

October 14, 2000 – Randy Weaver at Ruby Ridge

COMMENTARY ON THE FOLLOWING E-MAIL:

The e-mail that begins with "Randy Weaver's Defense at Ruby Ridge", is one that I received just this past week from a young man I know who signs his name at the end of the letter. It is an excellent piece of writing that all Americans, and especially law officers, need to read. It is my hope that this e-mailing be sent to all your contacts and friends on the Internet and in doing so, this information reaches as many people as possible. I have made a brief observation that begins in the next paragraph.

In the united States of America today, there exists a problem that many Americans are not willing to examine or acknowledge. It is the criminal actions and behaviors of government. We all have known that our political leadership has been lining their pockets for years but it has now come to a point where the law enforcement of this country has began to murder Americans openly. Then, after committing murder, our law enforcement agencies engage in coverup and when a crime is not able to be set aside through coverup techniques, federal judges step in and rule that government agents cannot be held accountable for murder, obstruction of justice, lying under oath and other felonies.

Events similar to the one in the following detail, bring out the worst and the best in government agencies dealing with law enforcement. On one hand we see those law officers that are willing to murder, obstruct, and lie as required by their supervisors and then on the other hand we see those officers who stand in defiance of unlawful directives from their supervisors. The question in my mind is, "How many of these quality officers will remain after the dust settles?" In events such as the one described below and such as WACO, Texas, those corrupt elements in government were able to clearly see those law enforcement officers that can not be corrupted. Will government not engage in actions aimed at removal of these untrustworthy agents? Of course it will.

There will be those agents who leave law enforcement because they can not abide by the criminal behavior of the agency with which they are associated, and those that remain will be driven out by various management practices that target them and make their jobs miserable without the possibility of promotion. And so, in the end the trust worthy officers of high integrity are weeded out and what is left are essentially thugs.

The criminal behavior of law enforcement has made them a bigger threat than the common street criminal to many Americans. It has become difficult to see the difference between those in law enforcement and any other criminal organization. When our most respected law enforcement agencies (the Federal Bureau of Investigation & Department of Justice) murder and then act to cover it up, fabricate evidence, lie to the American public, lie to the Military, lie to their supervisors, lie under oath, then ordinary Americans can conclude that this is just the tip of the iceberg and that the criminal behavior most likely exists at all levels of law enforcement, all the way down to local courts, local judges, local police.

Now that the police of our country are becoming so distrusted by so many Americans, what are they going to do to restore confidence? Are they going to bring to justice those that committed murder at WACO, Texas and Bonners Ferry Idaho? Are local sheriffs going to bar Federal law enforcement agencies from operations because they can not be brought to justice when they commit murder in their counties and protect the public they are sworn to protect (against all enemies, both foreign and domestic)? Are the police going to stand and speak out openly against the murders committed by brothers in their own and other policing agencies or are they going to going to continue to be sheep in the herd and stand up for law only when its convenient and when the risk is much less than standing in opposition to the criminal behavior of the Federal Government?

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Randy Weaver's Defense at Ruby Ridge

The following brief stems from the Report of the Subcommittee on Terrorism, Technology, and Government Information of the Senate Committee on the Judiciary. For fourteen days from 6 September to 19 October 1995, The Subcommittee heard testimony from 62 witnesses, including a review of internal reports from the Department Of Justice, the Department Of Treasury, and the FBI. Additionally, detailed inquiries were made of the US. Attorney General, Secretary of the Treasury, Director of the Bureau of Alcohol, Tobacco, and Firearms (ATF), Director of the U.S. Marshals Service, Director of the FBI, and the former U.S. Attorney for the State of Idaho. The Subcommittee's aim throughout these hearings was to hold officials at the highest levels of federal government responsible for their conduct in the illegal mayhem that ensued at Ruby Ridge, Idaho beginning 21 August 1992.

Randy Weaver, a former U.S. Army Green Beret Demolition Sergeant, and his family lived on a 20-acre parcel of land on Caribou Ridge, also known as Ruby Creek Drainage, a mountain located approximately 8 miles south of Bonners Ferry, Idaho. *Ruby Ridge* was an incorrect term assigned by the mass media. Randy and his wife had 4 children: a 17-year old daughter named Sara, a 14-year old son named Sammy, an 11-year old daughter named Rachel, and a 10-month old daughter named Elisheba. Another friend of the family, 17-year old Kevin Harris, was also present the day the standoff with federal authorities began. The family dog, a yellow lab, was named Striker.

