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By James Bovard

FBI Director Louis Freeh last week announced that no FBI agents would be fired or severely punished for their role in the botched attack on Idaho white separatist Randy Weaver and his family in 1992, which led to the death of Mr. Weaver's son and wife. The announcement, which drew denunciations from both the American Civil Liberties Union and the National Rifle Association, is the conclusion of a patchwork of deception that has continued for more than two years.

Mr. Freeh, in his statement on Friday, declared that "the [Randy Weaver case] crisis was one of the most dangerous and potentially violent situations to which FBI agents have ever been assigned." But this is patent nonsense. Given the growing importance of this case, a review of the facts is in order.

Randy Weaver lived with his wife and four children in an isolated cabin on Ruby Ridge in the Idaho mountains, 40 miles south of the Canadian border. Mr. Weaver did not favor violence against any other race, but believed that the races should live separately. Because of his extreme beliefs, he was targeted for a sting operation.

Two Shotguns

In 1989, an undercover agent of the Bureau of Alcohol, Tobacco and Firearms approached Mr. Weaver and pressured the mountain man to sell him sawed-off shotguns. Mr. Weaver at first refused, but the agent was persistent and Mr. Weaver eventually sold him two shotguns—thereby violating federal firearms law. A court official sent Mr. Weaver a notice to appear in court on the wrong day; after Mr. Weaver did not show up on the correct date, a Justice Department attorney (who knew of the error) got a warrant for his arrest. Federal agents then launched an elaborate 18-month surveillance of Mr. Weaver's cabin and land.

David Niven, a defense lawyer involved in the subsequent court case, noted later: "The U.S. marshals called in military aerial reconnaissance and had photos studied by the Defense Mapping Agency.... They had psychological profiles performed and installed \$130,000 worth of solar-powered long-range spy cameras. They intercepted

menstrual cycle of Weaver's teenage daughter, and planned an arrest scenario around it."

On Aug. 21, 1992, six heavily armed, camouflaged U.S. marshals sneaked onto Mr. Weaver's property. Three agents threw rocks to get the attention of Mr. Weaver's dogs. As Mr. Weaver's 14-year-old son, Sammy, and Kevin Harris, a 25-year-old family friend living in the cabin, ran to see what the dogs were barking at, U.S. marshals killed one of the dogs. Sammy Weaver fired his gun in the direction the shots had come from. Randy Weaver came out and hollered for his son to come back to the cabin. Sammy yelled,

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Kevin Harris responded to Sammy's shooting by fatally shooting a U.S. marshal. Federal agents falsely testified in court that the U.S. marshal had been killed by the first shot of the exchange; evidence later showed that the marshal had fired seven shots before he was shot himself.

After the death of the U.S. marshal, the commander of the FBI's Hostage Rescue Team was called in, and ordered federal agents to shoot any armed adult outside the Weaver cabin, regardless of whether that person was doing anything to threaten or menace federal agents. (Thanks to the surveillance, federal officials knew that the Weavers always carried guns when outside their cabin.)

With the massive federal firepower surrounding the cabin—the automatic weapons, the sniper rifles, the night vision scopes—this was practically an order to assassinate the alleged wrongdoers. Four hundred government agents quickly swarmed in the mountains around the cabin. Most important, the federal agents at that time made no effort to contact Mr. Weaver to negotiate his surrender.

The next day, Aug. 22, Randy Weaver walked to the little shack where his son's

shack's door, he was shot from behind by FBI sniper Lon Horiuchi. As he struggled back to the cabin, his wife, Vicki, stood in the doorway, holding a 10-month-old baby in her arms and calling for her husband to hurry. The FBI sniper fired again and hit Vicki Weaver in the temple, killing her instantly. (Mr. Horiuchi testified in court that he could hit within a quarter inch of a target at a distance of 200 yards.)

Reuters reported on Aug. 25, three days after the shooting: "FBI Agent Gene Glenn said that the law enforcement officers were proceeding with extreme care, mindful that Weaver's wife Vicki and three remaining children... were also in

the cabin. "We are taking a very cautious approach," he said in a statement to reporters. "An internal FBI report completed shortly after the confrontation justified the killing of Mrs. Weaver by asserting that she had put herself in harm's way, the New York Times reported in 1993.

Though federal officials now claim that the killing of Vicki Weaver was an accident, the Washington Times's Jerry Seper reported in September 1993: "Court records show that while the woman's body lay in the cabin for eight days, the FBI used microphones to taunt the family. 'Good morning, Mrs. Weaver. We had pancakes for breakfast. What did you have?' asked the agents in at least one exchange."

Neither Randy Weaver nor Mr. Harris fired any shots at government agents after the siege began. Mr. Weaver surrendered after 11 days. An Idaho jury found him innocent of almost all charges and ruled that Kevin Harris's shooting of the U.S. marshal was self-defense. Federal Judge Edward Lodge condemned the FBI and issued a lengthy list detailing the Justice Department's and FBI's misconduct, fabrication of evidence, and refusals to obey court orders.

Justice Department officials launched their own investigation. A 542-page report

recommended possible criminal prosecution of federal officials and found that the rules of engagement "contravened the Constitution of the United States." Yet Deval Patrick, assistant attorney general for civil rights, rejected the findings last month and concluded that the federal agents had not used excessive force.

FBI Director Louis Freeh concluded that there was no evidence to show that Mr. Horiuchi intended to shoot Mrs. Weaver. Yet Bo Gritz, the former Vietnam War hero who represented the government when it finally negotiated Randy Weaver's surrender after the death of his wife, declared that the government's profile of the Weaver family recommended killing Mr. Weaver's wife: "I believe Vicki was shot purposely by the sniper as a priority target.... The profile said, if you get a chance, take Vicki Weaver out."

Mr. Freeh justified the FBI shooting of the Weavers because sniper Horiuchi "observed one of the suspects raise a weapon in the direction of a helicopter carrying other FBI personnel." But other federal officials testified at the trial that no helicopters were flying in the vicinity of the Weavers' cabin at the time of the FBI sniping.

Slaps on the Wrist

One of the most disturbing aspects of Mr. Freeh's slaps on the wrist last week is his treatment of Larry Potts. Mr. Freeh's pick as acting deputy FBI director. Mr. Potts was the senior official in charge of the Idaho operation and signed off on the shoot-without-provocation orders. Despite the finding by the Justice Department that the orders violated the Constitution, Freeh recommended that the only penalty Mr. Potts face be a letter of censure—the same penalty Mr. Freeh received when he lost an FBI cellular telephone.

The Weaver case is by far the most important civil-rights/civil-liberties case the Clinton administration has yet resolved—and it resolved it in favor of granting unlimited deadly power to federal agents. If the new Republican congressional leaders let the Justice Department and the FBI get away with what may have been murder, they will be accomplices to a gross travesty of justice.