**Talkin' To America**
Interview with Len Savage
December 6, 2007

**INTRODUCTION**

Welcome to **Talkin' To America**. I am your host, Aaron Zelman. Our special guest today is Len Savage coming back for I think his third interview and today we are going to be talking about some court cases dealing with the gun issue that the ATF would rather you not know about and also about some of the most recent vindictiveness of the ATV towards Len and others and a little bit about their sloppy record keeping.

**Aaron Zelman:** Len, how are you today?

**Len Savage:** Oh, I'm doing great.

**Aaron Zelman:** Welcome to **Talkin' to America.** Where would you like to start?

**Len Savage:** Well, um, let's pick up with **The Gang** and go from there because there are some things that we couldn't go into any great detail on **The Gang** 'cause there was so much information and by the way, what a wonderful job you did.

**Aaron Zelman:** We should just mention to people **The Gang** is documentary film and it deals with the abuses and the criminality of the ATF and you were one of the stars in it. Go ahead.

**Len Savage:** Well, um, in **The Gang,** we talked about how after a court case, US v. Wrenn, that the ATF reconsidered a couple of my products and by reclassification which is a handy little tool they have to lean on people on me who exercise their right to free speech. What wasn't talked about **The Gang** was that I had a phone call with the gentleman, Mr. Nixon, that we discussed in **The Gang** but what wasn't said is that we had a phone call right after the Wrenn trial where I was in no uncertain terms warned not to post on the Internet or speak to members of Congress and to be silent or else they were considering reconsidering my products. Um, and then they followed through with those threats obviously and I was later threatened with legal action the following August. I got a letter from the ATF demanding a customer list or else it would be compelled. I was a little worried at what being compelled would entail, given how they compelled the people at Ruby Ridge and at Waco, and um, it was a very dark time for me but I am glad I was able to work my way through it.

**Aaron Zelman:** Before we go too far, I would like you to explain to people what the reconsideration process was about and what it meant to you financially.

**Len Savage:** Sure, I would be happy to. My company designed a product called the "BM-3000." It's a caliber conversion device for a legally and lawfully owned machine gun, and prior to the Wrenn case, I had a letter from the ATF telling me that it was neither a firearm nor a machine gun and we ramped up for production. After the Wrenn case, I got the warning call that if I didn't sit down and shut up, I was going to get the treatment, and what happened was that


they wrote me a letter, said "We changed our mind. This is illegal. You didn't make any of those, did you?" after 10 months of production and it cost me right around a half-million bucks by the time it was all said and done with the canceled contracts, the sales that I had already taking orders on and it was devastating to my company.

**Aaron Zelman:** If you can comment a little bit about the Wrenn trial itself, since it is over with and what went on there that made the ATF so angry with you?

**Len Savage:** Well, I was present and I was acting in the capacity of a technical advisor for the defense in Wrenn and what a

circus. I was sickened by what I experienced and what I saw. Just to give you an example, one evening after court was adjourned and the judge walked out of the court room, a local ATF agent walked over to me and threatened me with arrest right there in front of U.S. Marshals that if I touched my property before he got his evidence out of the room, he was going to put me in jail and I was asking him, "You know, gee, I didn't know you had authority in a Federal Courthouse, you don't look like a U.S. Marshal" and then he made a comment, "Well, you better move 'cause I would hate to accidentally butt stroke you as I am loading my evidence." Things started to get pretty heated. We were separated by U.S. Marshals. Nothing happened. No accountability. Openly threatening somebody on a defense team and they would - nobody would do anything. I was just absolutely sickened and one of the other things that happened in the middle of this mess. Wrenn was not going to get a fair trial. It was pretty obvious to me, with threatening me with arrest and threatening me with physical harm, Wrenn was a wreck and for all intents and purposes, he had an emotional breakdown right then and there. The U.S. Attorney when there was discussions of whether or not they were going to allow me to testify to the truth in court, offered a deal to Mr. Wrenn that if he would plead guilty to a lesser charge, they wouldn't put him in prison, they'd give him probation. While I was waiting out on the hall and all this was being sorted out, the U.S. Attorney walked up to me and was fixing to tell me something and his cell phone rang, and for what it's worth, only U.S. Attorneys and Federal Agents can have cell phones in that particular Federal Courthouse. I wasn't allowed nor was defense attorneys allowed to have their cell phone, and he gets a call and after he hangs up, he says "that was the Attorney General of the United States, Alberto Gonzales, and he just threatened me with my job for giving your buddy a deal" and stormed off extremely angry, and I was shocked. Why would the Attorney General of the United States care about this little old case in South Carolina? I walked from that very disillusioned, my eyes wide open to just how mean, how nasty and how unfair the system is stacked against somebody when the ATF targets you.

