

Penetrating the Web of Official Lies Regarding the Waco Incident

David T. Hardy with Rex Kimball

This article is an excerpt from the book This Is Not An Assault: Penetrating the Web of Official Lies Regarding the Waco Incident, by David T. Hardy with Rex Kimball. The material below is from chapter twenty, the final chapter of the book. Endnotes have been omitted.

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Seven years after the fires died down at Waco, we still do not know the truth about the incident—but we know some truths.

The Bureau of Alcohol, Tobacco and Firearms (ATF) raid on Mt. Carmel was not meant to arrest David Koresh: that could have been done when he went shooting with his new neighbors, the men he knew to be undercover agents. The raid was instead meant to generate favorable press coverage at a time when ATF, as an institution, desperately needed such.

The Davidians were not a band of cop-haters; they sprung no ambush. The outbreak of gunfire took them by surprise, as Koresh stood in the open, attempting to talk.

The gassing assault was portrayed as an attempt to end the siege without bloodshed. But the FBI's own words show that this was not the real understanding. A "home movie" made by one FBI agent, and obtained in our FOIA suits, shows an FBI leader relating the contents of his last briefing with the Hostage Rescue Team (HRT) command staff. He explains to his team that the commanders believed that, no matter how the gassing is carried out, the result would be a gun battle. He goes on to say that the White House was reluctant to make a decision because "the new administration, Clinton administration, did not want something of this magnitude being the first military or paramilitary bloodshed, domestic, on American soil." The FBI team, spread around the motel room, looks on with only vague interest.

This "bloodshed on American soil" was not inevitable; it represented a conscious choice by HRT leadership. All courses that could have led to a bloodless resolution were ignored or subverted, specifically because HRT wanted to crush the defiant Davidians rather than talk them out. When Janet Reno, the Attorney General, favored waiting, she was swindled into believing immediate assault was necessary.

How and by whom the fire was started remains unclear to this day, but one thing is indisputable. Once it began, the agents took measures to ensure that Davidians would burn. Fire trucks were held at bay by agents even after the building collapsed in flames. A comment by the HRT commander that he hoped to save the children from an agonizing death was met with the retort, "they're the only ones, I hope."

Perhaps even more disturbing is the realization that our institutions hopelessly failed when confronted with these facts. Where was the Executive Branch? Busily protecting the actors and covering up its own role. Only years later did film-maker Michael McNulty find that the President's advisor, Vince Foster, had been a key player, and that his Waco files had vanished. What they might contain was suggested by Foster's then-aide, Linda Tripp. Speaking on CNN, Tripp stated that the order to assault was passed by Hillary Clinton to Foster, and thence to Webster Hubbell and a reluctant Janet Reno. Foster and Reno, she added, were crushed by the deadly result, but as for the First Lady, "Her reaction, on the other hand, was heartless."

Where were our courts? Setting precedent that ensured that the HRT was above the law. Some months before Waco, HRT sniper [RLon](#) Horiuchi killed Vickie Weaver, during the "Ruby Ridge" standoff in Idaho.

He had been trying to follow HRT commander Richard Roger's order (itself illegal) to shoot any suspects seen bearing arms, had shot at Randy Weaver's back, and instead hit his wife Vickie.

The State of Idaho filed manslaughter charges, and the Department of Justice defended. The case was moved to U.S. District Court, where the judge ruled—in a decision since upheld by the Court of Appeals (albeit under reconsideration as we write)—that a State could not prosecute a Federal employee for crimes committed in the line of his employment. [Editor's note: A *en banc* panel of the Ninth Circuit Court of Appeals ruled that Horiuchi could be prosecuted. The new Boundary County prosecutor then dropped the case.]

Since Federal agents could not be prosecuted by the Federal government, either (there is no Federal law against an agent killing a civilian), this literally gave Federal agents a license to kill. In the grand scheme of things, a civilian's life was literally worth less than that of a law enforcement dog: a civilian is subject to ten years' imprisonment for killing or seriously injuring a Federal law enforcement dog.

Where was our media during this period? The guardians of our freedom, the front line of free speech, the voices of authority from which most of us get the information from which we form our opinions and ultimately cast our votes? With almost no exceptions, ignoring the story. The "60 Minutes" response to the Waco FLIR tape (which was filmed from an airplane circling the Branch Davidian compound, and showed the heat signatures of FBI machine gun fire during the FBI assault), after FLIR expert Dr. Edward Allard's analysis was confirmed by their own experts, was typical: covering the story would not have been a "career enhancer." For the national media, coverage only became an acceptable risk after the Attorney General acknowledged the story.

Where was Congress? Giving the ATF a larger budget for training, and expanding the HRT from 51 to 90 men. "We need more Hostage Rescue Team people," Rep. Henry Hyde told the FBI during the 1993 House Waco hearings, "because if we have a hostage situation in the east coast and one on the west coast, why, we are in the soup, aren't we?" For politicians, too, attacking federal agencies is no career enhancer.

