

Senate Ruby Ridge report whitewashes U.S. Department of Justice

by Edward Spannaus

On Dec. 21, a subcommittee of the Senate Judiciary Committee issued its report on the 1992 Ruby Ridge, Idaho shootout. The 156-page report of the Subcommittee on Terrorism, Technology and Government Information is the result of 14 days of hearings and an extensive investigation into the deadly fiasco in which three persons were killed in two separate shooting incidents.

From the standpoint of congressional oversight, this is perhaps the most in-depth examination of the FBI and other law enforcement agencies to be undertaken in two decades, yet the committee went out of its way to suppress the evidence before it in order to protect the Bush Department of Justice (DOJ). And it never even scratched the surface on the DOJ's permanent bureaucracy.

The report's conclusions

On Aug. 21, 1992, federal Marshals, conducting a clumsy reconnaissance of the mountaintop retreat of self-professed white separatist Randy Weaver, provoked a shooting incident in which a Marshal was killed, as was Weaver's 14-year-old son. After the shooting, the FBI's Hostage Rescue Team was deployed to the scene, and the next day an FBI sniper shot and killed Weaver's wife Vicki, while she was holding their infant daughter.

In releasing its report, the subcommittee noted that Ruby Ridge has come to symbolize "human tragedy and government misconduct," and it described the three deaths that occurred there as "senseless."

The report finds fault with the actions of the FBI, the Alcohol, Tobacco and Firearms (ATF) division of the Treasury Department, the U.S. Marshals Service, and the U.S. Attorney's Office in Idaho. The report is also critical of Randy Weaver himself for not complying with the original arrest warrant issued for him.

The major conclusions of the report are:

- ATF: "Mistakes and misinformation promulgated by ATF were a substantial contributing factor to the Ruby Ridge tragedy." The ATF's actions constituted entrapment of Weaver, or something very close to entrapment. Furthermore, the ATF repeatedly circulated false and misleading information about Weaver.

- FBI: The FBI failed to carry out a negotiation strategy, and instead precipitously rushed into a confrontation with

Weaver. The Rules of Engagement given to the FBI Hostage Rescue Team were "inappropriate and unconstitutional." The second sniper shot, which killed Vicki Weaver, was in violation of the U.S. Constitution.

The subcommittee was unable to determine who had approved the FBI's Rules of Engagement, and it faulted FBI officials Danny Coulson and Larry Potts for negligence or worse, and for not taking responsibility for the actions of their subordinates. It also faulted FBI Director Louis Freeh for his promotion of Potts to the position of deputy director of the FBI.

The FBI's own internal reviews of Ruby Ridge were "seriously flawed," and the report stated that there is "an institutional bias against subjecting FBI agents to the same degree of searching and skeptical scrutiny that others investigated by the FBI are subjected to."

But the report also praised FBI Director Freeh for his subsequent promulgation of new rules governing the use of deadly force, and his efforts to rein in the Hostage Rescue Team. It also praised Deputy Attorney General Jamie Gorelick, and Barbara Berman, the DOJ official responsible for the preparation of the Justice Department's comprehensive and highly critical report on Ruby Ridge.

ATF on the chopping block

The softest target for the committee was the ATF. Its days as a separate federal law enforcement agency may be numbered, judging from comments made by members of the committee at the press conference releasing their report, who said that they will hold further hearings to consider whether the ATF should be abolished altogether.

Sen. Arlen Specter (R-Pa.), who chaired the hearings, criticized the ATF for building Randy Weaver "into a major menace by saying that he had prior convictions and was a suspect in a bank robbery case." Specter noted that even after it was shown that the ATF had put out false information on Weaver, ATF Director John Magaw read a statement to the hearings saying that everything that ATF did was appropriate. "I think additional hearings need to focus on the broad range of what ATF has done, not only here but in Waco [Texas] and in Tennessee and on other matters," said Specter.

At their press conference, members of the Senate Judiciary subcommittee also patted themselves on the back repeat-

edly for the oversight they had just exercised, boasting that the type of oversight of the FBI carried out by the committee has never before happened.

Sen. Herb Kohl (D-Wisc.), the ranking minority member of the subcommittee, praised FBI Director Freeh, who, he said, “came before us and, unlike so many others, accepted responsibility, admitted errors, and implemented vitally needed changes.”

