assume to get around that amendment is asking manufacturers to voluntarily turn over their books, and remember they only say certain types of weapons. I think we can guess what kind of weapons those will be and they're probably not going to be a break action single shot. But uh, Eric Holder's, Attorney General Eric Holder's statement about wanting an assault weapons ban, now the ATF has got this secret program. "Don't tell anybody but we want you to give us your records and we want to know who owns what" - and think that that is just anti constitutional and anti American, because, if you purchased a firearm and you didn't commit a crime, why does the ATF want to know you own it, why does the AFT want to know what retailers now they say that this is to make sure there is accountability but there's already an industry operation and mechanism that does that.

We're inspected regularly to make sure that our books are correct and that, you know, we are keeping the required records, but in effect the ATF is developing a registry of these certain types of firearms without the knowledge of Congress and without the knowledge of the purchasers or the retailers. Why do they want to know where these guns are? What business is it of theirs and why do we have a Federal law enforcement entity, the ATF is federal law enforcement. Why are they chasing down firearms that have not been used in a crime, yet. Um, no crime has been committed. Why are they tracing forward when the Tiahrt amendment says you are not supposed to trace a gun unless there has been a crime committed.

These are the questions I have and it's, um, it's just starting to murmur through the industry and I found out about this and my blood pressure went up, because this is just wrong. This is wrong on many levels

Aaron Zelman: This is **Talkin' to America** - our guest today is Len Savage, I'm your host **Aaron Zelman** and we're talking about more shenanigans, more wrong doings, more criminal activity by the BATFE. Len this is very interesting, because there's the other half to this, the other side to it - is that when a dealer goes out of business they turn in their 4473 forms to the government.

Len Savage: Yes.

Aaron Zelman: They've been doing this for decades

Len Savage: Yes.

Aaron Zelman: Probably since 1968 and so this is a double form of registration. As we all know, from the research that JPFO has shown, governments that are able to disarm people are also able to kill them, and we have a government now, and we've had one forming for quite some time, that has absolutely no interest in having an armed citizenry - and they belong to groups like the United Nations that claim there are just too darned many people on the face of the earth. I hope someone out there takes this situation very seriously.

Len Savage: The fact that they're saying that they're doing this to make a safer America is a slap in the face. If there's been a crime, certainly, crimes need to be punished, bad people who use guns need to be punished just as the same bad people use cars to run over people, baseball bats, knives. If you look what's going on, uh, over in the UK - sometimes it's referred to as the Sarah Brady paradise because nobody can own a firearm, and knifings, stabbings and clubbings, um, have uh, filled in the hole if you will. OK, there's no longer any gun crime, it doesn't mean that the crimes are no longer happening, and, you know, the current administration very recently seems to be hanging all the problems that are happening in Mexico with these drug cartels at the door of the American firearms industry.

I can tell you, they talk about Gun Show Loopholes - you can't buy an RPG, a rocket propelled grenade at a gun show, uh, they have been heavily restricted since 1934 and, you can't openly buy a machine gun and just walk away from it at a gun show. It doesn't happen - it's been regulated since 1934. It is legal in the United States to own a machine gun if you choose, but you have to undergo an FBI background check - you have to have your county sheriff, your chief of police, sign off on your application. They want your picture. They issue basically a title for this gun with your mug on it and you're given this and you are not allowed to loan this gun to anybody. But what I can tell you, is that the owners of NFA type weapons - this is silencers, sawn off shotguns, machine guns, are the most responsible gun owners in America. Since 1934, only two crimes have ever been committed with an NFA weapon - and by the way, those two crimes were committed by members of law enforcement.

So, it's this misnomer when they talk about, oh, automatic weapons are sneaking across the border down into Mexico, that's foolhardy, um, you know, it's been exposed - even the LA times got it when they said "hey look - we realize these are all coming up from Central America" - and if they are American made weapons it's because American manufacturers made them for the United States Government who sold them to the Mexican military, who turned around and gave them to the cartels or sold them, or what have you. And - pay very close attention to how they are labeling this stuff, uh, because what you are seeing is propaganda. Scratch the surface and you'll find out that it's all spin, it's all propaganda