In 1986, a confidential informant for BATF met Randy Weaver at a white supremacist Aryan Nations Congress near Hayden Lake, Idaho. For some time, the FBI and BATF had wished to have a snitch inside Aryan Nation, specifically to uncover unfavorable information on its leader, Mr. Butler. A relationship eventually formed between Weaver and the informant. In October 1989, after 3 years of friendship and under illegal methods of entrapment, Weaver later sold the informant, Kenneth Fadeley (a.k.a. Gus Magisono), two illegally sawed-off shotguns (barely illegal by only 1/4 inch). In June 1990, threatening Weaver with 6 Federal firearms violations, BATF attempted to persuade Weaver to act as an informant within Aryan Nation, but he refused.

In December 1990, the United States Attorneys Office for the District of Idaho indicted Weaver on weapons charges. (During Weaver's criminal trial, the ATF snitch/spy/informant, Kenneth Fadeley, admitted to lying 31 times while on the stand. Fadeley informed BATF of Weaver for a monetary reward from BATF, payable only in the event that Weaver was convicted. Fadeley was not to be paid by BATF if Weaver was acquitted.)

Weaver and his wife Vicki were arrested on 17 January 1991 (ATF agents would later falsely claim in federal court that Randy resisted arrest), released the following day on a \$10,000 promissory bond (his property serving as collateral), and given a court hearing date for the following month. Having returned to his cabin, he received a mail notice changing his court date (the memo contained an incorrect hearing date). When Weaver subsequently missed his new court date, a bench warrant and later a grand jury indictment were issued for his arrest. The U.S. Marshals Service then launched a 17-month investigation and surveillance program on Weavers cabin where the Weaver family was seeking refuge. (Randy Weaver sought refuge as he believed he was going to be set up in court. Additionally, at his pre-trial arraignment, Federal Magistrate Judge Stephen Ayers told Weaver that if he lost his trial he would probably have to forfeit the \$10,000 promissory bond to cover his court expenses. This was all the family had to their name. Judge Ayers later conceded he misquoted the law to Weaver. Fearing his family would be left homeless, destitute, and penniless, Weaver chose to stay on the mountain.)

On 7 March 1991, U.S. Marshals constructed a 16-page report, or Threat Source Profile , on Randy Weaver, concluding that Weaver was extremely dangerous and might be deliberately seeking a confrontation with the government There may be (sic) no turning back from a confrontational situation. Weaver appears self-destructive and willing to martyr himself for his beliefs. U.S. Marshals also falsely believed Weaver to have robbed banks in Montana. The truth was that Randy Weaver had never been convicted of any wrongdoing in his entire life. Weaver was also wrongly identified by an IRS snitch as a tax protestor. In any case, Weaver was strongly affiliated with virulent anti-government, right-wing supremacist individuals and organizations. Weaver had also made threats on the life of the President of the United States and other political leaders, which the U.S. Secret Service had investigated in 1985. No charges were filed under lack of probable cause.? U.S. Marshals came to accept a view of Randy Weaver and his family that was blown way out of proportion, highly exaggerated, and founded largely on unsubstantiated rumors and misinformation.

On 21 August 1992, during a U.S. Marshals surveillance mission to the Weaver property, an unexpected encounter occurred on a road leading to the family cabin between several heavily-camouflaged deputy U.S. Marshals and Kevin Harris and Sammy Weaver. In this encounter, Striker, the dog, is shot and killed by U.S. Marshal Arthur Roderick. Sammy Weaver, responding to his yellow lab being shot by the federal agent for no plausible reason, and exclaiming "You shot my dog, you son-of-a-bitch", is shot in the back running towards the family cabin by U.S. Marshal Larry Cooper with a 9mm submachine gun, virtually severing his arm from his torso and blowing his heart out through his chest. Then, Deputy U.S. Marshal William Degan is killed as he steps into the line of 9mm silenced-submachine fire by his own fellow federal agents. (Federal forensics later proved this to be the case, after the FBI charged that Randy Weaver killed Agent Degan.) The firefight occurred with none of the federal agents verbally

identifying themselves before shooting. A standoff ensued. Idaho Governor Cecil Andrus, declaring a state of extreme emergency, surrendered jurisdiction to federal authority. The U.S. Marshals Service sought emergency assistance from the FBI, which immediately deployed its elite Hostage Rescue Team (HRT) to Ruby Ridge.

