

# A Decade After Waco

## Reassessing Crisis Negotiations at Mount Carmel in Light of New Government Disclosures

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**ABSTRACT:** On the occasion of the tenth anniversary of the disastrous federal siege of the Branch Davidians, the tragedy is revisited in light of new government disclosures regarding negotiations during the 51-day standoff. Some of the newly available records—post-incident interviews with negotiators conducted by Justice Department investigators and memoranda written by negotiators or members of the FBI command structure—were concealed by the government for six years because they contained incriminating information. The new evidence reveals the degree to which negotiators at Mount Carmel recognized and roundly condemned the actions taken by the Hostage Rescue Team during the standoff that ultimately led to the insertion of deadly CS gas. Some negotiators even predicted the violent and fatal outcome of the siege weeks before it ended. Indeed, two veteran negotiators challenged the decisions of FBI commanders and were banished from Waco for their remonstrance.

The tenth anniversary of the tragic federal assault on the Branch Davidian complex outside Waco, Texas in 1993 affords scholars an opportunity to reflect on what is arguably the worst federal law enforcement disaster in our nation's history. I continue to be fascinated by the scope of the debacle and the missed opportunities by the government to resolve this matter peacefully; there is no greater example of misfeasance than the failure of the Federal Bureau of Investigation (FBI) to bring about a bloodless resolution to the 51-day standoff. The brief analysis and update here will focus on the management of the

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standoff at Mount Carmel in light of government disclosures that surfaced more than six years after the tragedy.

Researchers know substantially more today than was known ten years ago. This is due in no small part to the fact that the Department of Justice and the FBI concealed incriminating information about the operation. Some of this incriminating information leaked out slowly in the years after the siege raising suspicions about the official explanation and the pretext of unity within the FBI's crisis management team. There were some early indications that negotiators' efforts to resolve the standoff without bloodshed were undermined by aggressive tactical actions. The Justice Department report, for example, documented complaints by negotiators and made reference to problems of "communication" between the negotiation team and FBI command.<sup>1</sup> At least one behavioral science expert involved in the standoff, Pete Smerick, later complained that he was pressured by senior FBI officials to change his assessment from a non-confrontational approach to a more aggressive tactical plan.<sup>2</sup> Yet in the ensuing years, key negotiations personnel in the FBI downplayed the discord among agents at Mount Carmel and denied that Hostage Rescue Team (HRT) tactical actions had sabotaged conciliatory negotiations. In fact, some new religious movement scholars met with FBI agents and were told that everything possible was done to get the Branch Davidians to come out of Mount Carmel.<sup>3</sup> But in the face of the new government disclosures concerning the negotiations, the intent of this heralded effort of cooperation by the FBI with scholars must now be questioned. One could make a compelling argument that the intended effect of the putative synergy was nothing more than a thinly veiled attempt at co-optation.

The government's effort to bury this information ultimately imploded, however, when in 1999 evidence emerged that the FBI had fired pyrotechnic projectiles at Mount Carmel the day the complex burned to the ground.<sup>4</sup> In response to sweeping subpoenas for FBI and Justice Department records by congressional investigators in 1999 and discovery motions filed by Branch Davidians' attorneys in the civil case, the Justice Department reluctantly turned over interviews with negotiators and other records pertinent to the disaster. The contents of these new records reveal deep rifts within the FBI during the standoff—rifts between the negotiators, on the one hand, and the FBI/HRT command structure and tactical team on the other. Why is this important? Because the rifts expose egregious violations of hostage-barricade protocols and procedures that caused the negotiations to break down. The gravity of this evidence can hardly be understated—it speaks to the *manipulation* of the standoff by the HRT command to achieve a desired end. The demise of negotiations was offered as proof by officials that the Branch Davidians were not truly interested in negotiating, and on this false assertion the direction of the whole operation turned. It was the prin-

cial justification for the high-risk, dangerous CS gas assault on 19 April 1993 that killed 76 people.

