


[washingtonpost.com](http://www.washingtonpost.com)

NEWS

STYLE

SPORTS

CLASSIFIEDS

MARKETPLACE

PRINT EDITION

TOP NEWS

WORLD

NATION

POLITICS

METRO

BUSINESS & TECH

HEALTH

OPINION

WEATHER

Marshals Seize Waco Evidence From FBI

By Edward Walsh and Roberto Suro
 Washington Post Staff Writers
 Thursday, September 2, 1999; Page A1



The Branch Davidian compound in Waco, Texas, was engulfed by flames, ending the 51-day Waco stand-off. Eighty people were found dead. (Reuters file)

Related Items

From The Post

- [Reno, Angry, Vows to Press FBI on Waco](#) (Aug. 27)
- [FBI Reverses Its Stand on Waco](#) (Aug. 26)
- [Survivors, Relatives Gather To Remember Deaths Near Waco](#) (April 20, 1997)
- [Reno Strongly Defends Raid on Cult](#) (April 29, 1993)

The U.S. Marshals Service, acting on orders from the Justice Department, yesterday seized from FBI headquarters new evidence about events preceding the fatal fire that ended the 51-day siege of the Branch Davidian compound near Waco, Tex., in 1993.

The extraordinary development, which underscored the degree to which the Waco case has fostered tension and mistrust between the Justice Department and the FBI, occurred as officials said Attorney General Janet Reno had decided that someone from outside the department and the FBI should lead a new investigation into the use of potentially incendiary tear gas cartridges by federal agents during the final assault on the compound.

Justice Department spokesman Myron Marlin said FBI officials informed senior Justice Department officials yesterday that they had come across "additional material" on the Waco siege at the headquarters of the FBI's Hostage Rescue Team in Quantico. The evidence was transferred to FBI headquarters in Washington, and yesterday Justice Department officials immediately ordered the Marshals Service to take possession of it, Marlin said.

An FBI official said that on a videotape, a Hostage Rescue Team member is heard seeking and being granted permission by a superior to fire potentially flammable military tear gas more than four hours before the Branch Davidian compound burst into flames, killing 76 people.

The videotape shot from a surveillance aircraft about 7:30 a.m. on the day of the assault contained audio of radio traffic among Hostage Rescue Team members in which they discussed the firing of nonincendiary tear gas cartridges at the roof of an underground shelter that was several dozen yards away from the compound, the official said.

But those cartridges had no effect, and a team member asks a superior for permission to use military tear gas cartridges that are incendiary, the FBI official said. He said that on the tape the superior can be heard "spontaneously" granting permission to do so.

A Justice Department official said the Hostage Rescue Team is thought to have discovered the tape on Saturday. An FBI official said that the material was transferred to FBI headquarters Tuesday or

yesterday and that in reviewing it FBI officials realized that they had "something new" and immediately notified the Justice Department.

"We were as anxious to get rid of it as they were to have it," the official said.

The discovery of the new evidence clearly exacerbated tensions between the two agencies. Just a week ago, the FBI acknowledged for the first time that it had used the military tear gas, and Reno said the next day she was "very, very upset" by the revelation. Officials said Reno personally authorized the dispatch of U.S. marshals yesterday into FBI headquarters to take control of the evidence. But last night FBI officials did their best to play down the extent of the tension that the development illustrated.

"We are cooperating fully in the effort to identify and preserve for outside review and congressional oversight anything that may bear on the firing of those [incendiary] rounds," said John Collingwood, assistant FBI director for congressional and public affairs. "That includes full agreement that the FBI not maintain possession of these items."

Describing Reno's decision to have a new investigation of the Waco incident headed by an outsider, officials also said yesterday that an informal list of about half a dozen names -- including those of former senators Warren B. Rudman (R-N.H.) and John C. Danforth (R-Mo.) -- is circulating in the Justice Department and that some potential candidates have been contacted. None of those being considered works for the Justice Department or FBI.

In addition, the Justice Department is developing a plan for the field work in the probe to be done not by the FBI but by a team of investigators from agencies such as the Drug Enforcement Administration, the Postal Service, the Secret Service and the Marshals Service.

Reno is under pressure to act quickly in the case, which she said has tarnished her credibility. She vowed last week to launch a new investigation after the FBI, reversing six years of denials, disclosed that its agents fired "a very limited number" of potentially incendiary tear gas cartridges during the final assault on the compound.

The move to place the investigation in the hands of someone outside the Justice Department and the FBI came amid indications that some officials in those agencies may have known as long ago as 1996 that incendiary devices were used on the last day of the siege. A law enforcement source confirmed that the FBI has an internal memo dated Feb. 15, 1996, that discusses the use of military tear gas weapons on the day of the final assault. According to one source, the 1996 memo used the word "flammable" in describing the military tear gas cartridges. Another source said the memo does not contain that word but does mention the possibility that such a tear gas cartridge could start a fire.

In addition to investigating the use and effect of the incendiary cartridges, officials said the new investigation will focus on who knew about their use and why this was not disclosed until last week. Based on what she described as repeated assurances by the FBI, Reno testified before Congress in 1995 that no pyrotechnic devices were used during the April 19, 1993, assault on the compound.

The FBI still maintains that its agents did not cause the final conflagration. According to the bureau, the potentially incendiary tear gas cartridges were fired hours before the fire started and were not aimed at the main wooden compound.

On Tuesday, officials said that FBI Director Louis J. Freeh suggested that an outsider conduct the investigation because of a perception that the bureau and the Justice Department were incapable of conducting an impartial probe of their actions during the Waco siege. One measure of how badly the case has shaken the FBI and the Justice Department is that officials yesterday said they could not recall any instance in which such an investigation was turned over entirely to outsiders.

White House Chief of Staff John D. Podesta has spoken with Reno about the possibility of an independent Waco inquiry. White House officials refused to offer details of that conversation, but indicated they supported an outside investigation.

"The attorney general has made clear that she's going to find out all the facts that are relevant and make them available to the American public and to Congress," said White House press secretary Joe Lockhart. "She, with the FBI director, is working currently on how they'll do that."

Reno was visiting Panama yesterday but is scheduled to return to Washington tonight.

Meanwhile, at least two House committee chairmen moved forward yesterday with their own plans to investigate the assault on the Branch Davidian compound.

A spokesman said House Judiciary Committee Chairman Henry J. Hyde (R-Ill.) "has all but decided" to introduce legislation creating a five-member commission to do the job.

The spokesman, Sam Stratman, said that under the legislation four commission members would be appointed by the bipartisan leadership of the House and Senate and the committee would select the fifth member, who would be the chairman.

Stratman said the scope of such an investigation had not been decided. He also indicated that, in turning to an outside commission, Hyde hoped that a new Waco investigation could avoid the kind of bitter partisanship that became a hallmark of his own committee's impeachment proceedings against President Clinton.

The House Government Reform Committee is planning a separate investigation and earlier this week issued subpoenas for Waco-related material to the Texas Rangers and the U.S. Attorney's Office in Waco. Mark Caralo, a committee spokesman, said the panel planned to issue new subpoenas today to the Justice and Defense departments, the White House and the FBI.

Staff writer John F. Harris contributed to this report.

© 1999 The Washington Post Company

[Back to the top](#)

Yellow Pages