The next day, 22 August 1992, Randy Weaver is shot through the shoulder (missing Weavers heart) by FBI sniper Lon Horiuchi as he leaves the cabin to examine his dead sons body in a nearby birthing shed. Immediately thereafter, Vicki Weaver, unarmed, standing behind the open cabin door hollering for her husband Randy to get inside, and holding 10-month old Elisheba in her arms, is shot in the head, from a distance of approximately 150 yards, via a window pane on the door by FBI sniper and former West Point graduate Lon Horiuchi using match grade bullets fired from a Remington Model 700 .308 Winchester with a bull barrel and 10-power scope, severing one of her four carotid arteries and blowing her jaw bone away. For the following 30 seconds, Vicki screams and convulses as she bleeds to death on the cabin floor in front of her family, her baby daughter bathed in her mother's blood, tissue, and bone fragments. Kevin Harris is also lying on the floor, as the bullet which passed through Vicki s head slammed into his arm, breaking two ribs and lodged next to his heart.

Negotiations continue as the family is holed up inside the cabin. A 750-pound FBI robot is positioned in front of the Weaver cabin door, with one arm holding a telephone and another arm holding a 12-gauge shotgun pointed at the cabin door. (FBI press spokesmen repeatedly complained to the news media during the 11-day siege that Weaver refused to negotiate but never mentioned the shotgun.) Colonel James Bo Gritz, America s most decorated Green Beret Commander, is eventually called in to negotiate with Randy Weaver. (Colonel Gritz was featured by General William Westmoreland as The American Soldier). When Colonel Gritz learns from Randy Weaver that Vicki has been killed (The FBI had been keeping that a secret from the press and her parents who the FBI was holding in custody), Gritz confronts FBI Agent Dick Rogers about the murder on his way down the mountain. Agent Rogers, his arms extended defensively, stated: We targeted Vicki Weaver because the psychiatrist profiled her as the maternal head of the family, who would kill the children before allowing them to surrender. (As Colonel Gritz later stated, there was never a doubt about Vicki being purposely shot until after the siege was over and a disgraceful cover-up began.)

Nine days later, on 31 August 1992, the standoff ends. Randy Weaver is arrested and taken to Boise, Idaho where he is charged with illegal weapons possession, murder of Agent William Degan, conspiring against the Government, and assault on Federal officers. He is later found guilty of only a failure to appear charge. Following 16 months of jail time already served plus an additional 2 months, Weaver is released from prison. The U.S. Government, on 15 August 1995, settled out of court for \$3.2 million paid to the Weaver family for the wrongful death of Vicki Weaver. One Justice Department official told the Washington Post that, if the suit had gone to trial in Idaho, the Weavers probably would have collected \$200 million from the U.S. Government.

The major flaw of the FBI s plan at Ruby Ridge, according to the Senate Subcommittee, was the lack of any negotiation plan. Federal agents in command on the mountain ensured that a violent

confrontation with Weaver would result. The second major flaw of the FBI's operations plan was that the Rules of Engagement were unconstitutional. The rules employed at Ruby Ridge were:

(1) If any adult male in the compound is observed with a weapon prior to the surrender announcement, deadly force can and should be employed, if the shot can be taken without endangering any children. (2) If any adult in the compound is observed with a weapon after the surrender announcement is made, and is not attempting to surrender, deadly force can and should be employed to neutralize the individual. (3) If compromised by any animal (dog), that animal should be eliminated. (4) Any subjects other than Randall Weaver, Vicki Weaver, Kevin Harris presenting threats of death or grievous bodily harm, the FBI Rules of Deadly Force are in effect. Deadly Force can be utilized to prevent the death or grievous bodily injury to one's self or that of another.

In other words, for the adult members of the cabin, Randy Weaver and Kevin Harris, these orders effectively meant shoot-on-sight, whether posing a direct threat or not. These rules were inconsistent with the FBI's standard deadly force policy. This policy states:

Agents are not to utilize deadly force against any person except as necessary in self defense or for the defense of another when they have reason to believe that they or another are in serious danger of death or grievous bodily harm. Where feasible a verbal warning should be given before deadly force is applied.