The government clearly understood the importance of this damning information and fought furiously to keep it out of the civil trial. In the wrongful death law suit brought by Branch Davidian survivors and family members against the government in the summer of 2000, federal attorneys filed *in limine* motions seeking to exclude depositions of negotiators, Department of Justice interviews with negotiators after the incident, and any memoranda written during the standoff. The motions to exclude were based on the "discretionary function" exemption. The discretionary function exemption provides immunity for government agents who have to make critical decisions in the face of a crisis. The law is designed to provide legal protection to agents for what might later be determined as "bad judgment," assuming good intentions and conceding the risk of unforeseeable circumstances. In this case, however, the law should not have applied because plaintiffs' attorneys could show reasonable cause for malicious intent on the part of key government officials. Nonetheless, Judge Walter Smith granted most of the government's motions to exclude evidence and the jury never had an opportunity to consider the full range of facts in their deliberations. The verdict, which exonerated the government of wrongdoing, was based on a constricted array of evidence and bewildering procedural rulings.<sup>5</sup>

Elsewhere I have offered a more systematic analysis of violations of basic crisis negotiations guidelines at Mount Carmel.<sup>6</sup> At the time of that research, I felt duly compelled to produce extensive documentation of crisis negotiations protocols. There is no need to reproduce that work here, so I am going to summarize some of the key principles and objectives in crisis negotiations and then examine some of the violations, bolstered by the new evidence. Crisis negotiations with hostage-takers or barricaded subjects can be summarized as follows: with the goal of saving lives as the chief objective, negotiators should exercise patience, maintain a conciliatory posture, establish reliable communication, cultivate empathy, defuse fear and anxiety, avoid escalating stress, build trust and rapport, avoid power plays or heightened gestures of threat, and use the advantage of time to wear down the recalcitrant party. As time passes, defenses subside, fatigue sets in, concessions are made, and the likelihood of a peaceful resolution increases.<sup>7</sup> The FBI's own reports show that when agents pursue a strict strategy of containment and conciliatory negotiations, 95 percent of hostage-barricade incidents are resolved without loss of life.<sup>8</sup> On the other hand, tactical assaults result in a 78 percent injury or death rate.<sup>9</sup>

What happened at Mount Carmel is that the FBI grew impatient and pushed to resolve the standoff by force. The joint congressional report by the House Committee on Government Reform and Oversight and the Committee on the Judiciary concluded that the assault was

“premature” and stated, “The Attorney General knew or should have known that there was little risk to the FBI agents, society as a whole, or to the Davidians from continuing this standoff and that the possibility of a peaceful resolution continued to exist.”<sup>10</sup> In fact, HRT commander Dick Rogers conceded to investigators soon after the Waco debacle that negotiators could have coaxed sect members from their barricaded complex if given enough time. “I think given enough time,” Rogers stated, “any negotiator could get them out if [there was] no suicide, but what is enough time?”<sup>11</sup> As critics suspected, the negotiators at Waco firmly believed the standoff could have ended peacefully. Agent Gary Noesner, FBI negotiation coordinator for the first half of the standoff, told Justice Department investigators in August 1993, “The negotiators’ approach was working until they had the rug pulled out from under them” by aggressive tactical actions. In the same interview, Noesner also stated, “Any negotiator would have told them that dismantling the building would provoke a violent response. Anyone would have seen the risk. What was the rush?”<sup>12</sup>

According to an internal FBI memo apparently written in late March 1993, Danny Coulson, Deputy Assistant FBI Director and founder of the HRT, complained to Justice Department officials, “A lot of pressure is coming from [Dick] Rogers. We had similar problems in Idaho with him and he argued and convinced the SACs [Special-Agents-in-Charge] that Weaver would not come out. That proved to be wrong. I believe he is a significant part of the problem here.”<sup>13</sup> The reference to the 1992 FBI standoff with the Randy Weaver family at Ruby Ridge, Idaho, is instructive. In Coulson’s autobiographical account, *No Heroes: Inside the FBI’s Secret Counter-Terror Force*, he describes his reaction to the operational plan submitted by Dick Rogers and Gene Glenn. The plan called for dismantling the building and, if the Weavers did not surrender, introducing CS. I quote Coulson because the tenor of his reaction is revealing.

