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Former official: FBI fired on Branch Davidia

DALLAS (AP) — The FBI fired two pyrotechnic tear gas grenades on the day the Branch Davidian complex burned, killing David Koresh and more than 80 of his supporters, a former FBI official said.

This is a direct contradiction to what the government has been saying since the day of the fire at the compound outside Waco.

Danny Coulson, founding commander of the FBI's hostage rescue team and a deputy assistant FBI director at the time of the Waco incident, told *The Dallas Morning News* in a copy-right story published Tuesday that two devices known as M651 CS tear gas grenades were fired from FBI grenade launchers hours before the compound erupted in flames on April 19, 1993.

They were used with permission from FBI supervisors, he said.

Coulson, however, said the pyrotechnic grenades played no role in starting the fire. "The fire did not start there. That's a lot of nothing," he said, noting that the fire erupted shortly after noon.

Independent arson investigators concluded it began simultaneously in three separate places inside the compound.

The FBI, using listening devices, recorded conversations of Davidians discussing spreading fuel and planning a fire hours before the compound burned.

Arson investigators also found evidence that five different accelerants, including gasoline, charcoal lighter fluid and camp stove fuel, had been poured inside the compound.

Accusations that the FBI started the fire have been consistently denied by the federal government.

"The stance has always been that they used no pyrotechnics out there that day."

—Capt. David Byrne
Retired FBI agent

The FBI used only nonburning devices to insert tear gas into the compound because of fears that pyrotechnic tear gas grenades might spark a fire in the flimsy wooden structure, government officials have always contended.

The statement by Coulson, suspended by the FBI for his actions during the 1992 siege at Ruby Ridge, marks the first time any government official has publicly contradicted those claims.

A U.S. Justice Department spokesperson de-

nied again Monday that any pyrotechnics were used.

"We are aware of no evidence to support the notion that any pyrotechnic devices were used by the federal government on April 19, 1993," Department spokesperson Myron M. M. said in a statement.

The issue of whether the FBI used pyrotechnic devices that day is a major part of an ongoing inquiry by the Texas Rangers, a key allegation in a pending federal lawsuit filed against the government by surviving Davidians and families of those who died.

A former Texas Ranger captain who was part of the investigation of the 1993 tragedy said Coulson's statement is "mind-boggling" because he believes the devices played no role in the fire.

"The stance has always been that the FBI used no pyrotechnics out there that day," Coulson said in 1996. "There are some serious questions about the relations if they did. They have testified in court before Congress. They have testified in court."

"They've caused other people to test and there were no pyrotechnics used, he said, that turns out not to be right, then some will have some serious problems on a national level," Byrne said.

Bush's Supreme Court appointees "conservative," study says

AUSTIN (AP)

— Gov. George W. Bush's appointees to the Texas Supreme Court, while conservative on the issues, have had a moderating influence through their positions on procedure and evidence, said the author of a new study.

"I think the Bush appointees are dragging it back towards the center," Walt Borges, director of Court Watch, said Tuesday. Court Watch is a project of Texas Watch, whose members include insurance consumers and funding sources include trial lawyers and other attorneys.



BORGES

Borges said the appointees of Bush, now the Republican presidential front-runner, are "die-hard conservatives" on the merits of cases. But he said they are conservative on procedure.

"They are going to make everybody play by the same rules," he said. "There are less cases each year in which the court seems to be going out of its way to bail out a defendant that has made some major procedural error."

Chief Justice Tom Phillips said he had not seen the Court Watch study, but he disputed the idea that rules have been bent to further a conservative agenda.

"The court has not bent the rules to favor a particular litigant or a par-

ticular interest. We apply the law to the facts of each case as they arise," Phillips said.

The "New Guard" on the all-Republican, nine-member court includes four justices appointed initially by Bush — Greg Abbott, James A. Baker, Al Gonzales and Deborah Hankinson — plus Justice Harriet O'Neill, elected last year, Borges said.

Abbott, Baker and Hankinson each have won elections to keep the seats to which they were appointed. Gonzales was named to the bench less than a year ago.

Borges said the current court appears less likely to use its power to intervene in cases before a trial court decision is reached, less like-

ly to disqualify evidence and likely to apply a stricter standard in upholding summary judgments in favor of defendants.

But he added, "This does mean that consumers and individuals have nothing to lose. They would still advise them to sue if it gets up there on a question of the interpretation is getting conservative."

Court Watch, in its annual report of court decisions, said it has seen consumers and others suing for economic damages or physical injury. Between August 1998 and August 1999, from 24 percent of the cases saw their wins inch up to 27 percent, from 24 percent of the cases in the one-year period.

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