**Aaron Zelman:** In the film, **The Gang** we have a short piece of film. It was done by surveillance camera in Ernie Wrenn's shop. The auditor who admits that there is 140 machine guns that are unaccounted for or something to that effect.

**Len Savage:** I am very familiar with that clip.

**Aaron Zelman:** I would clarify, unaccounted for by the U.S. Government on its registry not by Ernie Wrenn.
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**Len Savage:** Yeah, that's correct and I'm real familiar with it. As a matter of fact, he testified in that trial that the government's records were incomplete under oath and this record is what they hold up with when they prosecute somebody and say this person's got a machine gun, it's unregistered, therefore, they're guilty of violating the law. Well, what does this say to the legitimacy of the evidence if the government's own books aren't right?

**Aaron Zelman:** I believe you had a recent experience with this.

**Len Savage:** Oh, yes sir. Um, it had to do when I got audited. I was shocked and alarmed to find out that the government had lost track of four machine guns in my inventory. Now mind you, I had all of my records complete. I had letterhead from the ATF that showed they were properly registered and that I had followed the law, and but they had lost track of them and what's even scarier is they have a worksheet to figure this out, that their records are so bad, so incomplete, that when they do an audit, they have a worksheet to help fix their records with our records, as in industry records, and they are using our records to try to fill in holes in theirs. It's just, it's obscene because again, it questions the legitimacy of any time they present that as evidence in a court of law.

**Aaron Zelman:** You know, this raises an interesting issue that we have both been involved with. There is a firearms dealer in Twin Falls, Idaho. His name is Ryan Horsley. The name of his store, the 80-year-old family store is Red's Trading Post and he has had a run in with the ATF and apparently when the final measurement is taken of his record keeping, if I can put it that way, there seems to be a 4/10 of 1% error on trivial things, and yet, they are trying to destroy him and put him out of business. I guess this is a good example of how arbitrary the government is and just how dishonest they are.

**Len Savage:** I don't think that the entire government is dishonest but I can tell you that time and time again I've seen the

ATF, if not outright lying, trying to slant things in a positive light when it's not true. Their records are abominable and that's the best way I can put it. They, they screw up on a regular basis, not just with myself. I have been in contact with many others in the industry and, case in point, a few months ago, I get a call from the ATF saying when we moved into our new headquarters who seem to have misplaced your year-end productions reports, yours and about 500 other businesses. Now, he called it a year-end production report but quite frankly, it's an excise tax return. I found it interesting that since the ATF has moved under the jurisdiction of the Department of Justice, they are no longer under Treasury, why are they handling excise tax returns, but if they, the records, what we call the NFRTR, which is the records of all the NFA firearms, machine guns, silencers, short-barreled rifles, etc., we know that that is in error from what we saw in **The Gang** but now we are talking about just year-end production reports, which basically says what manufacturer manufactured how many rifles, how many pistols, of what caliber, but they lost 'em when they moved into their new headquarters, that I understand are quite lavish, given how far they went over budget. So he calls me and explains the situation and I felt sorry for the guy. We are all human, we make mistakes, sure, I'll help you out and I go to my filing cabinet, pull out my records, immediately fax them to him, but what really alarms me is the guy calls me 7 days later and says "Mr. Savage, I seem to have