Furthermore, members of a Denver FBI SWAT team deployed to Ruby Ridge during the standoff immediately recognized that the rules of engagement in effect were inconsistent with the FBI deadly force policy. Special Agent Sexton of the Denver unit testified during the criminal proceedings against Weaver that the rules of engagement were out of line.

Additionally, other SWAT team members, including Special Agent Donald W. Kusulas and Special Agent Peter K. King, found the rules to be inappropriate and therefore refused to abide by them. Agent King later told the Senate Subcommittee that the shoot-to-kill rules of engagement were crazy.

Legal precedents of case law establishing what constitutes a constitutional use of deadly force include two cases: *Tennessee v. Garner*, 471 U.S. 1, 11-12 (1985) and *Graham v. Connor*, 490 U.S. 386, 396 (1989). These cases established the legal requirement that law enforcement officers personally and contemporaneously evaluate the risk of grievous bodily harm or death to themselves and/or others before employing deadly force. Orders given to on-scene agents at Ruby Ridge illegally relieved the agents of this requirement. Who gave such orders? Who approved the special/modified Rules of Engagement at Ruby Ridge? According to Hostage Response Team (HRT) Commander Dick Rogers, the order came from Criminal Investigative Division Assistant Director Larry A. Potts. Special Agent in Charge Eugene F. Glenn also holds that Potts approved the Rules. Potts adamantly denies having approved the Rules of Engagement.

As a clear indication of on-scene, FBI internal suspicions of the validity of the standoff, Criminal Investigative Division Deputy Assistant Director Danny O Coulson hand scribbled these notes on a piece of paper on August 23rd or 24th (3rd or 4th day of the standoff) at a lower elevation from the cabin on Ruby Ridge:

Something to Consider: 1. Charge against Weaver is Bull Shit. 2. No one saw Weaver do any shooting. 3. Vicki has no charges against her. 4. Weavers defense. He ran down the hill to see what dog was barking at. Some guys in camys shot his dog. Started shooting at him. Killed his son. Harris did the shooting. He is in pretty strong legal position. -- D.O.C. (initials of Danny O. Coulson, FBI)

Agent Coulson later testified that these were in fact his handwritten notes. The document represents Coulson s reaction to the assault plan proposed by the on-site commander, Agent Eugene Glenn, within two days of the standoff s beginning. The assault plan submitted by Agent Glenn was based on the premise that Vicki Weaver could kill her children. Coulson was not convinced of that premise and asked to know the basis for it. He was also convinced that the assault plan was otherwise faulty.

From the time that the standoff ended, a massive cover-up began by the U.S. Marshals Service and the FBI. Nevertheless, a 1994 Justice Department internal report concluded that numerous federal officials may have obstructed justice, perjured themselves, or otherwise broken the law. A task force of 24 Justice Department and FBI officials recommended that sniper Horiuchi face federal charges for the unconstitutional killing of Vicki Weaver. DOJ later squelched this report.

When U.S. Marshals Roderick (killed the yellow lab) and Cooper (killed Sammy Weaver via multiple 9mm shots to the back) testified at the 1995 Senate hearings, they stunned the senators by announcing that Randy Weaver had accidentally shot his own son Sammy. The Senate Subcommittee requested forensic tests be conducted to verify the agents testimony. On 23 October 1997, forensic tests proved that U.S. Marshal Larry Cooper killed Sammy Weaver with a burst of fire from a 9mm submachine gun.

On 6 January 1995, FBI Director Louis Freeh announced the results of the FBI's internal investigation. Freeh found 12 FBI officials guilty of inadequate performance, improper judgment, neglect of duty and failure to exert proper managerial oversight. The harshest penalty Freeh imposed was 15 days of unpaid leave levied against only 4 FBI agents. To Freeh s friend, Larry Potts (FBI official in charge at Ruby Ridge), a letter of censure was levied for enacting rules of engagement violating the U.S. Constitution. This was the same penalty which Freeh had levied against himself for losing an FBI cellular telephone. In Senate testimony one month later, Freeh declared that no misconduct by FBI officials had occurred in the handling of the Weaver case.

