

# HEAR EVIL

BY JAMES BOVARD

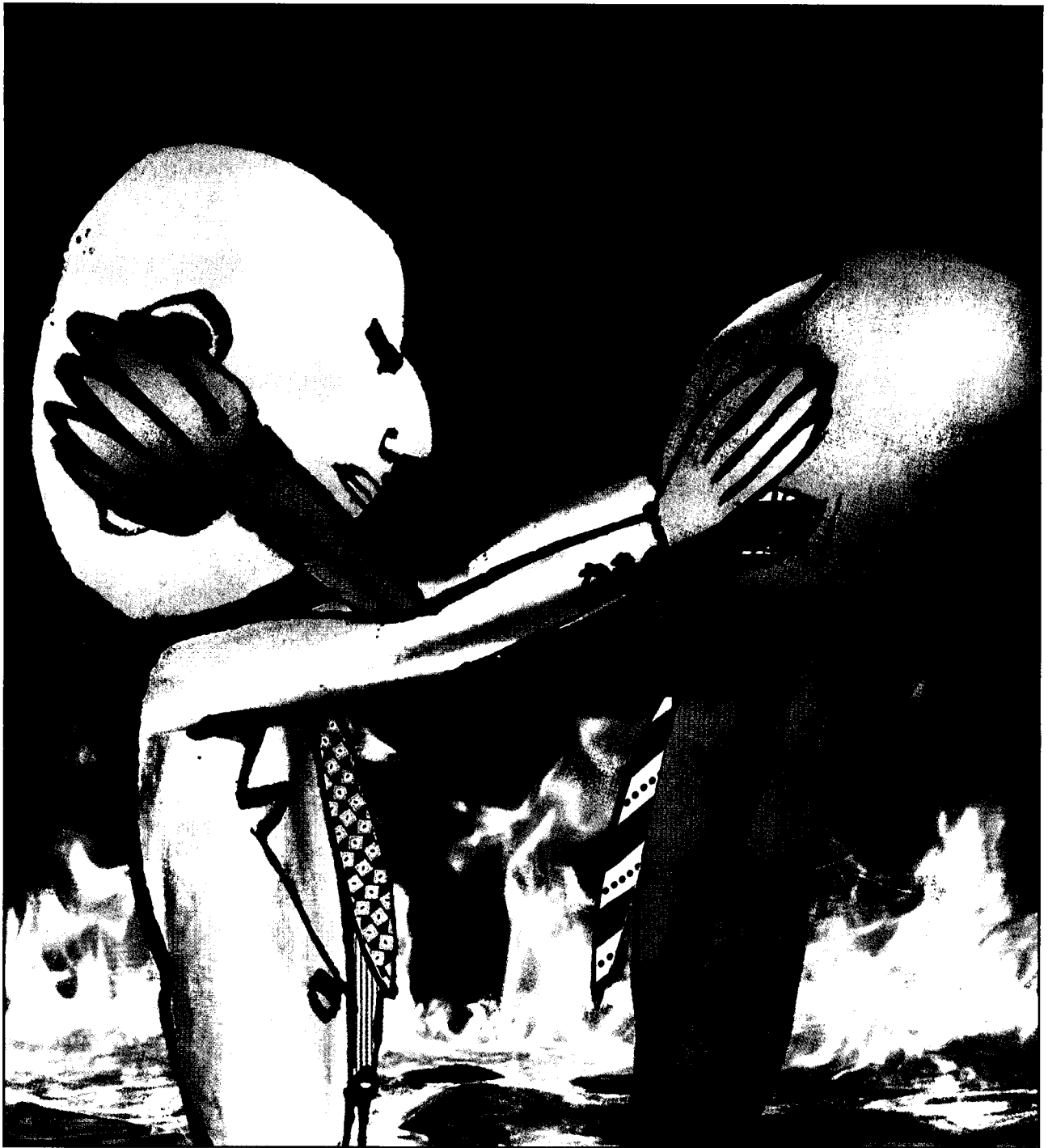
**F**BI Director Louis Freeh has staked his reputation on defending an agency sniper who “accidentally” killed Vicki Weaver on August 22, 1992, as she stood in the front door of her cabin holding her baby. In Senate testimony this past October, Freeh was emphatic that Lon Horiuchi’s fatal shot was “constitutional” and that he intended no harm to Mrs. Weaver. The killing of Vicki Weaver is by far the most controversial aspect of the Ruby Ridge disaster. But Horiuchi’s shot is now ricocheting and threatens to bring down Freeh and the entire agency’s reputation.