Waco was born in lies, it ended in lies, and it was filled with lies in between. Worse, all of the institutional safeguards which we expected to protect us failed.

We routinely accept that local law enforcement can become corrupt if it, and we, are not vigilant. Local law enforcement accordingly acts under the eyes of its internal affairs departments, the community, the media, and elected officials who answer at the next election. If the bloodshed at Waco had any one root cause, it is to be found in a disturbing lack of effective checks and balances at the federal level, corresponding to the federal checks and balances that we see at the state level.

While we recognize that state and local police agencies may be vulnerable to corruption and brutality, we have historically acted as if Federal agencies, and particularly the FBI, were immune. The Los Angeles Police Department may beat suspects (and lie about it), the New York Police Department may shoot suspects (and lie about it), but we have formed a cultural myth that the Federal Bureau of Investigation, ATF, and other Federal agencies would never stoop to such measures; consequently no effective checks and balances are required. J. Edgar Hoover's legacy as a peerless administrator endures to this day: he was highly successful at creating an image of the FBI as an infallible organization whose character was beyond reproach. But that image is an artifact of 1950s America, and dangerously naive at the dawning of a new millennium. We have now had an object lesson that power tends to corrupt, and that absolute power tends to corrupt absolutely.

The simplest reality check would have suggested that the image of Federal incorruptibility was erroneous. A local police agency is, after all, directly responsive to its citizenry, and has far less elaborate tools for covering up the truth. A unit of a Federal agency is responsive to its regional head (often hundreds of miles away and perhaps only vaguely familiar with what is going on), who answers to its national director (often thousands of miles away, and perhaps without the foggiest idea of what is going on), who answers to his assistant cabinet official, who answers to their cabinet official, who answers to the President, who alone is responsible to the electorate and the people. A sheriff may lose an election over a botched case or an abusive use of force: a President never will. For most practical purposes and effects, a Federal agency operates much like an independent fiefdom ruled predominantly by its internal policies—in many ways, like a tiny nation-state. It is not merely subject to temptations of corruption and abuse: it is a near-perfect nurturing place for them.

These tendencies are exacerbated by the media's abandonment of its key role as critic of government abuse in this arena. Corruption at ATF was no secret. But for thirty years, the major national media treated the critics of the agency with derision rather than the open mind and balanced approach in which a free press may take pride. When Congressional hearings in the 1980s exposed ATF abuses—fraudulent cases, theft, entrapment, harassment of honest “whistleblower” agents—nothing was heard of it in mainstream media. When teams of ATF agents beat three innocent New Yorkers, in the mistaken belief that they were erring informants, only a few local papers noted the event. When the head of ATF's Air Transport Division was convicted of embezzling nearly a million dollars from the agency budget, only the Washington Times carried the story.

Indeed, the only part of the ATF story that made national news came when NRA then dared to call the agents “jack-booted thugs”—in the process, presenting itself as a target of opportunity for media attack. The remark, taken outside of the context of documented long-term ATF abuses, capped by the Ruby Ridge and Waco incidents, made little sense: it was thus showcased as an irresponsible statement by a group of angry fanatics. In the light of the evidence that has emerged, however, the remark seems not far off the mark.

The sad fact is that the incident at Waco was no isolated incident, but the natural result of our past inaction and silence. The Executive branch, Congress, and the media, all became parties in varying degrees in its ~~cover-up~~cover-up. The reaction of the House Government Reform Committee (claiming that the truth was too explosive to be shared with the American people) to the revelations of Carlos Ghigliotti, its own paid consultant, suggests that the partnership in covering up is by no means past. Congress has little interest in unearthing wrongdoing unless it yields profit at the next election, and the corruption of career government institutions cannot easily be laid at the feet of whichever party happens to control the White House at the time. Sexual escapades in the Oval Office are one thing; exploring the homicides of dozens of women and children is another, particularly if that leads to questioning the basis of Federal power, rather than which party will wield it.

That's not the worst news.

We have always, and rightly, feared the capacity of the military to influence civilian policymaking. When the military participates directly in politics, pressuring politicians to adopt policies that they favor, or even orchestrating coups which oust a regime from power, the phenomenon is called “praetorianism”—from the Praetorian Guard which, in the late Roman Empire, used its numbers and weapons to make, depose, and occasionally assassinate the emperors it supposedly guarded. Praetorianism is well understood to be a threat to functional democracy; typically, the term is applied to nation-states in the Third World; but not to the United States. Americans have always expected their military to be subordinate to civilian authority, and to focus its efforts on resisting foreign threats. Fortunately, this tradition is strongly ingrained in our military, and the overwhelming majority of our officer corps takes pride in being above politics. For all the criticism we can level at military involvement in Waco, it is apparent that many officers questioned and restricted that involvement, and none were prepared to go outside the law.

