



ATF Agent Who Shot Bryan Malinowski Not Likely to be Charged

Lee Williams, an investigative reporter for *The Gun Mag* — the official publication of the Second Amendment Foundation — [declared on Friday](#) that no ATF agent will likely be charged in the killing of American citizen and law-abiding gun owner Bryan Malinowski.

Some call the raid on Malinowski's private residence at 6:03 a.m. on March 19 "delivering the message." What message? "Don't mess with the ATF. Follow our rules even if they are illegal and unconstitutional. If you don't, you will die."



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The rule that Malinowski allegedly violated was an unconstitutional expansion of how the ATF now defines a "gun dealer." The ATF's new rule declares that "a person who devotes time, attention, and labor to dealing in firearms as a regular course of trade or business to predominantly earn a profit through the repetitive purchase and resale of firearms" must now be licensed as a gun dealer. A gun dealer, of course, then falls under the aegis of the ATF, including giving up of his Fourth Amendment rights to be "secure in their persons, houses, papers, and effects, against unreasonable searches and seizures."

One could drive an 18-wheeler through that porous and flexible definition of "gun dealer." And so Malinowski was chosen by the ATF as Exhibit A to be an example to any other gun owner who might want to sell a firearm for profit: Get a license, or else!

The tactics used by the ATF were so outrageous that they caught the attention of Representative Jim Jordan (R-Ohio), head of the House Judiciary Committee. In the committee's letter to the ATF, Jordan wrote, "ATF has not explained why it resorted to a no knock entry of Mr. Malinowski's home when it could have peacefully executed the warrant while he was away from his residence."

Jordan and his committee will likely have many questions:

1. Why was the raid conducted at 6:03 a.m. when the agency knew Malinowski would likely still be sleeping?
2. Why were 10 SWAT vehicles and a dozen or more fully swatted agents involved in the raid?
3. Why did they use "no-knock" tactics?
4. Why couldn't they have informed him of the pending search warrant by phone, during the day? After all, the agency had been surveilling him for many days, including attaching a tracking device on his SUV.
5. And it was a "search" warrant after all, and not an "arrest" warrant.

But no. The ATF deliberately provoked the confrontation. As Williams noted:

ATF's flawed tactics forced Malinowski to defend himself. He believed he was under attack



Written by [Bob Adelman](#) on May 10, 2024

by armed home invaders.... If investigators didn't address this, the case is over. No one [would be] held accountable for Malinowski's death.

And that's exactly what happened. The Criminal Investigation Division (CIS) of the Arkansas State Police, tasked with the initial investigation into Malinowski's death, punted: "We do not have the authority to address methods and tactics used or whether [ATF] agency protocols and policies were followed. Any administrative oversight of tactics would fall to that agency's ... internal review."

One may bank large on the ATF's "internal investigation" turning up no one at fault. Just like the agency did at Waco, at Ruby Ridge, and for Fast and Furious: "Just doing our jobs. Sorry about that."

The arrogance of the agency has extended to its deliberate ignoring of Jordan's demand for all documentation around the shooting by Monday, May 6. This writer could find no evidence that the agency has made any attempt whatsoever to comply by that date.

Williams has also been stonewalled by everyone even remotely involved in the raid, death, and investigation of Malinowski's death. Arkansas State police Director Colonel Mike Hagar "was unavailable to be interviewed." ASP Major Stacie Rhoads, head of the CIS, "did not return emails or messages." Sixth Judicial District Prosecuting Attorney Will Jones "did not return calls or messages." Joshua Jackson, special agent in charge of ATF's New Orleans Field Division "did not return calls seeking comment." In other words, "just go away."

The message intended to be delivered by the killing of Malinowski for violating a new rule promulgated by the ATF has been delivered: "Pay attention! Don't mess with us! We drive the bus here! Remember Malinowski! Bend the knee and get licensed or pay the price!"

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