Aaron Zelman: It's propaganda with quite an agenda, a very ugly agenda. I would like to remind people that if they want to know more about the criminality of the BATFE that we do have a movie called "**The Gang**". It's a documentary film about an hour and a half that Len Savage helped us make, and if you haven't seen it it'll open your eyes as to how the ATF actively engages in perjury in court, they're very proud of that, and how they actively try to entrap innocent gun owners. Len, there are some other court cases that are floating around - are you allowed to talk about some of them, just a little bit, just an overall view or

Len Savage: Well, there's definitely one going on currently it's said, uh, I cannot talk about because I'll be called as a witness, um, and there has uh, there's been some court cases that are pretty much settled now like United States vs Albert Kwan (?Sp) - Albert Kwan was an industry manufacturer, he was an 07, he was licensed and he ran a business out in Washington. The ATF basically ran this guy around in circles, charged him with multiple crimes. He ended up going to court - they, they of course charged him with possessing a machine gun. Here's the unique thing - we get into court, and there's a fellow from FTB, Firearms Technology Branch, turns around and testifies that HE modified the weapon, that he went and got parts, put them in after machining the firearm to accept the parts, installed them and said that because he could make a machine gun out of Mr Kwan's weapon, that Mr Kwan was guilty of having, um, an unregistered machine gun.

Now, Mr Kwan beat that count in court and the ATF then misrepresented some facts about a so called short barreled rifle. Albert Kwan owned a VP7D uh,Z, which was the civilian version which meant semi automatic, made by Heckler and Koch in Germany. He also owned a VP70M lawfully, which is the machine gun version - and because they could take the shoulder stock that attached to the machine gun and could attach it to his semi automatic pistol, even tho Albert Kwan didn't attach the two, because the ATF attached the two, they charged Albert Kwan with a crime and says well, because we can do this with what you had, we're charging you with possessing a short barreled rifle because it now fires from the shoulder cos it has a shoulder stock, this barrel length is less than sixteen inches.

And, the interesting thing in Mr Kwan's case is - after the trial the judge figured it out, through looking at some things, because his attorney had made a motion, and said - "Your Honor, take a look at this", and determined that the Supreme Court had already ruled on this with United States vs Thompson Center and says - "look, if there is another obvious use for a gun part that *could* be used to make an unlawful gun, then, you know, there's no crime here. You know, there's a utility, there's a purpose for it and it's a legitimate purpose". And the government, believe it or not, appealed this to the ninth circuit, which is pretty liberal, and even the ninth circuit court of appeals says "no way - this has been covered by the Supreme Court, no crime here, forget it". That was I think back in 2007 - they're just playing fast and loose with the facts.

Aaron Zelman: Let me ask you a quick question - going back to the Kwan issue, is the ATF still, even though they lost their case and even though they lost their appeal, are they still taking the position that if they can alter it to be a machine gun, even if you've got a pair of old shoes and they decide to alter them to become a machine gun?

Len Savage: Yes, they are.

Aaron Zelman: That they could still get away with this?

Len Savage: Going back to my unfortunate arrested firearm that's now facing trial - it can do nothing. What it is, is, it's a caliber conversion, uh, for a lawfully possessed firearm. Like I said, technically it's a firearm, only because the ATF - well - how do I want to put this - let me put this into context. In 1968 the Gun Control Act passed - part of the Gun Control Act determined what part of a firearm was the frame or receiver. The willing suspension of disbelief on behalf of the ATF to enforce that, the AR-15 is the semi automatic version of the M-16, alright? The law specifically says, look - the firearm from a receiver is that part that holds, that houses, the breech or bolt, is typically threaded at its forward end to receive a barrel. Even though the ATF considers the lower portion of an AR-15 to be "the firearm" - that's where you will find the serial number and the manufacturer's information - the law states it's actually the upper, that contains no serial number and no manufacturer's information, and, this is a real cute parlor trick that the ATF pulls out from time to

time. They'll turn around when you submit a product and say "on no, this is a firearm frame or receiver" and then they'll trot that, the law out that explains it and, because that reason and because, um, "we feel that we can modify this into a machine gun, this is unlawful". And, it's real cute but when you apply it to items that are already in production, and have been in production since 1968, you find out, hey wait a minute - this doesn't add up. If this is indeed a firearm frame or receiver then how come every other one out there isn't considered a firearm frame or receiver. And so, they pick and choose, and it sounds real technical when they throw it out because they're citing the law and somebody looking at it on the surface says yeah look, right, there's the bolt for breech and yep, it's threaded at its forward end, yep that's a firearm.