misplaced your paperwork again. Could you please re-fax them to me" and I'm thinking to myself, what is going on here, and I gave them the answer that the ATF has given me so many times and that is "Could you please put that request in writing" and I asked the guy "Don't you think that that's fair, I mean, doesn't that sound reasonable, and the gentleman, Mr. Herbert [phonetic] Blunt, let me know in no uncertain terms that he felt that I was being completely unreasonable. I decided to stick to my guns and dig my heels in and say, "Well, I need it in writing" and I was astonished that less than a week later I got a certified letter from him basically detailing how many times they lost my records and a written demand, let this serve as notice, we want these records, and of course, I faxed 'em to him. But it is documented. They couldn't keep track of these records for seven days, how can they go after Mr. Horsley over at Red's Trading Post for such an insignificant clerical error when they themselves can't keep track of their own records for seven days in a row.

**Aaron Zelman:** In fact, it isn't just Ryan, as we know, it's probably a 150,000 dealers over the last, what is it, 10 years, 15 years, that they have been wrongly accused of willfully, that's their favorite word, willfully, keeping bad records. So, we have a situation here in America that our wonderful politicians are trying to ignore. There is a government agency that is lying, cheating, doing whatever it has to do to cover up its criminality and its incompetence. They try to cover it up by going after honest business people. That's really quite a situation, and I think Americans have to realize that our government is headed in the wrong direction. But let's move on. I believe you wanted to talk about another case, this might have been the Harris case or the Kwan case.

**Len Savage:** Well, let's talk about Harris first. Harris happened in my backyard in Atlanta. Mr. Harris was an individual who was unfortunately injured in an automobile accident of no fault of his own and had taken a settlement and one of the things he always wanted was a machine gun. So he purchases a machine gun and he is an avid gun enthusiast and one of the things he was purchasing is he purchased a set of spare parts and when I say spare parts, not a working, not a whole gun, everybody's sees them for sale in Shotgun News, and the ATF claimed that it was a machine gun. These torch cut up pieces because they weren't demilled to current US ATF specifications. Now, here's something to note that the specification for demilling or how the ATF wants people to cut up a gun, in that a way that it's no longer considered a firearm, changes, and changes quite regularly. So if Mr. Harris purchased these in the late 80s and say, you now, in 2000 or 2004, they come to him for whatever reason and say, hey, you know, these are illegal, we want 'em. He turns them in and they say, Oh no, these aren't cut up to current standards that we just came up with a few weeks ago; therefore, you're guilty of a crime. Almost, to quote the Constitution "ex post factor," after the fact. Changing the law on the guy. He gets dragged through Federal Court. By the time it gets to the jury, the jury took about 20 minutes to find him not guilty but the guy ended up spending $50,000 to keep himself out of prison and this is the hideous thing that they do, that even when the ATF loses in court, they win because they instill fear, they've ruined you financially and chances are you're not going to speak out about it because you're happy just to escape with your skin and your freedom.

**Aaron Zelman:** This is **Talkin' To America**. Our special guest today is Len Savage. I'm your host Aaron Zelman. Len, why don't we move on to the next case that you wanted to talk about.