As I read the fax, my jaw locked. *My God, we’ve got a problem*, I said to myself. *Well, this is just not going to happen*. I [had] thoughts that would’ve earned me about a hundred letters of censure, the cleanest of which was, *These dumb shits. Have they got their heads up their ass or what?*

What I had in my hand didn’t resemble anything that the HRT or any law enforcement agency should do. It was a military assault plan. [. . .] This so-called plan violated every tenet of crisis management drummed into us at the FBI Academy.<sup>14</sup>

Coulson conveyed similar frustration with Rogers’ aggressive tactics at Waco:

I am pretty disappointed with this approach. Everything is moving toward a gas attack. . . . I have stated that I believe it is unwise. We have more to negotiate. . . . HRT needs to be told that we are not going to assault that

compound in any fashion, including gas. If he [Rogers] can't accommodate this objective, he should be brought back to D.C.<sup>15</sup>

The impatience with negotiations exhibited by HRT commander Dick Rogers in critical incidents apparently was well known among negotiators. In deposition testimony for the Branch Davidian civil trial, veteran negotiator Clint Van Zandt was asked for his assessment of Rogers. Van Zandt replied, "I think he [Rogers] believed very strongly in himself, in his ability in the use of force. He saw negotiations as getting in the way. He is a strong proponent and advocate of tactical resolutions to situations."<sup>16</sup>

The development of trust between negotiator and hostage-taker or barricaded persons is essential for any successful resolution of a stand-off to occur. But no such trust was ever allowed to develop at Mount Carmel. This was the crux of the complaints made to government officials by the negotiating team with regard to tactical strategies in the 1993 Justice Department report.<sup>17</sup> The complaints centered on the "punishment" of Branch Davidians meted out after compliance with requests by negotiators on 12 March and 21 March, undermining any bond of trust cultivated between the two parties. After sending out two sect members on 12 March, FBI commanders cut off all electricity to Mount Carmel. Following the surrender of seven sect members on 21 March, the HRT's tactical unit bulldozed Davidian cars and smashed the children's motorcycles and toys with tanks. FBI negotiation coordinator Gary Noesner stated in a post-incident interview with Justice investigators, "If the power had not been cut . . . additional people would have come out. This could have set a positive example where people would have continued to cooperate and built to a peaceful resolution." The negotiations were working and agent Noesner considered the events of 21 March "the most positive day they had experienced." He said, "There were indications that 20 people would come out the next day." But within hours, the Combat Engineering Vehicles began destroying the group's automobiles. Noesner later recalled the situation with horror, saying it was "the worst decision he's seen in 21 years with the FBI."<sup>18</sup>

One imperative task of the negotiator is to reduce stress. High stress interferes with negotiators' performance, adversely affects decision-making skills, elevates emotions, speeds physiological processes and increases frustration and anxiety. Yet, the HRT's response plan in Waco after 17 March was referred to as a "stress escalation" program, according to the Justice Department report.<sup>19</sup> This is the most obvious and defiant breach of fundamental crisis negotiation protocol evidenced by the government. It is virtually impossible to reconcile a *stress escalation* strategy with the principle of *stress reduction*. The only rationale offered for the stress escalation plan recorded in the Justice Department report was that it would result in driving a psychological wedge between Koresh and

his followers, in the apparent hope that group fragmentation would occur.<sup>20</sup> The strategy produced the opposite effect, however, bonding members together against a perceived common enemy, a basic sociological axiom. Most observers assumed Rogers was simply unenlightened in the ways of social science and did not anticipate the consequences. But Rogers later admitted in a September 1993 interview with Justice Department officials that he was aware that tactical actions would drive the Branch Davidians closer to their leader, blatantly contradicting the “psychological wedge” theory offered in the report: “[W]hen we started depriving them, [we were] really driving people closer to him [Koresh] because of their devotion to him.”<sup>21</sup>