Ah - but the fact remains, um, the product I sent into the ATF was for the MAC series uh, of, machine guns and semi automatic, and it was designed because uh, lawful possessors of these MAC guns were looking for a cheaper ammunition to shoot through them. So, I was trying to fulfill a need and make a couple of bucks along the way, and there's nothing wrong - profit's not a four letter word - and I went through, even though it's voluntary, I was going to work and give the ATF every opportunity, um, and we sent this in to them and the first thing that the ATF does is they start attaching things to this firearm. And, they attached a metal plate, zip ties and duct tape - went to test the firearm and it blew apart. Not really a surprise to anybody who understands how firearms work.

Well, when that didn't work they went back and says "well this time we used the metal plate, you know, quarter inch steel chain and some tension bolts and mounted it in a vice and now we were able to make this thing fire as a machine gun, therefore this is a machine gun and it's unlawful and we are charging the gun with the crime of being a machine gun". But, remember, that Firearms Technology Branch are the same people who classified a shoe string as a machine gun, because uh, they say you can attach a shoe string to a semi automatic rifle in such a manner to induce fully automatic fire, and they said this two times, um, got a little embarrassed by, you know, not having people mandated, uh, you know, registration of shoe strings - and then they came out with a third letter I think last year which said "look, a shoe string is only a machine gun if you tie it on to a semi automatic in order to induce fully automatic fire"

So the ATF says "look, in general the use of ordinary items attached to a firearm in order to try to convert it to a machine gun is unlawful" - on one hand - and then turn around when their firearm by me is submitted to them and then start attaching everything but the kitchen sink in order to try to convert it to a machine gun. And this all goes back to the fact that they don't have any kind of standards, uh, for me to judge whether or not what they are doing is reasonable. Of course, common sense tells you - no way - but, pardon the pun but, you know, trying to get ATF compliance on a firearm right now is trying to hit a moving target. Because, you'll send it in, because, it's been established they are going to test it with one method and then they use a different method, and it's not uncommon in the industry to have the same gun submitted by three manufacturers in the US. Two out of the three get a letter back saying "nah, this is readily restorable - we were able to make this into a machine gun" - and then turn around and the third person, for whatever reason, is told by the ATF "Oh no, this is fine, this is just a firearm". And, you can compare all three letters against one another and scratch your head and say "how in the heck are they making these decisions, and how can they claim any of these decisions is reasonable?"

Now, I once asked, uh, off the record a, and I won't give his name because, I "look, what's going on and why won't you guys give some sort of written standard?" - and his exact response was "we like the latitude we have with the current system and we feel that, uh, if we were to put down the rules in writing, then somebody will figure a way around them". And that should give you an insight into

how they think. If somebody is working within the rules and is being innovative, you're not working around the rules, you're working a way to make your product compliant. And it all comes down to - there seems to be an agenda that they just don't want certain types of firearms produced, or they don't want them produced by certain individuals. Although, you know, they won't tell anybody as to the method or madness to their reasoning, and the scary part is it's not only guys like me in the industry get hammered on but there's people like Mr Olofson and Mr Kwan, and let's not forget Johnny Glover, years back, remember that back in 2004, 2005?

Aaron Zelman: Well absolutely, because we used his story in "The Gang".

Len Savage: It's a pattern here, and it's a pattern that, what I can tell you is, that pattern has not stopped.

Aaron Zelman: OK, well Len, we have reached the end of our half hour - you want to take just a moment to wrap things up?

Len Savage: I want everybody out there, if you are willing, take the time, don't just call don't just email. Contact your rep's, let them know if this what I am presenting to you is bothering you, absolutely contact them. And if you think that, um, I'm not being 100% accurate with anything I am saying, go research it. Everything is documented that's being discussed here today - you can find it, it's there, it's for real. And, I would like to do a shout-out to someone I know is always listening to your show and that's, uh, "Hello James P. Vann, and I hope you're doing well and glad you're listening".

Aaron Zelman: James P. Vann is an attorney, right? He's with the ATF?

Len Savage: Yeah, he's a fan of your show.

Aaron Zelman: Well, he's not a fan of me personally or JPFO as I understand, but we'll get into that some other day. Well Len, I want to thank you very much for being with us today. This has been **Talkin' to America**, our guest has been **Len Savage** with Historic Arms, and I am **Aaron Zelman**, your host, and I want to remind all of you - you've heard me tell you this before but it's very critical now - if you won't defend your rights don't complain when you lose them.

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