On November 6 Daniel Klaidman reported in *Legal Times* that a key FBI official—George Michael Baird—is likely to be indicted on criminal charges for allegedly ordering the destruction of a damning FBI laboratory drawing indicating that, contrary to FBI claims, Horiuchi clearly saw Vicki Weaver before firing. In late October the Justice Department sent a team of investigators back to Ruby Ridge to reconstruct Horiuchi’s angle of vision for the shootings. Idaho lawyer David Nevin, who played a key role in the 1993 federal trial of Randy Weaver and Kevin Harris, observed in a November 22 interview, “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.”

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On the night of the killing, Horiuchi was debriefed by an FBI expert and made a sketch of his target for the second shot. While Freeh has claimed that Horiuchi shot at a man who was running into the cabin at the time, Horiuchi’s drawing showed his cross-hairs just above an upright head clearly visible through the window of the open cabin door. At the time that Horiuchi fired, Kevin Harris—his alleged target—was running into the cabin and would not have been in a fixed upright position. But Vicki Weaver was standing in the doorway holding her child.

If the FBI really thought Vicki Weaver’s killing was an accident, it would not have told so many preposterous lies to justify the shooting. As the Senate hearings revealed, FBI Assistant Special Agent Thomas Miller’s official report of the shooting falsely claimed that Vicki Weaver had been in the front yard of the cabin pointing a gun at helicopters before she was slain, though she never left the cabin during the time in question. The FBI report noted, “This female, however, did pose an immediate threat to the circling helicopter. . . . The use of deadly force was justified in that she willfully placed herself in harm’s way by attempting to assist Harris, and so doing, overtly contributed to the immediate threat which continued to exist against the helicopter crew and approaching HRT [Hostage Rescue Team] personnel.” But all that Vicki Weaver did was stand in her doorway, shouting for her husband and his friend to hurry back into their home after the FBI sniper had wounded her husband.



SCOTT MENCHIN

**C**ongressional Hearings into the Waco and Ruby Ridge debacles revealed an unrepentant FBI and a Republican investigation hampered by political timidity. Chalk up another victory for the Democrats and the Clinton administration, who showed once more that stonewalling is their best defense.

If the HRT were just another bunch of hack government employees with big guns and bigger egos, then Horiuchi's second shot might simply be explained away as appallingly bad judgment. But the HRT is too good for that. As Horiuchi's sniper team partner, Dan Monroe, bragged to the Senate, "Our fire discipline is as much trained as our fire accuracy. . . . If we don't have an accurate shot, we don't take that shot." The HRT is trained by expert military snipers, and those snipers recognize that it is extremely difficult to hit a running target. To shoot at a running target by aiming at the window of a door facing into a cabin would be an idiotic way to try to shoot Kevin Harris. However, the shot that hit Vicki Weaver—severing her carotid artery—was a perfect kill shot.

**A** similarly casual attitude toward using deadly force against civilians pervaded the FBI's operation at Waco. In January 1993, U.S. government officials signed an international treaty pledging never to use CS gas against enemy soldiers. On April 19, 1993, the FBI used CS gas on American civilians, pumping in the potentially toxic gas with a boom attached to a tank and shooting hundreds of ferret gas rounds through the windows of the Branch Davidians' home. The FBI originally planned to gas the compound incrementally over a 48-hour period. A few minutes after the FBI gas attack began, the Davidians fired upon the tank that was injecting the gas into the compound. The FBI then greatly accelerated its gassing—effectively injecting all the gas it planned to use over two days in a three-hour period.

Rep. John Mica (R-Fla.) observed that even if the children in the compound didn't die directly from the CS gas, "We sure as hell tortured them for six hours before they died." The FBI's Larry Potts swore, "The autopsies revealed that no one was harmed by the tear gas or had toxic levels of any component of tear gas in their systems." In truth, the autopsies showed no such thing, since in many cases there was too little left of the corpses to determine the cause of death.