Rogers’ contempt for the Branch Davidians and his preference for tactical force appears to explain his impatience with both negotiators and barricaded sect members. In the 1993 interview with Justice Department investigators, Rogers derided efforts by negotiators, saying they just “wanted to curry favor with these people” while he and others wanted to “up the ante.”<sup>22</sup> Rogers and on-scene commander Jeffrey Jamar repeatedly claimed that negotiations were futile and pushed for the CS gas assault. This push for an assault was made in the face of conflicting advice from the FBI’s own experts. FBI psychological profilers Pete Smerick and Mark Young advised on-scene commanders to ease the tactical pressure at Mount Carmel in a series of memos written between 5 March and 8 March. The HRT command ignored their advice and, according to Smerick, later pressured him into changing his assessment to support a more confrontational approach. In a 1993 post-incident interview with Justice Department investigators, Smerick said the FBI commanders were driven by a desire to intimidate and anger the Davidians; they thought that “these people were criminals, and you must punish criminals.”<sup>23</sup>

Evidence clearly shows that pressure from FBI officials in charge impeded effective negotiations through tactical aggression, causing communication between the federal agents and the Branch Davidians to stall, and providing a rationale for the deadly assault. Dr. Alan Stone, who was later asked by the Justice Department to review the actions of the FBI, made the following statement in his report: “[T]he FBI’s own experts recognized and predicted in memoranda that there was the risk that the active aggressive law enforcement mentality of the FBI—the so-called ‘action-imperative’—would prevail in the face of frustration and delay. They warned that, in these circumstances, there might be tragic consequences from the FBI’s ‘action-imperative,’ and they were correct.”<sup>24</sup> According to another expert commissioned by the Justice Department, Dr. Nancy Ammerman, the negotiators and the people representing the Behavioral Sciences Unit “were outranked and outnumbered. Within the command structure . . . people from the tactical side were simply trusted more and were more at home with the SACs in

Waco.” According to Ammerman, “There was an understandable desire among many agents in Waco to make Koresh and the Davidians pay for the harm they had caused. Arguments for patience . . . fell on deaf ears.”<sup>25</sup>

The lack of control by the negotiators at Mount Carmel was a critical flaw in the government’s handling of the standoff. Negotiators did not have control of their side of the bargaining and thus could not provide assurance of safety and security to the besieged group. The negotiating unit remained at Mount Carmel after the third week apparently to provide only the appearance that conciliatory negotiations were still taking place. Consider that two and a half weeks into the standoff, the FBI command requested a library of recordings of irritant sounds to be used for purposes of sleep deprivation.<sup>26</sup> The Justice Department log records the use of high-intensity stadium lights on the building at night while deafening sounds were blared that may have exceeded 105 decibels, a level that according to Dr. Stone “can produce nerve deafness in children as well as adults.”<sup>27</sup> Stone states that “[b]y March 21, the FBI was concentrating on tactical pressure alone: first by using all-out psychophysiological warfare intended to stress and intimidate the Branch Davidians; and second, by ‘tightening the noose’ with a circle of armored vehicles.”<sup>28</sup>

Stone summarized the problem as follows:

[T]actical pressure began at the operational level over the objections of the FBI’s own experts in negotiation and behavioral science, who specifically advised against it. These experts warned the FBI command about the potentially fatal consequences of such measures in dealing with an “unconventional” group. Their advice is documented in memoranda. Nonetheless, tactical pressure was added.<sup>29</sup>

