

# US Special Counsel Danforth whitewashes Waco massacre

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Former US Senator John Danforth issued a report on July 21 clearing federal officials of any wrongdoing in the 1993 siege and destruction of the Branch Davidian compound in Waco, Texas. The attack on the religious sect's headquarters, carried out by agents of the FBI, resulted in the death of at least 85 Branch Davidians, including 21 children.

The Branch Davidian episode began on February 28, 1993 when federal Alcohol, Tobacco and Firearms (ATF) agents, attempting to serve a warrant on sect leader David Koresh, attacked the compound in Waco. A gunfight erupted and four ATF agents were killed. The ensuing 51-day siege of the compound ended with the April 19 FBI assault that destroyed the Branch Davidian headquarters.

Last year Danforth, a Republican from Missouri, was appointed special counsel by Attorney General Janet Reno to head up a federal investigation after it was revealed that FBI agents had covered up key facts about the Waco massacre for more than six years.

The 150-page report issued by Danforth last Friday was a crude whitewash of one of the most horrific atrocities ever committed by the US government against its own citizens. Danforth, an ordained Episcopal minister with a penchant for sermonizing, declared at his press conference, "The government did nothing evil on April 19, 1993," the day federal agents used armored cars and tear gas-filled explosives to send scores of men, women and children to a fiery death.

"There is no evidence of any wrongdoing on the part of Attorney General Reno, the present and former director of the FBI, other high officials of the United States, or members of the FBI Hostage Rescue Team who fired pyrotechnic tear gas on April 19, 1993,"

Danforth said. "The responsibility for the tragedy at Waco rests with certain of the Branch Davidians and their leader, David Koresh."

Danforth's only criticism of the FBI was that false statements by agents about the use of pyrotechnic devices "undermined public confidence in government and caused real damage to our country." He continued: "They didn't tell. They knew things and they didn't disclose those things. And the result of that is that people who want to believe the worst about government say, 'Aha! This is something that's really bad. And if government lies about one thing, it will lie about everything, so everything is suspicious.'"

The ex-senator blamed the FBI cover-up for the fact that 61 percent of Americans polled last year thought that the government had started the fire—even though "there is no evidence to support that, really none, and the evidence is so overwhelming on the other side." Underscoring the real political purpose of his investigation—the rehabilitation of the FBI and Justice Department—he declared, "All of us should be more skeptical of those who make sensational accusations of evil acts by government."

Despite overwhelming evidence that several FBI agents lied about the use of the exploding shells, Danforth said he had no intention of using his power as special counsel to bring criminal charges against anyone. "There will be no criminal prosecution," he said. "It would be overkill."

Danforth was evidently oblivious of the chilling irony in his choice of words, given that he was referring to a tragedy in which the effort of federal police to serve a warrant for a firearms violation led to a massacre. Moreover, the federal government has shown no concern for "overkill" in its prosecution of the surviving Branch Davidians. Only last month the

Supreme Court overturned as excessive the 40-year sentences imposed on a half-dozen of the survivors, who were acquitted of attempted murder in the death of four Bureau of Alcohol, Tobacco and Firearms agents, but convicted on weapons possession charges.

Danforth claimed to have carried out an exhaustive investigation into the circumstances of the raid, the siege and the final apocalypse, employing 16 lawyers and 38 investigators and spending some \$12 million. He told reporters that he and his staff had reached their main conclusions “with 100 percent certainty.”

He rejected allegations that government agents started the fire at the Waco compound, that they shot at the Branch Davidians on April 19, 1993, that they employed US armed forces in violation of the law, and that a “massive conspiracy and cover-up” occurred in the aftermath of the blaze that destroyed the compound.

However, the terms of reference for Danforth's probe were so narrowly drawn that the most important issues were not even examined. As the former senator freely admitted, the investigation did not consider whether federal agents were ultimately responsible for the bloodbath because of their handling of the initial raid on the Branch Davidian compound or the events of the final day. “The investigation was into bad acts and not bad judgment,” he said. In other words, as long as the FBI agents at Waco were “just following orders,” their actions should be considered above reproach.

A week prior to the release of Danforth's report, a US District Court jury ruled in favor of the government in a civil suit brought by Branch Davidian survivors of the 1993 assault. The same legal standard adopted by Danforth was applied by District Court Judge Walter Smith Jr. in the civil suit, leading to a speedy advisory verdict by the five-member jury clearing the government of any responsibility for the Waco deaths.

Smith threw out large parts of the plaintiffs' case relating to the decision to tear gas the compound on April 19, 1993 and employ tanks to inject the gas, citing a federal tort claims act that exempts from civil liability most decisions and policies of federal employees and agencies. The judge also gave instructions to the jury that all but compelled it to find in favor of the government. He told them that “every citizen has a duty to submit to a lawful arrest or search” and that any law enforcement officer “has a right to protect himself from an attack made upon him by one

resisting arrest and to use all reasonable and necessary force to overcome the resistance and repel the attack.”

Smith instructed the jurors to decide two questions first: Did the Bureau of Alcohol, Tobacco and Firearms use excessive force and fire indiscriminately during the initial raid? Did FBI agents act negligently, going beyond their orders, in their use of tanks during the final assault? If they decided these two questions in favor of the federal agents, the jury was not to consider the remaining issues, including whether the federal assault April 19 caused the fire, and whether FBI commanders were negligent in deciding not to have firefighting equipment available on the scene.

Dick DeGuerin, a former attorney for the Branch Davidians, said the judge's instructions made it impossible for the jury to find in favor of the plaintiffs in the civil suit. “It seems to ignore the creation of the situation that caused the fire, and that is the tanks and tear gas,” he said. “Even if you accept that Koresh was evil and was controlling whether they surrendered or not, that doesn't excuse treating all those innocent people in the same manner they treated Koresh.”

Former US Attorney General Ramsey Clark, a lawyer for the plaintiffs, also criticized the instructions. “This isn't a negligence case, it's a constitutional case,” he said. “How do you drive a tank into a church dozens of times and then call it negligence? The government has made the victims into the violators.”

Judge Smith did not allow the media to question the jurors, sending them home before the verdict was announced and refusing to release their names.

The Danforth report and the verdict in the Branch Davidians' civil suit point up the basic issue that underlay the federal siege and final assault on the Waco compound—the determination of government officials to uphold the authority of the state and make an object lesson of those who defy it.



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