Other threats to democracy are more subtle and rather new in inception. There is no word to describe a scenario in which a civilian bureaucracy with its own political agenda embarks upon a course involving projection of paramilitary force for its own institutional ends. We might coin a term to describe this phenomenon: “micro-praetorianism.”

Micro-praetorianism is what we see at Waco. One need only to view the “home movie” made by the one FBI agent. The FBI/HRT assault teams are dressed in camouflage. They are organized as soldiers, speak as soldiers, carry M-16's, deploy belt-fed machineguns from behind sandbagged nests, live in military camps, drive armored vehicles. They operate, not under “departmental policy,” but under “rules of engagement,” the military description for orders governing the waging of war against an enemy force.

Let us face facts: from any rational perspective, this “civilian” unit is civilian in name only. The HRT was superbly trained for war, not for “law enforcement.” The military background from which so many HRT members were drawn has served to prepare them for all-out warfare in the international arena. Recruitment into an “elite” FBI organization, one that focused exclusively upon paramilitary training and tactics, made them a tightly bonded enclave within the FBI—an enclave which seems to share little in the way of the daily routine which might have effectively bonded them to their fellow agents outside of the HRT elite.

Little surprise then, that their attitudes reflected contempt for FBI negotiators and for solutions that were not the product of violence and coercive force. What we are looking at is an elite military force, merely one that draws civilian paychecks. A military force of growing size: nearly 10% of the FBI is presently enrolled in its HRT or SWAT units—and that does not count ATF's Special Response Teams, or the many other SWAT-like units created by other agencies. As we see at Waco, these units can draw upon formidable military support—tanks, aircraft, supplies, manpower, high-tech equipment.

While we were watching out for the danger of military involvement in civilian affairs, the civilian agencies generated their own military.

The danger from this force is probably far greater than any true military involvement could have been. These paramilitary units are not, like the military, bound by a sense of honor and a long tradition of noninvolvement in civilian affairs; after all, involvement in civilian affairs is their reason for existence. We would at least like to believe that if a captain of the 101st Airborne had told his men—as the FBI leader in the FBI “home movie” tells his SWAT team—that they were going to be involved in “the first military or paramilitary bloodshed, domestic, on American soil,” that serious consideration would have been given to mutiny. Instead, on the video, the camouflaged FBI troopers watch in a state of what seems to be complete relaxation and acceptance. Raiding American civilians is, after all, part of their job description.

Can these “micro-praetorian” forces be used by their leadership to further an agency's own agenda? We do not have to look beyond Waco to see that answer to that question. The circumstances strongly indicate that ATF's real motivation was not the good of the nation, but the good of the agency itself—the need to generate favorable press attention at the point when the agency was faced with political extinction. Indeed, a part of the motivation may have been ingratiating itself with the White House, through a spectacular seizure of the “assault rifles” whose prohibition had been a campaign promise. (That there is no evidence as yet that the White House knew of the plan actually underscores the dangers presented: agencies may see use of force as in their interest simply because they guess that the chief executive would be pleased by the outcome.)

The fact is that these micro-praetorian forces serve the agencies that control them, for better or for worse. The administrators of these agencies can indeed embrace ill-conceived, adventurist agendas which are politically motivated. The agenda need not be fascist or socialist, conservative or liberal; agencies and their bureaucrats do not think in such broad terms. The leadership's priorities are agency survival, increased agency power, larger agency budgets, and neutralization of the agency's enemies—those who resist, obstruct, or too effectively criticize the agency. Deadly force can be used to further these agendas, and at the present time, none of the checks and balances which ensure that the regular military cannot be used against American civilians restrain these nominally “civilian” military forces.

We can take some comfort in the fact that the result is certainly not tyranny—at least not as it has been thought of in previous years—because its scope is far too narrow. We might also take comfort in the belief that those it directly affects generally been too few and too isolated to have generated the kind of backlash that creates revolutionary ideology, political unrest, and ultimately, armed conflict with the dominant paradigm. But disturbingly, the tragedy of the Oklahoma City bombing raises a question as to whether this may be changing.

In the wake of that bombing, new resources were devoted to “preventing domestic terrorism”—which “prevention” bears an unfortunately close relationship to “controlling political dissent.” By 1996, FBI had no fewer than fourteen “Joint Terrorism Task Forces” devoted to “attempting to neutralize terrorist groups.” Business may have been slow for the task forces: in that year, three incidents of domestic terrorism were reported—two bank robberies and a pipe bomb. (At that, it beat 1994, when none had been reported, and probably 1993, when the biggest domestic terrorism problem was a radical animal rights group.) But business is business, and between 1993 and 1999 a compliant Congress increased FBI's antiterrorism budget from \$78 million to \$301 million. The Joint Terrorism Task Forces began sending questionnaires to city and county law enforcement, asking them to identify “Potential Threat Elements,” whether their supposed terrorist motivations were “political, religious, racial, environmental, [or] special interest.”