“For perhaps the first time in its history,” Kohl said, “the FBI and its director have had to stand before the public and be held accountable for their failure to live up to their own highest standards. This experience has been unique. It never would have happened under J. Edgar Hoover . . . and it’s not happened, to my recollection, for as long as the FBI has been there.”

(In fact, the FBI was subjected to broader scrutiny during the post-Watergate hearings of the Church Committee in the Senate and the Pike Committee in the House, which hearings exposed the FBI’s “Cointelpro” program of disruption of political and civil rights groups.)

Sen. Larry Craig (R-Id.), who is not a member of the subcommittee but who participated in the Ruby Ridge investigation because the events had taken place in his state, said, “This is one of the few times since I’ve been here we’ve actually sat down and taken something from beginning to end and had real, significant oversight. . . . I think we should be doing more of that, not just in law enforcement.” He said that there are a lot of areas in which this is necessary, and added that “if the Congress does not want to become just totally irrelevant—that’s probably not the best word to use, but doesn’t become ineffective—it has got to go back to this kind of oversight.”

Sen. Patrick Leahy (D-Vt.) said that during his 21 years in the Senate, “we have gone further and further away from doing real oversight. We have what become, frankly, press pop kind of hearings, where somebody wants to get across some basic point, whatever it might be. Liberals and conservatives both do it. They accomplish very little. . . . We ought to have real oversight.”

Oversight failure

However, both the Senate investigation and the final report missed the target in two essential respects.

First, the Senate hearings never examined the role of the Justice Department. The lack of interest in the DOJ’s role is even in contrast to the scrutiny which some top DOJ officials were put under in the Waco hearings in July. Of course, in the Waco hearings, this was not done for reasons of cleaning up the Justice Department; Republican senators grilled Clinton administration appointees Janet Reno and Webster Hubbell at length, in a transparent effort to embarrass the Clinton administration.

The political dilemma facing the Republican majority on the Judiciary subcommittee is that the Ruby Ridge incident occurred under the Bush administration. Thus, even though

the hearings produced some evidence indicating Justice Department involvement, this was never followed up—at least not in the public sessions.

Second, even such evidence that did come out in the hearings, which was extremely damaging to a couple of Bush administration DOJ appointees, was ignored in the final report. Two glaring instances were that of former Deputy Attorney General George Terwilliger, and that of former U.S. Marshals Service Director Henry Hudson. In fact, in both cases the subcommittee report blames the FBI for inaccuracies in FBI “302” reports, in order to protect these two officials.

George Terwilliger

As Deputy Attorney General from 1991 to January 1993, Terwilliger served directly under Attorney General William Barr, and he was directly responsible for supervision of all criminal investigations conducted by the Justice Department and the FBI. Incredibly, he testified that he knew nothing about the shootout, and that he had left for vacation with his family on Aug. 22, spent the week travelling from one lodging site to another in Grand Teton and Yellowstone national parks, and never once checked in with his office, or even saw a newspaper or heard a radio or TV broadcast about the Ruby Ridge shootout.

This was despite the fact that FBI supervisor Douglas Gow had testified that he briefed Terwilliger in Washington on Aug. 21, and that an FBI supervisor in Idaho had remarked at the time that Terwilliger was involved.

Sen. Dianne Feinstein (D-Calif.) put this under the category of “plausible deniability,” and expressed amazement to Terwilliger that “neither the Attorney General nor the Deputy Attorney General knew anything about it.” Terwilliger responded that he would be very surprised if Attorney General Barr had not been getting situation reports as they came in, but this opening was never followed up by the members of the subcommittee.

Senator Craig was the most skeptical of Terwilliger’s testimony during the hearings. Craig noted reports that there were at least 20 contacts “with the Bush Justice Department” over a 24-hour period on Aug. 21-22. Craig also referred to the testimony of the FBI supervisors at Ruby Ridge who had stated at the time: “Terwilliger’s involved now.” Craig lectured Terwilliger: “I was just across the mountain in Idaho while all this was going on. It was on the national nightly news. . . . It was, by testimony yesterday, one of the most significant, if not one of the most dangerous, involvements of HRT. Four-hundred people had assembled at the base of this small mountain, or outcropping of rocks, or ridge. . . . It was catching the attention of a nation for a period of some days, and yet you heard nothing about it.”