**Len Savage:** That would be US vs. Kwan. I was a participant back in this case back in June. This is just becoming quite the pattern, the legitimacy of the evidence and what the ATF is bringing forth. Not only from a record keeping standpoint but now, let's talk about testing. You and I have talked in the past about the lack of a current testing standard, that the ATF doesn't use a written procedure to test firearms' evidence in Federal Court. Well, in US vs. Kwan the ATF actually testified under oath that the rifle that they had seized from Mr. Kwan would not function as a machine gun while in Mr. Kwan's possession. The ATF then went on the admit that they restored it into a machine gun and they made it into a machine gun and you've got to ask yourself, you know, where does this end? Well, let me tell you where it ends. They actually testified under oath that any firearm, including a single shot bolt action, can be manufactured into a machine gun with enough time and effort and as a gunsmith, I can tell you that's 100% true, that any gun can be turned into a machine gun if you're willing to put forth the effort, but they actually admitted this, and the government went to a great deal of trouble to try to prevent me from testifying in this case. Um, one of the things that was acknowledged under oath is they acknowledged that once a machine gun, always a machine gun, is incorrect, and as matter of fact, they have a policy to remove firearms from machine gun status. I know this is fact because I have experienced it as a manufacturer. Here's something of note. The rifle in question in Mr. Kwan's case was an M14 semi-automatic, and in Congress, Brad Buckles the then-director of the ATF actually testified before Congress back in 2003 and it can actually be found in the House Committee on Appropriations Fiscal Year 2003, pages 325, and I am going to quote this man. "The ATF recognizes that machine gun receivers may be modified so that they no longer within the statutory definition of a machine gun within the NFA." And this is when he was specifically questioned about the M14. So here you go, two years prior to them even charging Mr. Kwan with a crime, their own director tells Congress, "Yeah, we acknowledge the fact that these can be changed." Didn't slow 'em down, didn't stop 'em, they still charged Mr. Kwan and Mr. Kwan, of course, was you know financially ruined by going through what he experienced. Now one of the other things that was found out at this trial that the Acting-Director of the Firearms Technology Branch actually testified under oath that they have "special" unwritten policies that are enforced on FFL holders exclusively. Think about that for a minute, they got special unwritten policies that if you're in the business, we're going to apply to you and that they're so heinous we aren't going to write them down.

**Aaron Zelman:** Do you remember the name of this fellow?

**Len Savage:** His name was Rick Vasquez. He is now currently the Assistant Chief over at Firearms Technology Branch.

**Aaron Zelman:** Well, that makes sense.

**Len Savage:** And he said - he wouldn't even utter Sterling's name, but this is the man who worked under Sterling Nixon's tutelage and was Mr. Nixon's assistant-chief.



**Aaron Zelman:** Do I understand that Sterling Nixon who wrote the infamous "shoestring letter," saying that you're shoestring could be considered a machine gun, is no longer with ATF.

**Len Savage:** Well, he is no longer with FTB and no longer with ATF according to their front office. Now, that's funny you bring that up because in two court cases, I have been able to witness what a jury does when the infamous "shoestring letter" is introduced. They all stare at their shoes wondering if they're going to be charged for a crime when they walk out of the courtroom and less than 7 days after Kwan was acquitted on the machine gun charge, the ATF spontaneously wrote another "shoestring letter" now declaring a shoestring as no longer a machine gun.

**Aaron Zelman:** Ha, ha, ha, oh, that's good. Ha, ha, how about popsicle sticks?

**Len Savage:** Zip ties?

**Aaron Zelman:** Rubber bands, ha, ha.

**Len Savage:**: It's ridiculous. It's absolutely ridiculous and my eyes have been opened up. When I got into this, the first case, of course, was Johnnie Glover, and if anybody wants to see how crazy that was, all's they need to do is get the **BATFE Fails the Test** from you because that is raw, uncut footage, sometimes I'm holding the camera, forgive me for shaking, and sometimes Mr. Glover was holding the camera and you see the ATF using special ammunition. Only the ammunition that the ATF brought to that test had the accidental malfunction and it had soft primers.

**Aaron Zelman:** If people want to see some of that testing, if we can use that word, we have that within the film **The Gang** and I think it is fascinating when the fellow who was doing the testing acknowledged he never even took the gun apart before he decided it was a machine gun. Amazing things. Well, why don't we move on. You wanted to talk about, I think, some of the comments that the judge had to say in the Kwan case.

**Len Savage:** Oh certainly. Judge Zilly out in the 9th Circuit in Seattle was a pretty sharp guy. In a post trial motion, Judge Zilly, and I'm gonna, I'm gonna quote him here because this goes right to the heart of the matter, and he said "No one may be required at the peril of life, liberty or property to speculate as to the meaning of penal statutes." Now, Judge Zilly was quoting the United States Supreme Court and specifically the case of Lanzetta v. New Jersey. Now, if we were to go back and visit that one, just for a second. Let me break this down for you Aaron. The Supreme Court has told all law enforcement in the United States, look, you can't require anybody at the peril of life, liberty or property to speculate as to what in the heck you are trying to enforce. Obviously, the ATF is ignoring the Supreme Court. Now, there's quite a few other cases that say the same thing and Judge Zilly hit upon them in this order but one of 'em was vagueness may invalidate a criminal law for either of two independent reasons. First, it may fail to provide the kind of notice that would enable ordinary people to understand what conduct it prohibits. Second, it may authorize and even encourage arbitrary and discriminatory enforcement. This