Attorney General Janet Reno, in all likelihood, would never have authorized gassing the many innocent victims in the Branch Davidian compound had she been properly apprised of the dangers of CS. But she had not; the FBI had deceived her about the dangers of using the chemical. The agency prepared a briefing book about their planned assault of the compound that claimed, "Experience with the effects of CS on children including infants has been extensively investigated. Available reports indicate that, even in high concentrations or enclosed areas, long-term complications from CS exposures is extremely rare."

In fact, as a Defense Department toxicologist testified at the congressional hearings into the Waco debacle, only two studies were available on the effects of the gas on children. One of them showed that an infant exposed to CS for two hours had to be hospitalized for almost a month; the FBI battle plan called for gassing the children for forty-eight hours.

The dual debacles of Ruby Ridge and Waco have tarnished the image of federal law enforcement agencies worse than anything since the Vietnam war era. Yet one of the most remarkable outcomes of Ruby Ridge and Waco is the continuing failure of law-enforcement agencies to come to terms with the horror of those events. FBI Director Freeh blatantly misrepresented what happened at Ruby Ridge to Congress.

Moreover, Freeh had fought the Justice Department vigorously over his friend Larry Potts, the agent who supervised both disasters and to whom Freeh nevertheless was planning to give a big promotion. Justice protested Freeh's plan, eliciting this petulant response from the director: "For you to increase the proposed discipline [of Potts] sends a wrong message to both the public and the employees of the FBI. . . . To now increase the discipline . . . will signal, wrongly or not, that there is culpability among FBI employees for the shooting death of Mrs. Weaver. . . . This will undoubtedly and unjustifiably harm Mr. Potts, the FBI and the department."

Freeh's overweening concern for both his friend and the image of his agency—notwithstanding a few score dead bodies—helped to change radically the perception of federal law enforcement in the United States. The Republican-driven hearings—in the House on Waco, and the Senate about Ruby Ridge—presented to the American public an image of the FBI far more troubling than what the agency had crafted for itself through the years, even though the mainstream press paid relatively little attention to them.

Nevertheless, the hearings had an enormous impact on public opinion. A *Washington Post*-ABC News poll taken in May, before the hearings, found that 34 percent of the public had a very favorable impression of the FBI, with only 9 percent holding an unfavorable impression. An August poll taken by the *Los Angeles Times* after the Waco hearings found that only 16 percent of respondents had a very favorable view of the agency, while the number of those with an unfavorable impression had more than tripled—to 28 percent. By September, another *Los Angeles Times* survey found, three times as many Americans had a more negative than positive view of the FBI.

Perhaps more than anything else, what destroyed the credibility of the FBI was the absurd political posturing of agency and administration officials in defense of obviously indefensible actions. Potts told the House Waco committee, "No one was harmed by the tear gas," and added, "The FBI personnel acted with incredible professionalism, skill and restraint." Janet Reno likened the 54-ton armored vehicles that crashed into the Branch Davidian compound to "a good rent-a-car." In a memo to Justice Department investigators, FBI Director Louis Freeh wrote, "There is an oft-repeated misconception in the public press that FBI employees must be disciplined" for the shooting death of Vicki Weaver at Ruby Ridge.

Freeh divided his time between promising full disclosure to Congress and the American people and grossly distorting why an FBI sniper tried to kill other Americans. Freeh told the Senate, "Special Agent Horiuchi testified that he took the first shot when he observed a man later determined to be Randy

Weaver . . . raise his rifle. At that time, Special Agent Horiuchi perceived that Weaver 'was trying to get a shot off' at a law enforcement helicopter that was flying overhead. Special Agent Horiuchi said he took the first shot for only one reason: he believed he was protecting fellow law enforcement officers who were in the helicopter."

However, at the federal trial in 1993, Horiuchi repeatedly testified that he never saw Weaver holding a gun before he tried to kill him. A confidential report by a Justice Department task force noted, "At trial, Horiuchi was adamant that he

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never saw a gun in the hands of Randy Weaver, even though Weaver was armed at the time he was struck by Horiuchi's first shot." Horiuchi succinctly explained the snipers' goal: "We were planning to shoot the adult males." Horiuchi also explained that he did not open fire until both adult males were out of the cabin because he hoped to be able to shoot them at the same time. Yet Freeh has imposed no sanctions—not even a slap on the wrist—on Horiuchi.