There is no reference to any of this in the subcommittee report, except in a discussion of FBI “302” interview reports. Terwilliger’s credibility, which suffered enormously during his testimony, was left unscathed in the final report. Barr was never called to testify at all.

Henry Hudson

Henry Hudson, a United States Attorney in Virginia under the Reagan and Bush administrations, and then appointed by George Bush to head the U.S. Marshals Service in 1992, also received kid-gloves treatment at the hands of the subcommittee.

By any reasonable account, Hudson was caught lying during his testimony in the hearings. On Sept. 12, Hudson gave testimony that directly contradicted a contemporaneous FBI report summarizing what Hudson had once told FBI investigators. Senator Kohl brought this out most forcefully, in regard to the denial by the Marshals Service that they knew that Randy Weaver's teenage son Sammy had been shot and killed on Aug. 21. Kohl read to Hudson the following passage from the "302" report of an FBI interview with him:

"While en route to FBI headquarters on August 21st, John Twomey, a Marshal, briefed Hudson on the facts that Kevin Harris had shot Bill Degan, the Marshals returned the fire, and that it was believed that Sammy had been wounded. Mr. Hudson stated that it was his understanding in the early hours of the crisis that Cooper and Roderick saw Kevin Harris standing over Degan's body and that the younger Weaver had been shot."

When Kohl confronted Hudson, asking how he could say he did not know Sammy had been shot until several days after the incident, Hudson responded that he was "perplexed" about the "302," and claimed that it was "inaccurate."

Hudson lied a second time, when Senator Craig asked him if, in his years of experience in law enforcement, "were you or your service ever involved in a situation or an incident in which in total people deployed, you arrived at the number of 400?"

Hudson answered, "No," not just once, but twice.

What Hudson omitted was the raid in Leesburg, Virginia on Oct. 6-7, 1986, directed against Lyndon LaRouche and his associates, which, by all official accounts, involved well in excess of 400 law enforcement personnel. Hudson, as the U.S. Attorney for the Eastern District of Virginia, was in charge of that operation. The Leesburg raid, like the Weaver raid, also involved the FBI's Hostage Rescue Team, and, with all of Hudson's publicity-hogging at the time, it is not something he would have forgotten. But it was probably not something that the senators wanted to pursue, either.

Hudson was also criticized a number of times during the hearing for the inflated and exaggerated briefing which he gave to top FBI officials on Aug. 21, 1992, after the first shooting at Ruby Ridge. FBI officials Larry Potts and Danny Coulson both blamed Hudson for giving a false picture to the FBI regarding what had happened. Coulson told the subcommittee hearings that they had been told that Weaver was a Special Forces-trained soldier, and that Weaver had pursued, chased, and routed six heavily armed, well-trained U.S. Marshals, and that they were kept pinned down on the mountain 10 to 12 hours.

Under questioning, Potts defended the FBI's initial re-



Former U.S. Attorney Henry Hudson, who led the railroad prosecution of Lyndon LaRouche, escaped blame for his role in the Ruby Ridge bloodbath in the Senate report. Shown at a Republican leadership breakfast in Arlington, Virginia in 1989.

sponse by saying that this information had come directly from Hudson, who, Potts explained, was the director of the United States Marshals Service, a former U.S. Attorney, a former local prosecutor, and someone who was used to dealing with law enforcement information.

While the subcommittee report concluded that the FBI had been misbriefed about the situation, contributing to its exaggerated response, the report inexplicably failed to lay the blame for this at Hudson's doorstep.

The DOJ permanent bureaucracy

The subcommittee's hearings never even touched on the role of the "career professionals" in the DOJ's Criminal Division who have the day-to-day supervisory responsibility over such investigations. A DOJ report on the Waco incident documented extensive involvement by John Keeney and Mark Richard, the two top permanent bureaucrats in the Criminal Division, in the decision-making leading up to the final bloodbath there. Yet they were apparently never even mentioned in the Ruby Ridge hearings.

Since Keeney and Richard also are responsible for most "political corruption" and "white collar crime" cases brought by the FBI and DOJ, this may explain the reluctance of senators to subject them to the same type of scrutiny to which they put the ATF and FBI. Indeed, Keeney and Richard wield a power similar to that of J. Edgar Hoover in earlier decades. But until members of Congress summon up the courage to confront and clean up the DOJ permanent bureaucracy, there can be no effective or competent oversight of U.S. law enforcement.