Where work does not exist, it can be invented. In 1999, FBI released a booklet, “Project Megiddo,” the theme of which was that American and foreign terrorist groups of every conceivable type (right down to the Black Hebrew Israelites) were going to focus on the year 2000 to strike at the helpless American people.

Among other things, the report predicted that “Year 2K” computer crashes might fuel white supremacists’ reactions, or lead to militia uprisings in the belief that a New World Order takeover was in progress.

Nor was this paranoia confined to the FBI: it has become a staple of agency, and government, empire-building. President Clinton’s last State of the Union address predicted that “the major security threat this country will face will come from the enemies of the nation state: the narco-traffickers and the terrorists and the organized criminals, who will be organized together, working together, with increasing access to ever-more sophisticated chemical and biological weapons.”

The American people could, of course, be protected from these menaces . . . in return for a lot of money and restrictions on their freedoms. When Congress authorized the FBI to order phone lines set aside to support its electronic surveillance, FBI promptly ordered up 60,000. To be sure, this represented its dreams for the future. But the fact is that, in the 1990s, as our only rival superpower, the Soviet Union, vanished, and international terrorism plummeted with the loss of financial and governmental support, FBI’s national security wiretaps (approved by a special, secret, court, which has never denied a request) nearly doubled.

Of course, telephones are only one means of communication. To cover the risk that citizens might engage in unseemly e-mail, FBI developed its “Carnivore” program. Planted on an Internet server, Carnivore was designed to skim off any named target’s emails and copy them for later examination.

Just in case some phantom terrorists slip through the net, military and civilian agencies are mustered to drill for the appropriate response—a response that generally involves deployment of combat troops against domestic targets. Portsmouth, New Hampshire, is shut down by an imaginary mustard gas bombing of a marathon run, and fictitious bombs detonate in Washington and Denver. A university’s faculty receives messages informing them that “in cooperation with the U.S. Army, we are allowing a U.S. Army S.W.A.T. Team to participate in a training exercise on campus on Monday. . . .” In Texas, “Operation Last Dance” becomes a live fire exercise indeed, as troops accidentally destroy one civilian building and damage another. One hundred-sixteen such antiterrorism drills were conducted in 1998 alone.

Terrorism, to be sure, was not the only crime against which Americans must be protected. To inhibit ID misuse, the Secret Service cut a private firm a \$1.5 million grant to develop a national registry of drivers’ licenses, complete with digitized photographs; the database would be accessed whenever a person used a license to board an aircraft, to cash a check, to negotiate food stamps, and so on. To inhibit street crime and carry out the Brady Handgun Act, the Justice Department created its “National Instant Criminal Background Check System,” which contains information, not only on all Americans convicted of felony offenses, but also on those who have received Veterans’ Administration psychiatric treatment, have received dishonorable military discharges, have renounced U.S. citizenship, or are subject to a restraining order in a divorce proceeding. To combat illegal immigration and locate “deadbeat dads,” INS and the Social Security Administration have established a “new hire” database, in which every newly hired employee is identified; there have been initiatives to allow the database to be used to track down student loan defaults and check voting registrations. To do its bit against drug trafficking, the Treasury’s Office of Thrift Supervision proposed a “know your customer” program, where banks would be required (in the words of the agency summary, published in the Federal Register) to “develop “customer profiles’ for classifying customers into risk-based categories to determine the information and monitoring that is appropriate for those customers,” and to “determine its customers’ normal and expected transactions.” The last determination, Treasury stated, would form “the basis for identifying transactions that are out of the ordinary, unexpected, and possibly suspicious.”

These are frightening developments, fundamentally inconsistent with the political ethos that has come to be known as the “American Way.” They may serve as an ominous harbinger of things to come as we enter the next century. Revolutionary new technological developments such as the microchip, sophisticated electronics and telecommunications, combined with increasingly powerful computers, mean that the Federal level of our government holds a degree of potential control over its citizens that no government in our history had ever held.

To be sure, we have seen totalitarian governments before—the word, “totalitarian” deriving from the root, “total,” implying a political system whose philosophical aim is as near-total social control as it is possible to achieve. But one crucial factor has changed: in their most depraved visions for the domination of humanity, neither a Hitler, on the political right, nor a Stalin, on the political left, could have envisioned the

totalitarian potential embodied in the computer, the microchip, or sophisticated microelectronics. “Do you have your papers?” is an outdated, hardcopy demand, in a world where the presentation of a driver’s license can automatically be reported to a central database, where the whereabouts of every employee in the nation is already online, and where your every banking transaction can be checked, in an automated instant, against a profile for your appropriate earnings and deposit patterns.