One of the most shocking revelations from the Waco hearings was the April 17, 1993 memo from an FBI consultant to high-ranking agency officials. The memo warned of the dangers to the agency's image of appearing weak-willed and indecisive: "The authority of the FBI in all its operations will continue to weaken, and the press will focus increasingly . . . on whether the situation might have called for a more courageous approach."

Yet if the media often failed to grasp the potentially explosive nature of the hearings, it was well understood by both administration and agency officials, who did everything possible to derail and delegitimize the investigations. On June 8, 1995, President Clinton denounced the idea of further hearings on Waco, stating: "We had an independent panel review what the ATF did there. We've already had 10 congressional hearings on Waco. . . . What happened at Waco is clear." Treasury secretary Robert Rubin sought to smear the credibility of the hearings with a July 6 letter assiduously faxed to leading media nationwide. Rubin declared that federal action at Waco "cannot be understood properly outside the context of Oklahoma City"—one of the most preposterous claims in the administration spin-control effort, as the Oklahoma bombing occurred *two years after* the Waco incident.

The spin continued as the hearings began. President Clinton publicly denounced Republicans for criticizing law enforcement personnel: "It is irresponsible for people in elected posi-

tions to suggest that the police are some sort of armed bureaucracy acting on private grudges and hidden agendas. That is wrong, it's inaccurate, and people who suggest that ought to be ashamed of themselves."

The president also condemned the hearings as part of a GOP "war on police," and declared that "there is no moral equivalence between the disgusting acts which took place inside that compound in Waco and the efforts law enforcement officers made to protect the lives of innocent people."

The administration launched a similar effort to derail the Senate hearings on Ruby Ridge. Shortly after Pennsylvania Sen. Arlen Specter proposed hearings on Weaver, the Justice Department announced it would launch an investigation into FBI

perjury regarding the case. Deputy Attorney General Jamie Gorelick then complained in mid-August that the Senate investigation might "undermine the integrity and confidentiality of [the DOJ] investigation." Gorelick's comment was ludicrous, considering that the FBI had to that point shown no integrity in investigating what had happened, and that the FBI had successfully and repeatedly stonewalled Justice Department investigators.

The congressional committees were also stonewalled time and again. Administration officials withheld documents from the committee investigating Waco until almost the last minute before the hearings—and then dumped tens of thousands of pages on them, with key documents taken apart and randomly scattered among other files and boxes. The FBI also refused to permit senators on the Ruby Ridge committee to examine their internal 300-page report on the debacle; only one Republican and one Democratic staffer were allowed to see the document.

In fact, as the hearings revealed, as early as thirty-six hours after the botched initial ATF raid on the Branch Davidian compound, the government began abandoning routine law enforcement procedure in order to avoid gathering evidence that might later embarrass it. According to a confidential September 17, 1993 Treasury Department memo, the ATF had initiated a shooting review on March 1 and "immediately determined that these stories [of agents involved] did not add up." Justice Department attorney Bill Johnston "at this point advised [ATF supervisor Dan] Hartnett to stop the ATF shooting review because ATF was creating" exculpatory material that might undermine the government prosecution of the Davidians.

The ATF wasn't the only agency concerned about what might emerge later about the debacle. Former Associate Attorney General Webb Hubbell testified that he never spoke to President Clinton regarding Waco prior to April

19, 1993. However, the fear of Hubbell's White House influence was a palpable factor in Treasury Department conduct. An April 9 memo by Treasury's Ron Noble noted that "at this morning's meeting with Justice, we hear that Webb Hubbell is so concerned about the potential impact of our review on the criminal case that he planned to raise it directly with the President."

What they could not have anticipated was what a hash the Republicans would make of the hearings. The trouble in the Waco hearings began on the first day with the testimony of Kiri Jewell, who claimed that David Koresh had forced her to have sex with him when she was only ten years old. This was not a new allegation—Jewell's father had previously sought to sell this story to tabloid television programs. But the girl's testimony dominated news coverage of the event during the first few days, allowing Democrats to portray Republican critics of the ATF and FBI as champions of child molesters.

The fact that Jewell was allowed to testify, especially on the first day, was proof of the incompetence of the Republican leadership. Jewell's testimony had been submitted to the committee prior to the hearing, but the Republican leaders—co-chairmen Bill McCollum (R-Fla.) and Bill Zeliff (R-N.H.)—never bothered to read it. Rep. John Shadegg (R-Ariz.) had, and sought to warn the two of what might happen if the girl were allowed to testify on the first day. Shadegg's plea went unheeded. As his press spokesman Jason Whiting later observed, "There

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were stacks and stacks of [confidential] documents that went untouched" during the hearings, leaving much of the most controversial information conveniently out of the public eye.

