

Eric Beasley
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6006 Quinn Orchard Road
Frederick, MD 21704

Dear PIACB,

Please review the following response to Attorney General Anthony Brown's full throated, yet substantially flawed, defense of Sheriff Charles Jenkins.

It should be noted that despite his felony indictment for fraud, conspiracy, and illegally acquiring machine guns, Sheriff Charles Jenkins is still working in his full capacity as the elected Sheriff.

Category 1. Sale of Regulated Firearm

No records were requested which should have covered a handgun. The Attorney General is correct, handguns are considered "regulated firearms" in the State of Maryland. However, the search criteria for the original MPIA request specifically stated "machine gun." In common parlance, two words within quotes indicates that the requester is searching for that exact phrase in its entirety. The search parameters were for both words, "machine gun" in that order. It was not for "machine" OR "gun", which may have captured a handgun. While is it technologically feasible for handguns to be converted into a fully automatic capability and therefore fit the definition of "machine gun", this is not a common state and would serve no legitimate purpose in law enforcement. These are not the documents that the requester asked for or is seeking.

Category 2. Tax Returns or Return Information

In this section, the FCSO claims that they are denying release of two ATF Form 5s. The requester specifically asked for "all document with FCSO letterhead." The ATF Form 5 does not fit the criteria laid out by the requester as it is on ATF letterhead. These are not the documents that the requester asked for or is seeking.

Category 3. Federal Firearms Licenses

Nine of the records requested are letters signed by Sheriff Charles Jenkins and sent to FFLs requesting demonstrations of different firearms. It needs to be noted that Sheriff Charles Jenkins is under a felony indictment for these exact law letters which the Attorney General does not want to be made public.

According to a recent motion filed in the case by Sheriff Charles Jenkins' attorneys, this is the process in question: "Krop therefore initiates contact with Sheriff Jenkins. Krop or his staff draft the law letters and email them to Ms. Commert, Sheriff Jenkins' assistant. Ms. Commert puts the law letter on Frederick County Sheriff's Office letterhead and put the law letter on the Sheriff's desk for his signature."¹

Sheriff Jenkins' filing is especially relevant. In the document, Jenkins asserts that the ATF told co-Defendant Krop that one law letter was deficient. Jenkins edited and resent that specific letter to Krop. If

¹ Sheriff Charles Jenkins' court filing can be accessed here:
<https://bloximages.newyork1.vip.townnews.com/fredericknews.com/content/tncms/assets/v3/editorial/9/c2/9c255f7a-8ccc-581e-99dc-797bd5e27256/649f601ba5882.pdf.pdf>

that is the case, then the original deficient law letter must be disclosed as it was not a good and proper “law letter” that is protected by 18 U.S.C. 923(g). That law letter was a deficient filing and therefore not subject to the legal protections associated with any non-disclosure requirements.

None of the cases cited by the Attorney General are binding case law in the State of Maryland. The cases cited are from the 2nd, 7th, and 9th Federal circuits. Maryland is in the 4th Federal Circuit. Direct analysis of the case cited by the Attorney General paints an even worse picture for their defense:

EVERYTOWN FOR GUN SAFETY SUPPORT FUND v. BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES – This case has absolutely nothing to do with the PIA request made. This case concerns a specific database (Firearms Trace System) maintained by the ATF. This does not concern “law letters” or any information covered in the original PIA request.


City of Chicago v. United States Department of the Treasury, Bureau of Alcohol, Tobacco & Firearms – This case also concerns a specific database (Firearms Trace System) which is maintained by the ATF. This does not concern “law letters” or any information covered in the original PIA request.

Caruso v. U.S. Bureau of Alcohol, No. 11-35496, n.* (9th Cir. Aug. 29, 2012)– This case starts out with the statement “This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.” Aside from citing non-binding precedents, this case concerns ATF documents. This does not concern documents created by a local Sheriff.