FBI Director Freeh justified the FBI shooting of Randy Weaver by stating that sniper Horiuchi observed one of the suspects raise a weapon in the direction of a helicopter carrying other FBI personnel. However, other federal officials, testifying at Weavers criminal trial in Bose in 1993, stated that no helicopters were flying in the vicinity of the Weaver's cabin when Horiuchi opened fire. At Weavers criminal trial in Bose, Horiuchi testified that he never saw Weaver holding a gun

before he tried to kill Weaver. Horiuchi explained the plan of the FBI snipers at Weaver's trial: We were planning to shoot the adult males. Horiuchi also stated that he did not open fire until both adult males were out of the cabin because he hoped to be able to shoot both of them at the same time. It is interesting to note that, at Weavers criminal trial in Boise, five FBI agents sought protection under the U.S. Fifth Amendment rather than testify and be forced to tell the incriminating truth about their activities on the Ruby Ridge case.

On 12 July 1995, Michael Kahoe, director of the FBI's Violent Crimes and Major Offenders Section, was suspended for shredding the FBI after-action report on Ruby Ridge. One month later, Deputy Director Larry Potts and four other high-ranking federal officials were suspended from their positions (with full pay) as they were suspected of having destroyed evidence. In October 1996, Agent Kahoe copped a plea bargain with federal prosecutors and was sentenced to serve 18 months in prison with a \$4,000 fine for obstruction of justice charges. Kahoe could have received up to 10 years in prison and a \$250,000 fine. For his part in covering up the murder of Vicki Weaver, Kahoe was permitted to stay on the FBI payroll (at \$112,000 per year) for several months after he pled guilty until he reached age 50 so that he qualified for a \$67,000 annual pension. Kahoe also collected 15 months of FBI paychecks after he was suspended.

Shortly after the Senate hearings ended in 1995, the Justice Department sent a team of investigators back to Ruby Ridge to reconstruct Horiuchi's angle of vision for shooting Vicki Weaver. It was determined that: When you look through the scope [of Horiuchi's rifle] at the door, you can see a wedding ring on the hand of someone standing behind the window of the door. You can see someone standing back there with great resolution and great visibility.

On 15 August 1997, the U.S. Department of Justice announced the results of its re-investigation of Ruby Ridge. It done so on a Friday afternoon, when most news reporters were already off duty. DOJ stated it would file no criminal charges against high-ranking FBI agents in the Ruby Ridge case. In the report, DOJ called it not completely accurate that Randy Weaver and Kevin Harris posed a severe threat to law enforcement officers. Interesting, given that a 1997 federal appeals court decision noted: Horiuchi and his fellow officers were safely ensconced on the hill overlooking the Weaver cabin. No threatening movement was made by Harris with respect to Horiuchi or anyone else, even after Horiuchi shot Randy Weaver. The appeals court called the rules of engagement a gross deviation from constitutional principles and a wholly unwarranted return to a lawless and arbitrary wild-west school of law enforcement.

On 21 August 1997, one week after the Department of Justice whitewashed the FBI defendants, Boundary County, Idaho, Prosecutor Denise Woodbury announced the indictment of FBI sniper Lon Horiuchi for involuntary manslaughter in the killing of Vicki Weaver. Justice Department lawyers persuaded a judge to move Horiuchi's case from a state court to a federal court, where federal agencies would have more procedural advantage. Justice Department lawyers then proceeded to argue adamantly that Horiuchi was exempt from any state or local prosecution because he was carrying out federal orders at the time he shot Vicki Weaver. The Department of Justice and FBI warned in March 1998 that permitting Horiuchi to be prosecuted would have an enormously chilling effect on federal operations, especially law enforcement. On 8 January 1998, Horiuchi was ordered to stand trial on the involuntary manslaughter charges.

On 14 May 1998, U.S. Federal Judge Edward Lodge ruled that Horiuchi could not be tried for killing Vicki Weaver because he was a federal agent on duty, and thus effectively exempt from any jurisdiction of state courts. The judge blamed Vicki Weaver for her own death. Lodge stated that it would be objectively reasonable for Mr. Horiuchi to believe that one would not expect a mother to place herself and her baby behind an open door outside the cabin after a shot had been fired and her husband had called out that he had been hit.

To those who would question the modern-day utility of the U.S. Second Amendment, such federal government abuses of power are precisely the reason the drafters and adopters of the Constitution included the amendment within the Bill of Rights.

--- Charles E. Smock

"The essence of government is power, and power, lodged as it must be in human hands, will ever be liable to abuse." -- James Madison

"The more numerous the laws, the more corrupt the state"-- Tacitus

"If you laid all our laws end to end, there would be no end." -- Arthur Baer