

Congress of the United States
Washington, DC 20515

June 12, 2024

Colonel Mike Hager
Director
Arkansas State Police
One State Police Plaza Dr
Little Rock, AR 72209

Dear Colonel Hager:

The Committee on the Judiciary is conducting oversight of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) regarding the deadly pre-dawn raid conducted by ATF in Little Rock, Arkansas, while executing a search warrant on the home of Bryan Malinowski, a local airport executive. According to a press release from your office, the Arkansas State Police (ASP) Criminal Investigation Division (CID) has investigated this tragedy and has compiled information relevant to the Committee's oversight of the ATF.¹ We appreciate the ASP's service to Arkansan communities and your dedication to public safety and the rule of law. We respectfully request your assistance with our oversight of the ATF.

In the early morning hours of March 19, 2024, armed ATF agents arrived at the Malinowski family home in at least ten vehicles to execute a search warrant.² According to the warrant, the ATF alleged that Mr. Malinowski was selling firearms without a license.³ Footage from the Malinowskis' doorbell camera shows ATF agents approaching the house with ballistic shields and subsequently disabling the camera to prevent their conduct from being recorded.⁴ Upon hearing the commotion and fearful of a home intrusion, Mr. Malinowski awoke and prepared to defend his family.⁵ Mr. Malinowski encountered what he and his wife believed to be home intruders.⁶ An exchange of gunfire ensued, Mr. Malinowski was shot in the head, and he died from his wounds two days later.⁷

¹ Press Release, Arkansas State Police, Case File in March Officer-Involved Shooting to be Turned Over to Prosecutor (Apr. 22, 2024), <https://www.dps.arkansas.gov/news/case-file-in-march-officer-involved-shooting-to-be-turned-over-to-prosecutor/>.

² Neale Zeringue, *Attorney speaks on gun show loophole explained as cause for ATF raid on home of Bryan Malinowski*, KARK (Mar. 22, 2024).

³ Alex Kienlen, Neale Zeringue, and Ryan Tuberville, *Released search warrant affidavit shows details of ATF case against Little Rock airport executive Bryan Malinowski*, KARK (Mar. 21, 2024).

⁴ Austin Gelder, *Attorney releases video, says airport exec killed in early morning raid likely mistook ATF agents for intruders*, ARKANSAS TIMES (Apr. 7, 2024).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

On April 22, 2024, Chairman Jordan wrote to ATF Director Dettelbach requesting information about the raid.⁸ The circumstances of Mr. Malinowski's death raise questions about whether ATF followed proper protocol during the execution of this search warrant. It is now known ATF did not wear active body-worn cameras,⁹ despite Department of Justice policy and President Biden's Executive Order 14074, that requires ATF agents—including those who conducted the search warrant on March 19, 2024—to wear active body-worn cameras during the execution of a search warrant.¹⁰

It is also unclear whether ATF agents complied with Justice Department policy on “no knock” entries. That policy, issued on September 13, 2021 by Deputy Attorney General Monaco, directs the ATF and other federal law enforcement agencies “to limit the circumstances in which agents may seek to enter a dwelling pursuant to a warrant without complying with the ‘knock and announce’ rule.”¹¹ In explaining the rationale for this policy, Deputy Attorney General Lisa Monaco noted that “because of the risk posed to both law enforcement and civilians during the execution of ‘no knock’ warrants, it is important that this authority be exercised in the most compelling circumstances.”¹² Furthermore, Monaco directed that the use of “no knock” entries should be restricted to instances in which an “agent has reasonable grounds to believe at the time the warrant is sought that knocking and announcing the agent’s presence would create an imminent threat of physical violence to the agent and/or another person.”¹³ ATF has not explained if or why it resorted to a pre-dawn raid of Mr. Malinowski’s home when it could have peacefully executed the warrant while he was away from his residence.

Last month, the Committee held a hearing entitled, “Oversight of the Bureau of Alcohol, Tobacco, Firearms, and Explosives,” where we heard from Director Dettelbach. At that hearing, Director Dettelbach was asked about the raid on the Malinowski home. He repeatedly refused to answer questions about that raid stating, “[a]fter the incident we, along with the Little Rock Police, called for an independent investigation being done by the Arkansas State Police and the local prosecutor . . . The reason I’m not going to talk about what’s going on in that investigation

⁸ Letter from Jim Jordan, Chairman, H. Comm. On Judiciary, to Steven Dettelbach, Dir. of Bureau of Alcohol, Tobacco, Firearms, and Explosives (Apr. 22, 2024).

⁹ Benjamin Hardy, *U.S. senators say ATF agents weren't wearing body cameras in fatal Malinowski raid*, ARK. TIMES (April 19, 2024).