According to the Justice Department report, “negotiators lamented the absence of joint strategy sessions with the on-site commander and the tactical commander.” Negotiators complained that “the on-site commander and the tactical personnel were often impatient with their progress and failed to provide them with adequate information so that negotiators could coordinate their efforts with the efforts of the tactical team.”<sup>30</sup>

These “communication problems,” as they were referred to in the Justice Department report, were likely an explanation designed to cloak the intentions of the HRT command. Negotiation coordinator, Gary Noesner, later told a Justice Department investigator that the aggressive actions by the tactical unit were pre-meditated. “A guy from the HRT said it was just to ‘piss them off,’” Noesner said, referring to the events of 12 and 21 March.<sup>31</sup> Another negotiator, Frederick Lanceley, told Justice Department investigators that he was so concerned that he went

directly to on-site commander Jeffrey Jamar and complained. Soon afterwards, agents Noesner and Lanceley were recalled from Waco. Upon learning of his banishment, a distraught Lanceley told another member of the negotiation unit, "I want to get out of here because all of these people in that compound are going to die, and I don't want to be here when it happens."<sup>32</sup>

## CONCLUSION

In sum, the FBI abandoned conciliatory negotiations early in the standoff, even though negotiations were succeeding and sect members were still surrendering. Tactical-aggressive actions sabotaged good-faith negotiations, sending mixed messages to the barricaded sect members by "punishing" positive responses to overtures from negotiators. Contradictory gestures of conciliation and threat served to confuse and terrify those inside Mount Carmel, leading to communication breakdown, distrust, and polarization. Despite warnings from their own behavioral science advisors, FBI officials proceeded methodically toward a military solution. Seizing upon a purported impasse in negotiations that the HRT command helped to create, a tactical plan was implemented, entailing a massive insertion of the riot-control chemical agent, CS. The likelihood that the standoff would end violently was greatly increased. Perhaps the most poignant statement epitomizing the perspective of the negotiators was made by veteran negotiator Clint Van Zandt. Van Zandt told Justice Department investigators in 1993 that seeing the CS insertion plan go forward on 19 April was "akin to sitting on the bow of the Titanic and watching the iceberg approach."<sup>33</sup> Indeed, an accurate record of official decisions and actions that transpired at Waco differs dramatically from the one most people were told. It shows that the negotiators recognized the manipulation and self-destruction of the operation and predicted the tragic outcome even as the events at Mount Carmel were still unfolding.

## ENDNOTES

<sup>1</sup> *Report to the Deputy Attorney General on the Events at Waco, Texas, February 28 to April 19, 1993* (Washington D.C.: United States Department of Justice, 1993), 149.

<sup>2</sup> Dan Freedman, "FBI Analyst Says He Was Ignored on Waco: Cites Pressure to Back Violent Solution," *Washington Times*, 1 May 1995.

<sup>3</sup> Private communications between myself and several NRM scholars who attended these meetings.

<sup>4</sup> The operation of a pyrotechnic device produces a spark that can possibly ignite a fire. Pyrotechnic devices are distinct from incendiary devices, which are designed to set a fire.