All of the above cases concern the Firearms Trace System. This is not what it sounds like. The FTS is a facility in Martinsburg, WV ²which is used by law enforcement to identify the owner and origin of firearms used in crimes. None of these records are digitized, they are paper records turned over by FFLs in order to comply with federal regulations. The cited article above includes an example of what the records from the Firearms Trace System look like:

² <https://www.thetrace.org/2016/07/how-a-gun-trace-works-atf-ffl/>

DEPARTMENT OF JUSTICE
BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES
NATIONAL TRACING CENTER
Phone: (800) 788-7133 Fax: (800) 578-7223
Print Date: March 08, 2006



FIREARMS TRACE SUMMARY

Trace Number: T20060031466 Request Date: 02/14/2006

KENNETH BACHMAN
PORTSMOUTH CITY POLICE DEPT.
711 CRAWFORD STREET
PORTSMOUTH, VA 23704

Badge No: 1460
Investigation No: 06-002392

FIREARM INFORMATION

Manufacturer: TAURUS INTERNATIONAL
Model: PT145
Caliber: 45
Serial Number: NYG05057
Type: PISTOL
Country: UNITED STATES
Importer:
Obliterated:
Identifying Marks:
NIBIN:
Gang Name:

PURCHASER INFORMATION

Purchase Date: 08/29/2005

SAMUEL MASON III
[REDACTED]
PORTSMOUTH, VA 23701
UNITED STATES
DOB: [REDACTED]
POB: PORTSMOUTH, VA UNITED STATES
Race: BLACK Height: 5 ft 10 in
Sex: Male Weight: 150 lbs
ID 1: VA DRIVER'S LICENSE #: [REDACTED]
ID 2: SOCIAL SECURITY #: [REDACTED]

RECOVERY INFORMATION

Recovery Date: 02/09/2006
Time to Crime: 164 days

1505 ELLINGTON SQ
PORTSMOUTH, VA 23701
UNITED STATES
Possessor: SAMUEL MASON
DOB: [REDACTED]
POB: [REDACTED]

DEALER INFORMATION

FFL Number: 15440269

D & R ARMS
3008 TYRE NECK RD
PORTSMOUTH, VA 23703-4527
Phone: (757) 483-6948 Ship Date: 08/24/2005

ADMINISTRATIVE INFORMATION

SUMMARY OF RESULTS

THIS FIREARM WAS TRACED TO AN INDIVIDUAL PURCHASER.

The information in this report must be validated prior to use in any criminal proceedings. This report does not constitute a fulfillment of the Interstate Nexus requirement in any Federal, State or Administrative legal process or litigation. That expert testimony or Interstate Nexus determination is made through trained experts who must be contacted at the local ATF Field Office.

None of the information present in this specific document, or any other document which is in the possession of the National Tracing Center, was requested in this PIA request to the FCSO.

However, the Attorney General's objections to turning these documents over is curious, as the FCSO did produce a document responsive to the original request. This document was typed on FCSO letterhead and concerned the disposition of machine guns and grenade launchers. These machine guns and grenade launchers were decommissioned by a FFL, an ATF Form 5 was generated, and a memorandum was generated that was released in response to the PIA request.

It should be noted that the memorandum below is likely accompanied by the documents covered under Category 2, the ATF Form 5s which the FCSO denied release. Without realizing it, the FCSO has made the absolute case for the release of all documents within Category 3, the "law letters." In this instance, there are two sets of documents, one comprised of ATF forms and another comprised of FCSO memorandums. While the ATF forms are not releasable under Federal law, the FCSO memorandums are a matter of public record. The FCSO recognized this distinction, but only as it applied to documents that Sheriff Charles Jenkins has not been indicted for.

FREDERICK COUNTY SHERIFF'S OFFICE

**HEADQUARTERS
FREDERICK COUNTY LAW
ENFORCEMENT CENTER**
110 Airport Drive East
Frederick, Md. 21701
301-600-1046
301-600-1527 (Fax)
301-600-7655 (TTY)



CHARLES A. JENKINS
SHERIFF

**DETENTION CENTER/
CENTRAL BOOKING**
7300 Marcie's Choice Lane
Frederick, Md. 21704
301-600-2550 (D.C.)
301-600-2566 (D.C. Fax)
301-600-1790 (C.B.)
301-600-1791 (C.B. Fax)

JUDICIAL OPERATIONS
100 W. Patrick Street
Frederick, Md. 21701
301-600-2162
301-600-3690 (Fax)

WORK RELEASE CENTER
7281 Marcie's Choice Lane
Frederick, Md. 21704
301-600-1727
301-600-3404 (Fax)

KCG/kgc

TO: Sheriff Charles A. Jenkins
FROM: Lt. Kevin Grunwell
REF: Sale of SST Weapons
DATE: October 19, 2015