case was the City of Chicago vs. Morales. Now, vagueness. Let's see, let's lay this template over the ATF. The ATF doesn't have any written testing standards, so if you wanted to conform your conduct to the law, you can't look up and say, alright let me test my rifle to make sure that it conforms with the law. It doesn't exist, and not only that, it could change because it's not written. So that part of the templates been met. Alright, now it may fail to provide the kind of notice that will enable ordinary citizens to understand what conduct it prohibits. Second, it may authorize and even encourage arbitrary indiscriminatory enforcement. How many times have we heard the ATF called arbitrary. Certainly, the vagueness of some of the gun laws have encouraged the ATF to do just that. In this rush to get these big cases and the big headlines and the prosecution numbers up so that they can go to Congress and get my tax money and your tax money and everybody else listening, they're willing to do whatever it takes to get that conviction and if that means leaning on an expert witness or two to keep their mouth shut. History has shown that they are willing to do that. If it means fudging the evidence a little bit. Well, it's not a machine gun but I'll make it one and then I'll testify to everybody that it's readily restorable. They've certainly did that in Kwan. Obviously, the ATF thinks that they are outside the authority of the United States Supreme Court.

**Aaron Zelman:** In fact, in **The Gang** we show some examples of how they create their own machine guns using JB Weld and some other things that they do. We are getting towards the end. Would you like to talk about an article you published on our website at JPFO.org called, "Am I an Enemy of the United States?" and how the ATF reacted to that?

**Len Savage:** I sure would. The day that that was published, the very next morning at 7:30 a.m. I got a knock on the door. Two special agents and to say that I was scared would probably be an understatement. They were gentlemen but nonetheless, the message was clear, quit speaking out. They showed up and they were investigating something that Sterling Nixon had sent them down to investigate having to do with a situation that I had contacted Mr. Nixon over 18 months prior and I found it more than a little coincidental and just three weeks prior to that before that had happened, I had sent a fax to the acting ATF

director, Mike Sullivan, "Maximum Mike," basically complaining about his lack of communication. I have attempted to contact Mr. Sullivan since he has been acting director, who was specially placed there by Alberto Gonzales, rubberstamped by our President, and is now facing confirmation and in this faxed letter, I am complaining about the ATF's lack of communication. Well, Mr. Sullivan decided it was time to communicate and his way of communicating was to send down a couple of auditors and comb my books for six hours looking for mistakes and that's how we found out that their records were so inept that they actually had special worksheets to try to fix them because my records were 100%; their records were off by four machine guns. You'd think they'd want to know where those were at.

**Aaron Zelman:** Fascinating, but you know, we've learned that this is standard procedure for these folks. Len, we got about a minute or two left, is there something you would like to say to wrap up the program with?



**Len Savage:** Sure and that is that anybody who speaks out against the ATF gets leaned on. I guess if you're a gun owner or in the gun industry, you're First Amendment rights are suspended because anytime I've spoken out, there has been nothing but vindictiveness in return and what saved my butt is documentation and all I can tell everybody out there that if you have any contact with the ATF document, document, document. The ATF has gone after firearms' manufacturers. Lately, that's not been working too well for 'em, and they have been going after dealers and Ryan showing us how to handle that, that's not working too well for 'em. All of your curio and relic holders, beware, you're next.

**Aaron Zelman:** And by all means, please let JPFO know.

**Len Savage:** Most certainly.

**Aaron Zelman:** So we can help people document and document and document and don't forget your video camera. Len, I want to thank you very much for being with us today. This has been **Talkin' to America**. Our special guest has been Len Savage and please remember if you won't defend your right, don't complain when you lose them.

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