- <sup>5</sup> See Stuart A. Wright, "A Critical Analysis of Evidentiary and Procedural Rulings in the Branch Davidian Civil Trial," in *New Religious Movements and Religious Liberty in America*, ed. Derek H. Davis and Barry Hankins (Waco: J. M. Dawson Institute of Church-State Studies and Baylor University, 2002), 100-13.
- <sup>6</sup> Stuart A. Wright, "Anatomy of a Government Massacre: Abuses of Hostage-Barricade Protocols during the Waco Standoff," *Terrorism and Political Violence* 11, no. 2 (1999): 39-68.
- <sup>7</sup> There are many good sources on crisis negotiations. See Michael J. McMains and Wayman C. Mullins, *Crisis Negotiations: Managing Critical Incidents and Hostage Situations in Law Enforcement and Corrections* (Cincinnati: Anderson, 1996); D. A. Soskis and Clinton Van Zandt, "Hostage Negotiation: Law Enforcement's Most Effective Non-Lethal Weapon," *FBI Management Quarterly* 6 (1986): 1-8; Bert R. Brown, "Face-Saving and Face-Restoration in Negotiation," in *Negotiations: Social-Psychological Perspectives*, ed. Daniel Druckman (Beverly Hills: Sage, 1977), 275-99; Randall G. Rogan, Mitchell R. Hammer and Clinton R. Van Zandt, eds., *Dynamic Processes of Crisis Negotiations: Theory, Research and Practice* (Westport, Conn.: Praeger, 1997); William A. Donohue and Anthony J. Roberto, "Relational Development as Negotiated Order," *Human Communication Research* 20, no. 2 (1993): 175-98.
- <sup>8</sup> McMains and Mullins, *Crisis Negotiations*, 21.
- <sup>9</sup> Thomas Strenz, "Law Enforcement Policies and Ego Defenses of Hostages," *FBI Law Enforcement Bulletin* 48 (1979):1-12; cf. McMains and Mullins, *Crisis Negotiations*, 21.
- <sup>10</sup> *Investigation into the Activities of Federal Law Enforcement Agencies toward the Branch Davidians: Thirteenth Report by the Committee on Government Reform and Oversight Prepared in Conjunction with the Committee on the Judiciary, August 2, 1996* (Washington, D.C.: United States Government Printing Office, 1996), 4.
- <sup>11</sup> Lee Hancock, "Sect Could Have Been Coaxed Out, FBI Figure Told Officials," *Dallas Morning News*, 23 June 2000.
- <sup>12</sup> Lee Hancock, "FBI Missteps Doomed Siege Talks, Memos Say," *Dallas Morning News*, 30 December 1999.
- <sup>13</sup> Lee Hancock, "Memo Reveals FBI's Debate on Waco Plan," *Dallas Morning News*, 28 February 2000.
- <sup>14</sup> Danny O. Coulson and Elaine Shannon, *No Heroes: Inside the FBI's Counter-Terror Force* (New York: Pocket Books, 1999), 406-7.
- <sup>15</sup> Hancock, "Sect Could Have Been Coaxed Out."
- <sup>16</sup> Deposition testimony was read into evidence at civil trial. See also Jim Henderson, "Woman Says Tank Prevented Escape," *Houston Chronicle*, 27 June 2000.
- <sup>17</sup> *Report to the Deputy Attorney General*, 139-40.
- <sup>18</sup> Hancock, "FBI Missteps."
- <sup>19</sup> *Report to the Deputy Attorney General*, 138.
- <sup>20</sup> *Report to the Deputy Attorney General*, 129.
- <sup>21</sup> Hancock, "Sect Could Have Been Coaxed Out."
- <sup>22</sup> Hancock, "Sect Could Have Been Coaxed Out."
- <sup>23</sup> Hancock, "FBI Missteps."
- <sup>24</sup> Alan S. Stone, "Report and Recommendations Concerning the Handling of Incidents Such as the Branch Davidian Standoff in Waco, Texas," unpublished report to the Deputy Attorney General, 8 November 1993, 15.
- <sup>25</sup> Nancy T. Ammerman, "Waco, Federal Law Enforcement and Scholars of Religion," in *Armageddon in Waco: Critical Perspectives on the Branch Davidian Conflict*, ed. Stuart A. Wright (Chicago: University of Chicago, 1995), 291-92.
- <sup>26</sup> *Report to the Deputy Attorney General*, 135.

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<sup>27</sup> Stone, "Report," 28.

<sup>28</sup> Stone, "Report," 10.

<sup>29</sup> Stone, "Report," 9.

<sup>30</sup> *Report to the Deputy Attorney General*, 140.

<sup>31</sup> Hancock, "FBI Missteps."

<sup>32</sup> Hancock, "FBI Missteps."

<sup>33</sup> Hancock, "FBI Missteps."