Let’s be blunt. We have created an Executive establishment which is capable, whenever it really wants to be, of violating the constitutional rights of its citizens, of shutting off (or co-opting) media investigation, and of shrugging off legislative oversight. This political force is capped by agencies’ own military detachments, their private Praetorian Guards, with internal loyalties and assault training. These micro-praetorian forces are beyond the control of any elected political establishment, indeed beyond the control of their own agency heads; at Waco, even the orders of the FBI director could not stop HRT from moving up tanks when it wanted to. This establishment represents sufficient power that a growing number of citizens are genuinely beginning (for the first time in recent history) to fear their own government.

In two world wars, Korea, and many smaller conflicts, citizens went to fight for their government, in the belief that it was their government, that the United States was America. Today the political climate seems much different. Even a media giant like 60 Minutes hesitates to run with a story it knows to be true—because irritating a powerful government agency would not be good for anyone’s career. That a major organ of the free press in this country finds it necessary to make such an admission should serve as a wake up call for all of us. If even the power of such a leviathan is insufficient protection, what hope does the ordinary citizen have of ensuring that their rights cannot be violated at will? What does this say for the state of democracy in America?

If a government can violate the rights of citizens, with it being extremely unlikely that any one citizen or group of citizens can realistically wield the legal power that would permit timely redress of legitimate violations, then to the degree that this becomes the norm, such an organization is practically and functionally above the law, and society which it governs has become to some extent post-democratic in character. American democracy, after all, presupposed a society in which the people were independently minded, individually powerful, and (let us not forget) heavily armed—in a phrase, far more powerful, in potential terms, than the government they created. That is hardly the case today, and as the preconditions change, so does the resulting government.

The result is not tyranny—but then one-man tyranny was the antithesis of the old democracy, in the days when monarchy was still a viable form of anti-democracy. The transition is not necessarily for the good. By and large, George III and Frederick the Great were constrained by their own personal values, and Napoleon by the limits of how much one energetic man can undertake at one time. Dozens of impersonal “institutions,” each with its own bailiwick and organizational style, protecting itself and its agenda, served by tens of thousands of servants, are bound by neither.

We can carry this a step farther. The United States, perhaps more than any other nation-state, has set the standards for the evolution of democracy and human rights in the international arena. In this sense, it has in years past been a bright light for all people of conscience. The fact that such a powerful nation-state has also embraced social values that include a deep and abiding respect for human rights and the principle of equal justice under the law has been an important political icon that encouraged other nations to emulate the U.S. example.

To the degree that the abuses illustrated by the Waco tragedy are allowed to stand without a meaningful and legitimate accounting, the legitimacy of U.S. political institutions is damaged in the eyes of the attentive public. Worse, where such conduct becomes the de facto standard for U.S. policy makers (as it will, if allowed to stand), then we send a message to the world: the ideals of democracy and a constitutional republic are obsolete, if not mere hypocrisy from the beginning. This is to say that, not only our democracy is impaired, but the very concept of democracy itself is damaged, worldwide.

When, by contrast with our own history, one examines the institutionalization of democracy in nation-states with similar written constitutions, such as some of the fledgling Latin American democracies, one sees that the written ideals do not match the political realities. The paper guarantees of freedom and equality are there, but in practice social elites may be above the law, and government may do whatever its leaders feel is necessary. Areas of insurrection may be endemic, revolutions may result: if they are successful, there are no

guarantees that those thrust into power will be able to govern, or that they will not unleash a reign of terror that makes the former government's abuses look tame by comparison.

Those of us who live in stable, Western industrialized democracies may tend to regard the political distempers of these emerging nation-states with a certain smug disdain, but international relations theorists caution that these fledgling democracies may not be simply "backward," or "primitive." Rather, they may be hyper-modern in character—that is to say, just as the evolving institutional practices of the early United States set new trends and standards which the older nation states eventually adopted, these emerging "democracies" may be setting similar standards for efficiency—or perhaps a better term might be "expediency"—in the governing of their respective populations. The levels of corruption, fiefdom, and elitism that we typically see in such nation may not be a function of political backwardness, but rather a harbinger of things to come. We have, after all, come to a pass where promoting citizens' distrust and even paranoia of each other is a matter of public policy, and where White House functionaries can express their own constitutional role with a flippant "stroke of the pen, law of the land. Kinda cool."

We end with a question of statecraft. The founders of our nation envisioned a nation-state that would contradict, and hopefully supplant, the withering feudal organizations of prior centuries. The underpinning of their new nation-state was the citizen, who empowered the nation in an abstract sense by giving consent, and in a concrete one by bearing arms in its defense. Although the citizen might be suspicious of those who ran his government—that was the reason, after all, for elections, constitutions, and arms—it was unthinkable for those who ran his government to fear him. His mind and his arms were the underpinning of the nation-state, and one that needed to fear either was unworthy of him. Those attitudes are passing now.

One need only enter a government building today to see the change. Ten years ago in Washington, a citizen who wished to research in the Library of Congress merely walked through the door; to borrow a book he showed a driver's license. Today, entry to the Library requires specially issued picture ID and passage through a metal detector, with additional ID checks at each destination inside; surveillance cameras ring the exhibit halls. The person entering is not regarded as a citizen, nor a taxpayer, but an outsider, an intruder, a suspect—a stranger in his or her own country.