The House Waco Committee (composed of subcommittees from the Judiciary and Government Reform and Oversight Committees) often seemed afraid of discovering any embarrassing evidence. McCollum botched an opportunity to settle one of the hottest points of controversy—the dispute over who had fired the first shots in the standoff, the feds or the Davidians. At least four ATF agents stated shortly after the raid that they believed the ATF had fired first. Rolland Ballesteros, one of the first agents out of the cattle trailer that morning, told Texas Rangers that the first shots came from agents. (He recanted at the Davidian trial last year, insisting then that the Davidians had shot first.) In a long, apologetic question, McCollum asked Ballesteros about his change of opinion; Ballesteros merely said that his later opinion was the correct one, and McCollum asked no follow-up questions.

He also repeatedly cut off Republican members who were

following vital lines of questioning, time and again rescuing government agents and Clinton administration officials from difficult interrogation. At the end of the hearings, New York Democratic Rep. Charles Schumer—who had done everything except call for the public hanging of the surviving Davidians—praised McCollum for his bipartisan spirit.

When they did have the courage to ask appropriate questions, Republican committee members were met with inappropriate and literally laughable responses from those testifying. Rep. Shadegg challenged Janet Reno as to why tanks had repeatedly smashed into the Davidian compound during the final assault. Reno responded by claiming that the tanks' entry into the building—they demolished the walls and 25 percent of the compound—had merely been an "inadvertent crushing of a back support." Shadegg burst out laughing; one of his aides later noted that FBI tanks had "inadvertently" smashed into the compound eight different times.

Similarly, at the Ruby Ridge Senate hearing, it emerged that ATF agent Herb Byerly had lied about Randy Weaver, telling both U.S. attorneys and marshals before the raid that Weaver had several previous convictions and was a suspect in several bank robberies. Weaver had never been convicted of anything in his life, and was a suspect in no crime other than the trumped-up minor weapons violation charge that later was ruled to be federal entrapment. Asked about these slanders during his testimony, Byerly insisted they had been merely "typographical errors"—

eliciting peals of laughter from the hearing room.

Law enforcement officials failed to see the humor in this. ATF chief John Magaw, in his appearance before Sen. Specter's Ruby

Ridge committee, repeatedly maintained that his agents' "conduct was lawful and proper in every respect." When pressed by Specter as to why he kept ignoring the court verdict and saying that Weaver had not been entrapped, Magaw responded: "Do you believe Randy Weaver—or do you believe the federal agents who have sworn to tell the truth and are carrying out a career in this government?"

Eugene Glenn, the FBI on-scene commander at Ruby Ridge, loudly groused to the Senate committee about both his own 15-day suspension and the fact that an Idaho state prosecutor is now considering filing charges against FBI officials. Glenn declared it unfair that FBI agents faced the possibility of state or local prosecution, as well as federal investigations, and denounced the FBI investigation of Ruby Ridge as a political cover-up. Glenn said that he had been thrown overboard like a "tuna" to "hungry sharks" to distract attention from the failings of top FBI officials.

One Justice Department official told the *Washington Post* (Continued on page 79)

# Age and Guile Beat Youth, Innocence, and a Bad Haircut



1970

1. Loathes the government
2. Ridicules the establishment
3. Smokes illegal imported things (Thai buds)



1995

1. Loathes the government
2. Ridicules the establishment
3. Smokes illegal imported things (Montecristo coronas)

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## Age and Guile Beat Youth, Innocence, and a Bad Haircut

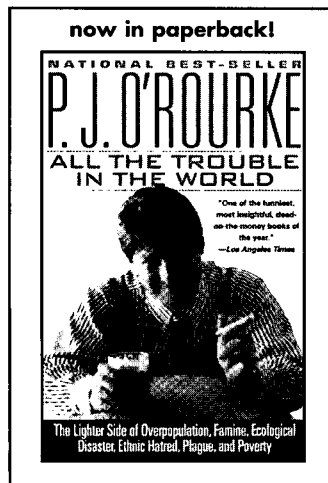


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