¹⁰ Exec. Order No. 14074, 87 C.F.R. 32945 (2022) and Memorandum from Lisa Monaco, Deputy Attorney General, U.S. Dep’t of Justice, to Bureau of Alcohol, Tobacco, Firearms, and Explosives, Drug Enforcement Administration, Federal Bureau of Investigation, United States Marshals Service, Assistant Attorney General for Administration, and Executive Office for United States Attorneys, *Body-Worn Camera Policy* (Jun. 7, 2021); Bureau of Alcohol, Tobacco, Firearms, and Explosives, U.S. Dep’t of Justice, *Special Agent Body Worn Cameras* (Jun. 2, 2022).

¹¹ Memorandum from Lisa Monaco, Deputy Attorney General, U.S. Dep’t of Justice, to Bureau of Alcohol, Tobacco, Firearms, and Explosives, Drug Enforcement Administration, Federal Bureau of Investigation, Federal Bureau of Prisons, United States Marshals Service, Office of Inspector General, Heads of Litigating Components, Executive Office for United States Attorneys, and United States Attorneys, *Chokeholds & Carotid Restraints; Knock & Announce Requirement* (Sep. 13, 2021).

¹² *Id.* at 2.

¹³ *Id.* at 3.

is to respect its independence and out of fairness.”¹⁴ Quite frankly, the Malinowski family, the residents of Arkansas, and the American people deserve to know what happened during that raid.

On April 22, 2024, the ASP issued a press release indicating it concluded the investigation into the raid on the Malinowski home and that it would be turning over the case file to the Sixth Judicial District prosecuting attorney’s office.¹⁵ In the press release you explained that ASP does “not have the authority to address [ATF] methods and tactics used or whether agency protocols and policies were followed.”¹⁶ As the Committee with jurisdiction over ATF, the Committee must examine the methods and tactics used by ATF during the raid to inform potential legislation to reform the ATF’s practices or procedures.

To advance the Committee’s oversight of ATF with respect to this tragedy, we request that you produce the following documents and information:

1. An unredacted copy of the case file that the ASP compiled in its investigation of the ATF’s pre-dawn raid on the Malinowski home;
2. Any audio and video recordings in the ASP’s possession, custody, or control referring or relating to the ATF’s pre-dawn raid on the Malinowski home;
3. Any transcripts and recordings of interviews conducted by ASP officers or investigators related to the investigation into the ATF’s pre-dawn raid on the Malinowski home; and
4. Any other relevant information you believe may inform the Committee’s oversight of the ATF.

We ask that you provide this information as soon as possible but no later than 5:00 p.m. on June 26, 2024.

The House Committee on the Judiciary has jurisdiction over the Bureau of Alcohol, Tobacco, Firearms and Explosives pursuant to Rule X of the Rules of the House of Representatives. Additionally, H. Res. 12 authorized the Committee’s Select Subcommittee on the Weaponization of the Federal Government to investigate “the expansive role of article II authority vested in the executive branch to collect information on or otherwise investigate citizens of the United States, including ongoing criminal investigations”¹⁷ and “issues related to the violation of the civil liberties of citizens of the United States.”¹⁸ If you have any questions about these requests, please contact Committee staff at (202) 225-6906.

¹⁴ *Oversight of the Bureau of Alcohol, Tobacco, Firearms, and Explosives, Hearing Before the H. Comm. on Judiciary*, 118th Cong. 28 – 29 (2024) (statement of Steven Dettelbach, Dir. of Bureau of Alcohol, Tobacco, Firearms, and Explosives).

¹⁵ *Supra* note 1.

¹⁶ *Id.*

¹⁷ H. Res. 12 § 1(b)(1).

¹⁸ *Id.*

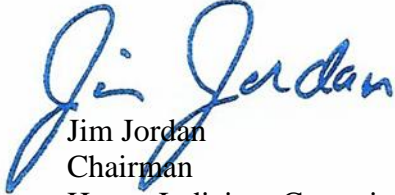
Colonel Mike Hager

June 12, 2024

Page 4

Thank you for your prompt attention to this matter.

Sincerely,



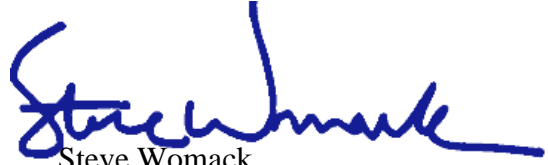
Jim Jordan
Chairman
House Judiciary Committee



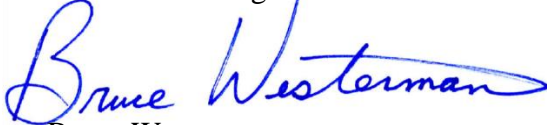
Eric A. "Rick" Crawford
Member of Congress



French Hill
Member of Congress



Steve Womack
Member of Congress



Bruce Westerman
Member of Congress

cc: The Honorable Jerrold L. Nadler, Ranking Member, House Judiciary Committee