The change is a metaphor for a broad change of attitude, occurring at every level, from Capitol Hill to our schools. Members of governmental units are increasingly a privileged caste; in effect, the only truly enfranchised citizens of our nation-state. It is deemed essential that they have unlimited ability to conduct surveillance of the outsiders, the civilians. It is conversely necessary that the outsiders be permitted to know as little as possible of agency operations, in the interests of "national security," or "protecting internal deliberations." Members of the caste are by definition trustworthy, and those outside it are by definition suspicious.

Lay this alongside the legal immunities for official misconduct: a Federal agent who kills a civilian cannot be prosecuted either by the Federal or the State sovereign. His work is too important to be burdened with considerations such as the homicide statutes, at least in the context of the death of one outside his caste.

In a very real sense, what was once a republic is becoming a hyper-modern feudal state.

It will not get better from here.

It's time for us to remember that Lincoln's words—that this Republic is the "last, best, hope of mankind"—were not a speechwriter's stunt. There was a time when we believed that, and, in so believing, made it true. At a time when most of humanity, was looking over its shoulder for the secret police, we stood as a demonstration that a free people and a stable government were by no means inconsistent.

What do we do now?

So what must be done?

The beginning would be simple: the entire record of the Waco affair, and all that led to it and came from it, must be exposed to the public eye, with an end to secrecy in the name of "national security" and "protecting internal agency decision-making." Whatever harm might be done by revealing that which has been concealed would certainly be minor and quick in passing, in comparison to the damage that is being done by the continuing cult of secrecy.

As realists, we must face the fact that the chance of a full and public accounting seems remote. It took seven years of effort to partially reopen the matter, and within months the defending institutions had once again closed the door upon it, with "probes" that led only to the prosecution of the one government whistle-

blower, assistant United States Attorney Bill Johnston. But a full, public, examination is essential. Waco is not merely a series of mistakes that “cannot happen again.” It is important on a fundamental level, as a touchstone for the future of democracy in America.

Consider that Waco was described by an FBI leader directly involved in its execution as the first military operation conducted by government against American citizens—indeed, he attested that the White House itself was concerned about setting a precedent for “paramilitary bloodshed” on American soil. That precedent was indeed set.

The description, “paramilitary bloodshed,” is both functionally accurate, and extremely ominous in its implications. The initial ATF raid involved a military-type operation directed against American citizens who had neither committed nor threatened acts of violence. Once set into motion, the situation escalated to acts that can only be characterized as acts of vengeance. Blindly driving armored vehicles through the walls of a dwelling and preventing firefighters from doing their jobs is fundamentally inconsistent with an operation whose first priority was supposedly to save the lives of innocent children.

Politically, Waco originated as a desperate ploy by an embattled bureaucracy, concerned with its own survival—an extremely serious abuse of power and the public trust, especially considering the inherent dangers of an armed raid. The ATF’s leadership, desperate to salvage the future of their bureau, hit upon a plan to avoid Administration “reinvention” or congressional de-funding—a plan that was based upon the prejudices and weakness of a Congress that they knew all too well.

The Branch Davidians were in appearance, a flawless pawn in this plan—a non-mainstream, apocalyptic religion. Against a group that could be painted as the Branch Davidians could, public sympathy would be on the side of the ATF. The media would immediately realize the potential of Waco as a sensational lead story. It would run for days, perhaps weeks, and in such a politically charged climate, the future of the ATF would be assured.

The Davidians were bothering no one, but politically they were the perfect target, poster children for political incorrectness, who could be drawn as a caricature of the worst qualities that the political left envisioned in their arch rivals, the “religious right”—armed, dangerous, child molesting religious fanatics. Waco was to have been a symbol, held up to remind the Congress and the public that the ATF was doing important work to keep the country safe. The raid against the Davidians would be a vital shield for a scandal-ridden bureaucracy, a bureaucracy in immediate danger of extinction.

The tragic irony is that surely none of the officials responsible for this tragedy bothered to reflect that the tactics they were engaging in resembled those of the bad old days of Stalinist Russia, or of Hitler’s Germany. Indeed, they would probably be deeply offended by the comparison. These officials will concede that surely, mistakes were made, and that the outcome was tragic and regrettable. But they will argue that it was an isolated incident, an anomaly that can never happen again.

And therein lies the danger: these kinds of operations can happen and have happened for decades, to hundreds of citizens in this country, albeit on a thankfully smaller scale. When they do happen, the justifications are made by trained and extremely articulate spokesmen, and reported upon—or more frequently not reported upon—by a media which has become far too complacent in sharing the views of the dominant power establishment. Waco did not happen in a political vacuum. There were reasons that it happened and those reasons can be detailed by objective analysis of the incidents and conditions that led to it. We must face those reasons as a first step.