On October 13, 2015 the Heckler and Koch MP5 and MP5-SD machine guns were sold to Engage Armament LLC of Rockville, MD. Their Federal Firearms License Number is [REDACTED]. The firearms were formerly used by members of the Sheriff's Office Special Services Team. As part of the sale, the ATF Form 5's for each of the firearms and launchers was sent to the NFA Branch of the ATF and the sale was approved. The weapons were transferred for destruction and the usable parts will be retained by Engage Armament. The following items were sold:

4	Heckler and Koch MP5-SD's	\$1,250.00 each
5	Heckler and Koch MP5's	\$750.00 each
4	Heckler and Koch MP5-SD sim kit	\$50.00 each
5	Heckler and Koch MP5 simunition kit	\$50.00 each
11	MP5 Magazine bandoleers	\$15.00 each
20	MP5 Magazines	\$15.00 each
3	HK MP5 collapsible stocks	\$150.00 each
2	Colt 40MM M203 launcher's	\$400.00 each
	Total:	\$10,915.00

Once the de-milling process is complete, I will draft a letter for your signature requesting that the firearms be removed from the purview of the NFA. Copies of the ATF Form 5's are attached.

In the middle of writing this response for the PIACB, new evidence has emerged which is extremely relevant to the PIACB's decision. On July 4th, 2023, Sheriff Charles Jenkins included copies of the law letters which he signed for Robert Krop as an Exhibit to a motion in the Federal court case³. There is a total of five (5) law letters included in this Exhibit. The Attorney General cited multiple cases in Category 3 which they claim means that the Law Letters cannot be disclosed, stating that the law says:

³ The Exhibit can be viewed at

<https://bloximages.newyork1.vip.townnews.com/fredericknewspost.com/content/tncms/assets/v3/editorial/8/d3/8d38ec14-ac40-50e6-86d6-f6221797a11e/64a60b4e51f5a.pdf.pdf>

- “Shall not be subject to subpoena or other discovery” - [18 U.S.C.] 923(g)
- “All such data shall be immune from legal process” - Everytown for Gun Safety Support Fund v. Bureau of Alcohol, Tobacco, Firearms and Explosives, (2d Cir. 2020)

If the Attorney General’s claim is an accurate interpretation of the law, then how exactly did Sheriff Charles Jenkins receive a copy of the law letters in Discovery from the pending criminal case? Discovery is a “legal process.” If the statutory interpretation set forth by the Attorney General is accurate, then these documents could NOT be turned over in Discovery, through a subpoena, or through any other legal process. However, the court filings from 2 days ago clearly demonstrates that these records are not the sort of records referenced in the Attorney General’s cited cases. Those cases are for a specific ATF database and not for memorandums signed by a local Sheriff.

To summarize, the Frederick County Sheriff’s Office and Attorney General Anthony Brown are not acting in good faith regarding this PIA dispute. First, the FCSO and AG have created a strawman argument for themselves in two categories of information. Handguns and ATF Form 5 are not covered by the requester’s PIA request.

Second, and most importantly, the FCSO and AG are relying on irrelevant, unpublished/non-binding, and non-applicable case precedent to prevent the release of simple memorandums written on FCSO letterhead and signed by Sheriff Charles Jenkins. The requested memorandums have nothing to do with Firearms Trace System, National Tracing Center, or any other apparatus of the Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF). Yet, the FCSO and AG rely exclusively on case precedent regarding this system.

Sheriff Charles Jenkins’ attorneys have already filed court motions which contain a portion of the data that now, Sheriff Jenkins, is claiming cannot be turned over through Discovery, subpoena, or through any legal process. Does the PIACB see the contradiction here? The documents in question cannot simultaneously be present in the US Attorney’s Discovery AND ALSO be immune from legal process like Discovery. The mere thought of the textual contortions and legal gymnastics required for the FCSO and AG’s position to be upheld are giving the requester arthritis.

A memorandum written by an elected Sheriff is public information and should be released under the Maryland Public Information Act. There are 9 documents held back from release. The requester believes there to be 10 documents, as the FCSO likely forgot about the deficient law letter that was mentioned in Jenkins’ court filing. At a minimum, the deficient law letter should be disclosed to the requester as it is not a valid record and therefore not eligible for protection from disclosure. The other 9 records should be disclosed just as the record dated 10/19/2015 was produced.

Sincerely,

Eric Beasley

Author at A Miner Detail