The militarization of law enforcement, especially Federal law enforcement, must be reversed. To the extent that paramilitary assault is necessary, Federal agencies should rely upon local police units under control of local authorities. There is no reason why the ATF, the FBI, the Department of Agriculture, and countless other agencies should each have to their own private armies. It may be necessary for investigators to be agency-specific, to know the agency’s own rules and regulations. There is no reason why “dynamic entry teams” must be familiar with the subtleties of a given chapter of the Code of Federal Regulations, or how an agency has historically handled permit applications.

We should reconsider the question of whether a paramilitary team such as the FBI’s HRT is essential or even safe. Successful hostage negotiation tends to be a lengthy and frustrating process; boring the hostage-holders to tears is in fact part of the technique. In this setting, a unit whose training and background are derived expressly from quintessentially military origins poses a grave danger. As at Waco, it tends to dominate

decision-making and decision-makers, and to press for an approach within its specialty, a sudden, violent assault. The fact of the matter is that HRT has rarely if ever been deployed in its intended role—as a master of the seven-second entry battle, stunning and then annihilating hostage-takers before they can react. For lack of any missions within its specialty, it has been deployed, repeatedly, to maintain perimeters and wait out sieges—missions for which negotiators backed by traditional police units are far better suited.

To the extent that a small, elite team such as HRT is necessary, it should be brought under the most elaborate of controls, the type of controls we might impose upon a military unit, were we to authorize it to assault domestic targets. This is, after all, precisely what the HRT is.

These controls should be political—the unit may be deployed only on the personal directive of the one elected official who heads the Federal government, the President. His discretion should be constrained: the unit should only be committed to the specific type of high-intensity assault against for which it was designed, not to situations such as Ruby Ridge or Waco. The controls should also be institutional. Members of the HRT should have a specific term of duty, perhaps two years, and be drawn from and returned to the best personnel of State and local SWAT units. The conspiracy of silence that surrounded HRT actions at Waco could not have long endured if the unit was composed of local police, which then rotated back to their original units.

We should also give serious consideration to establishment of a Federal civilian review board for law enforcement misconduct. Such boards have of course been anathema to local police, which view them as an intrusion upon their functions. But local police are at least tied to the community and experience relatively close oversight by elected officials chosen by the community. Effectively, there is no civilian control of Federal law enforcement, and a review board or boards will be a minimal substitute for the direct popular control under which local law enforcement units have always functioned.

To a certain extent, media scrutiny can deter abuses; but for a video camera and a media decision to use the footage, Rodney King would be an unknown ne'er-do-well. At Waco, the compartmentalization of the press into a “media compound” miles away may well have laid the foundation for the final, bloody, outcome. Press have historically followed our armies, to the point where some, like Ernie Pyle, died beside the troops they depicted. At Waco reporters who left their assigned areas were manhandled and criminally charged. Congress must ensure that the press can never again be subjected to such a *de facto cordon sanitaire*. Law enforcement that must be conducted in secret probably should not be conducted at all.

We must also rethink the numerous legal protections we have given to official misconduct, in the form of immunity from State law, and civil immunity for “discretionary acts.” In the name of protecting Federal employees’ freedom to engage in proper and legal conduct, we have largely insulated their improper conduct and illegal conduct, as well. This is flawed reasoning; we expect ordinary citizens, and local law enforcement, to conduct their affairs within the bounds of the law, and do not reason that by punishing their wrongdoing we may inhibit their proper judgment—and it goes without saying that ordinary citizens do not have taxpayer-funded legal teams to defend their conduct. At a minimum, Congress should explicitly make Federal law enforcement agents subject to State laws on homicide, aggravated assault, and similar crimes. The “discretionary function exception” to civil lawsuit should likewise be curtailed, insofar as it protects “discretionary” actions that pose a risk of death.

Finally, we need to radically reconsider the entire function of the agency whose conduct began the incident at Waco—and also that at Ruby Ridge. ATF has a long history of corruption and abuse, and the record is clear that these abuses were largely directed at legitimate firearm owners.

Quite frankly, the simplest solution for ATF would be to abolish the agency—in fact, to abolish not only the organization, but also some of its core functions. A real criminal who carries or uses a gun will first come to the attention of local police. We need only establish a protocol for them to refer the case to Federal prosecutors. The main remaining ATF function is to regulate an industry, or actually three industries—make sure that manufacturer and dealer licenses are obtained where necessary, issued only where proper, and that the required records are kept. That function is best administered by the Commerce Department, which handles most regulated industries, and does so without the need for dramatic raids.

If ATF is to be kept around, it must be cleansed in the way in which corrupt police departments have been cleansed in the past—by an outsider. Its problems are not a matter of a few wayward agents. Historically, literally for decades, the agency has rewarded and promoted corruption and abuse, until it has

become ingrained into the entire management structure, to the point where honest agents cannot report corruption to their superiors without worrying that the superior may be in on the matter, or that the perpetrator may “have something on” the superior.

One need only look at the sexual harassment charges, whose revelation may have played a role in bringing on the Waco raid. The agents who reported the near-rape were punished by their superiors. Or we might look at Waco itself: the two supervisors most responsible for the botched raid were fired, then rehired after they hinted that they would talk about things better kept quiet. Agent Robert Rodriguez, the honest and responsible agent who tried to stop the raid by working the supervisors that Koresh knew the raid was coming, was virtually driven from the agency. These are just a few illustrations; the author has a large set of files on ATF corruption and misconduct, none of which has ever been redressed by the agency. The corruption is so deep and ingrained that it may be far easier to abolish the agency than to locate and punish the corruption within it.

While we are considering the agency whose conduct gave us the Waco incident, we might also consider the laws whose enforcement gave rise to the entire problem. To underline the question thus posed, we are dealing with a population of some 75 million gun owners, who are in possession of something over 200 million firearms, only a small percentage of which are recorded. This particular genie has been “out of the bottle” for some 200 years.

Here, the handwriting is on the wall: short of unbelievably draconian enforcement efforts, which would foment a resistance that would make the IRA’s efforts pale by comparison, those guns will stay in the hands of their civilian owners. Those owners are, disproportionately, the type of citizens who are the best underpinning of a stable democracy, and the last group a rational policymaker would want to alienate—the type of citizens who vote, proudly serve in the military, pay their taxes, and take “duty, honor, country” and “*semper fidelis*” seriously. (Winners of the Congressional Medal of Honor are to be found at every NRA Convention, where they are treated by with the deference due demigods.). Historically, gun-owning individualists have been the segment of the population most likely to rise up and defend democracy, and certainly the segment most capable of doing so. These people are not innately anti-government: quite the contrary. They are inherently strong supporters of the nation, the government, the system, and are being driven into opposition by assaults on their values and insults to themselves.

The growing alienation of this segment of society has been deepened by a virtual media blackout of the issues it believes to be important. To take one example: in 1994, media cries for a ban on “assault rifles” led to a Congressional enactment supposedly banning future civilian production of the same. Most firearm owners know that the media cries were ridiculous: semiautomatic “assault rifles” are almost invariably less powerful than ordinary deer rifles. Congress had to face the fact that (apart from this lessened power) there is no clear dividing line between an ordinary semiautomatic rifle that is routinely used in hunting, and an “assault rifle.” Thus the law simply applied to rifles with certain vaguely military accessories—bayonet lugs (although no criminal bayonetings have been reported of late), flash suppressors (a little cage-like device on the end of the barrel), folding stocks, a grip for the hand that is separate from the shoulder stock. How banning these could have any effect on crime is beyond explanation.

To secure passage of the legislation, statements were made which can only be described as lies. Senator Feinstein assured the Senate that one extremely expensive Swiss rifle had become the preferred weapon of gang shooters—when in fact no case could be found of its criminal use. There were responses to the claims of the legislation’s backers. These were, however, subject to a media blackout: the most that was reported was that the NRA, doubtless on behalf of piggish gun manufacturers, was obstinately opposing this vital legislation. That NRA comprised then three million (four million as we write) of our citizens, disproportionately veterans, servicemen, and law enforcement officers, did not entitle its interests and concerns to be heard.

Our point here is not the merits or demerits of the legislation, but rather, that a sizeable and valuable part of our citizenry was left with indelible impressions that: (a) Congress could and would enact irrational laws, for no better reason than to offend, restrict, or annoy them; (b) Congress and the media could and would lie and fabricate, to achieve this end; and (c) “the system” did not care about their interests, however logical and just—in fact, it took a malicious delight in offending them. This is a textbook formula for alienation of a large and valuable sector of our population, and for a public policy failure.

We cite this example as an illustration, not as the universe. Almost on an annual basis, this segment of our nation sees attacks on what they, with justice, regard as a constitutional right, attacks which do not even have the virtual of consistency. At one point, handgun owners are portrayed as the source of evil: their firearms are small and concealable. At another, rifle owners are demonized: their firearms are large and powerful. Physicians are asked to determine if their patients are firearm owners, and to lecture them on the subject; parents are coached to find out if their children's friends' parents own firearms, and to avoid those that do.

In the conflict between a modern republic and hyper-modern feudalism, this increasingly alienated segment of society may well be the key to survival of our system, a system for which many of them have in the past put their lives on the line. We need them, and we need their values.

The choice is upon us: modern democracy, or post-modern feudalism. How far we have come in the last ten years gives an indication of where we still stand ten, twenty, or fifty years from now. Failure to act will itself be a choice.

As we stand at this crossroad, we might well recall the response given by Ben Franklin, when a group of citizens asked what form of government the Constitutional Convention would give them.

"A republic," the worldly-wise Franklin responded, "if you can keep it."